

member of Parliament for Scarborough Centre and the member of Parliament for Guelph sit legally in this House of Commons?

[Translation]

Hon. Yvon Pinard (President of the Privy Council): No, Madam Speaker, because the hon. member ought to know that the government is not party to any one of the cases he has mentioned. In the case of Spadina or of the other two ridings, he ought to know that the defendants are the hon. member who was elected, the Chief Electoral Officer of Canada and the returning officers in the ridings involved. The government has absolutely nothing to do with those proceedings.

As far as we are concerned, the Leader of the Opposition can appreciate the fact that, under the circumstances, we can hardly interfere in the judiciary process. I looked into this after he raised that issue the other day. The government did not do anything to speed up the proceedings before the Senate appointment of the hon. member for Spadina. No more than before does the government intend to get involved in the judiciary process.

Now if I may I should like to point out to the Leader of the Opposition that we are not about to settle those proceedings here on the floor of the House, any more than the postal strike. The Leader of the Opposition should know that in this institution we debate subjects but that we do not get involved in the judiciary process, nor do we force our way to the bargaining table when a union has the right to strike. I hope that is perfectly clear.

[English]

PROCEDURE FOLLOWED IN NOMINATION OF MR. STOLLERY TO THE SENATE

Right Hon. Joe Clark (Leader of the Opposition): Madam Speaker, I will put my supplementary question to the Secretary of State for External Affairs since it was rumoured that Mr. Stollery had first sought an ambassadorial appointment before he settled for the Senate—or to whoever is the Acting Prime Minister.

The Acting Prime Minister will know that Section 9 of the House of Commons Act reads as follows:

No member shall tender his resignation while his election is lawfully contested, or until after the expiration of the time during which it may by law be contested on other grounds than corruption or bribery.

● (1200)

My question to the Acting Prime Minister or whoever responds for the government in cases of this kind is to ask whether that was the reason the very unusual procedure was taken of naming Mr. Stollery to the Senate prior to his resignation from this House and, if that was not the reason, to get around that section of the law in the naming of Mr. Stollery to the Senate, what was the reason for breaking the normal practice and the normal routine which is followed when members of this House are elevated to the other place?

Oral Questions

Why was a special procedure followed here? Was the simple reason to avoid and evade Section 9 of the House of Commons Act?

Hon. Yvon Pinard (President of the Privy Council): Madam Speaker, there was no attempt to go against Section 9 of the act referred to by the Right Hon. Leader of the Opposition. On the contrary, if I may refer the right hon. gentleman to *Votes and Proceedings* of the House of Commons for Thursday, July 2, 1981, he will realize that when we wrote to the Speaker on July 2 we did not tell the Speaker that the hon. member for Spadina at the time had resigned. We advised that he was appointed to the Senate and that therefore his seat was vacated.

For someone who understands the law, this is very clear. There is no breach of Section 9 of the act referred to by the right hon. gentleman. On the contrary, all the procedures were well followed. There was no resignation. Once again I refer the right hon. gentleman to *Votes and Proceedings* of the House of Commons for Thursday, July 2, 1981. If he re-reads the *Votes and Proceedings* passage to which I am referring him, he will understand that in fact there was no breach of Section 9. On the contrary.

REASON FOR PROCEDURE FOLLOWED

Right Hon. Joe Clark (Leader of the Opposition): Madam Speaker, what we have here is an admission by the government that it acted under Section 10 in this case, whereas in every other appointment to the Senate, whether it had to do with Senator Muir, Senator Haidasz, or any other senator elevated from the House of Commons in the last ten years, whenever there has been that kind of appointment there has been first of all a resignation from this House. An unusual procedure was followed in the case of Mr. Stollery. He was appointed before he resigned from the House of Commons. Was there some reason for that, other than the fact that following the procedure followed in every other case would have broken the law of Canada under the House of Commons Act?

[Translation]

Hon. Yvon Pinard (President of the Privy Council): Madam Speaker, that is not an unusual procedure. The Leader of the Opposition is referring to previous cases. It is obvious that in the case of Senator Murray and of Senator de Cotret, those gentlemen could not hand in their resignations since they were not elected members of Parliament. But in Mr. Stollery's case, who was the member for Spadina, we did not follow an unusual procedure, we simply advised the Speaker of the House that he had been appointed to the Senate and that as a result his seat had become vacant. That is quite normal, that was the most appropriate procedure under the circumstances, and I do not think that the Leader of the Opposition is being fair when he refers to precedents because he is proving to me that Messrs. de Cotret and Murray had to resign before being appointed to the Senate.