

question the legitimacy and the authority of the House of Commons.

Mr. Speaker, I would ask that you take this matter under advisement, seek legal opinion from somewhere—wherever you seek your legal opinions—to determine whether in fact a breach of privilege does exist, not on the question of contempt but on the general question of a Superior Court in this country calling into question the authority and legitimacy of the House of Commons.

Mr. Speaker: I appreciate the hon. member's argument. It is very much a repetition of the argument that was given before on the question of privilege upon which I have ruled. I know that the hon. member would not be asking me to contradict a ruling that I just made a few minutes ago, but let us take for a moment the hon. member for York South—Weston's question of privilege as a completely separate matter and relating to the hon. member's own privileges.

The Chair is still faced with the same situation, even if it is accepted that it is a question of privilege. I am not saying it is but even if it was, the Chair would still be faced with the question of whether or not there is a *prima facie* case to put to the House.

The hon. member says that the New Brunswick judgment is of great importance because it is a Superior Court. So I understand is the judgment in the province of Ontario. We have two conflicting judgments and it is not for the Chair to either decide which of those courts is correct, although I am terribly tempted to do so, having given opinions on such matters for many years before I came to the House of Commons, but I am not really permitted to do that.

Second, I do not think that I am helped particularly by seeking a legal opinion, as the hon. member for York South—Weston said, from somewhere.

As I say, the issue is fascinating. It is fascinating to me and I think it is fascinating to hon. members, but I have to be very careful that I stay within the bounds of what I am permitted to do and I am afraid it is not appropriate for me to intervene.

The hon. Minister of Justice.

Privilege

Hon. Kim Campbell (Minister of Justice and Attorney General of Canada): Mr. Speaker, I do not wish to prolong this discussion but a number of comments have been left on the record that I think ought to be clarified.

The hon. member for York South—Weston and the hon. member for Port Moody—Coquitlam have both suggested that judgments of the courts of Canada have indicated that the appointment of the eight senators was improper. I think that is a very unfortunate impression to leave in this House because neither of the courts have found the appointments improper.

• (1520)

The judgment of Mr. Justice McRae of the Ontario Court of Justice, General Division says: "I have concluded that with respect to this question the appointment of the eight new senators does not violate the Constitution Act of 1867". In view of this finding, it follows that the House of Commons is validly constituted. It goes on to say that the court has no jurisdiction to declare the House of Commons improperly constituted.

The court in New Brunswick took a different view of the implications of the use of that appointing power for the right of New Brunswick to have a certain number of senators, although the court there very clearly makes the point that, as Mr. Justice Stevenson says, some people have distorted Section 51A in recent weeks. His meaning is clear. It does not say a province cannot have more senators than MPs. It says that a province is entitled to no fewer MPs than it has senators, the implication being that Parliament should remedy that.

Once again, the New Brunswick decision is a declaration. It provides no remedy. The suggestion is that Parliament should provide the remedy. I think the appropriate course is for a final legal judgment to be obtained. With respect, I would suggest that it is no more proper for this House to follow a judgment of the court of New Brunswick than of the court of Ontario. But I think it is very unfortunate if the impression is left on the record of this House that either court found the appointments improper, because that was not the case. I think the issue was a very different one from what the hon. member suggests.