

Privilege—Mr. Hnatyshyn

Speaker, pursuant to Standing Orders, by way of a letter dated April 1, 1981. It reads:

I hereby give you notice of my intention to raise today a question of privilege relating to my privilege as a Member of Parliament and the privileges of all Members of Parliament by the stated and actual interference and intrusion of the Prime Minister as head of the executive between the will of the Parliament of Canada represented by the Joint Resolution on the Constitution now before the House and the parliament of the United Kingdom and Northern Ireland.

Madam Speaker, I simply want to bring your attention to the fact that this House is debating a resolution which is of very great consequence and importance to the future of this country. During the course of arduous debate, we have witnessed very strongly held views and positions on matters which hon. members on both sides of the House have identified with, and to which the people of Canada are now giving serious consideration. The matter which is being debated is on the minds of all parliamentarians.

During the course of debate issues raised have caused many questions of privilege to come forward. It is not as if we were dealing with any other item of legislation; but rather, we are dealing with matters pertaining to the very foundation of our country. We are in unusual times, as has been stated on many prior occasions. We must look very carefully at this matter to determine whether we are proceeding in a proper and appropriate manner.

What has caused me concern with respect to the present situation is that we are debating a resolution. I want to look at the very nature of the motion before us in the name of the Minister of Justice (Mr. Chrétien). This resolution will form part of a joint resolution of the House and the Senate and I imagine it will in due course receive—in whatever form it is presented, if it is determined to be constitutional or legal by the courts—the assent of the representative of Her Majesty in Canada and thereby constitute an address to Her Majesty the Queen.

I therefore want to refer to the actual text of the resolution which expresses the nature of that particular address. The address has taken the words of the resolution itself:

To the Queen's Most Excellent Majesty:

Most Gracious Sovereign:

We, Your Majesty's loyal subjects, the—

Then there is a blank space to insert, of course, the "Senate".

—House of Commons of Canada in Parliament assembled, respectfully approach Your Majesty, requesting that you may graciously be pleased to cause to be laid before the parliament of the United Kingdom a measure containing the recitals and clauses hereinafter set forth:

Attached to that is the proposed legislation which will be presented in first reading stage, as the Minister of the Environment (Mr. Roberts) stated on "Canada A.M.", plus the proposed Canada Act, including the various elements respecting the constitutional provisions, amendments and the charter of rights.

This particular address is from Parliament to Her Majesty the Queen or, to put it another way, from one Parliament to another Parliament. When the matter is finally resolved, it will

reflect the will of the Parliament of Canada; it will not reflect the will of the Crown per se. It will not reflect the will of the cabinet of this country per se. It will not reflect the will of the Prime Minister (Mr. Trudeau) or any member of cabinet holding a position in the executive of our country. It is an address which will be sent from the Parliament of Canada to the Parliament of the United Kingdom and Northern Ireland.

I want to begin with that very basic premise, because it is important to understand the nature of the legislation we are dealing with and its important consequences for the operation of Parliament, of which the House of Commons is a part. This address is not a request for action by the Prime Minister or the executive. It is a request which has been sent directly from the House of Commons and the Senate; from the Parliament of Canada, directly to Her Majesty the Queen.

Having stated that very basic premise, I now want to refer to some of the actions which the Prime Minister and the members of the executive of this country have taken, and indeed some of the activities and statements made on the floor of the House of Commons.

I refer to *Hansard* of March 31, 1981, to give examples of the intended and the actual actions of the Prime Minister of this country. During the course of the question period, in response to questions as to how this address to the Parliament of the United Kingdom would be handled, the Prime Minister said, as reported at page 8786:

If the hon. members opposite do not want to improve the resolution another way, my offer will still stand; that we get a resolution to the Supreme Court of Canada in return for which the government would certainly undertake—

The following words are important:

—not to press the United Kingdom to pass the resolution until it has seen the judgment of the Supreme Court of Canada—

Further on, on that same page, in referring to this resolution he said:

—then we will undertake not to press its passage in the United Kingdom until after the Supreme Court of Canada has judged.

The Prime Minister again returned to this matter on that same page:

I repeat, if the Supreme Court should judge against it, we will of course not press the United Kingdom to pass it in all stages... but will merely ask the United Kingdom to continue its passage.

In response to a question from my colleague the hon. member for Provencher (Mr. Epp), in referring to the intention of the government vis-à-vis this resolution to be sent to the United Kingdom Parliament, the Minister of Justice said, as reported at page 8787:

—we will wait for the decision of the Supreme Court before deciding to press the matter in England—

The point I suppose I wanted to—

Madam Speaker: Order, please. I do have to interrupt the hon. member, in all reasonableness. I understand from his argumentation that he does not particularly appreciate the process through which this resolution is being carried.