

Judges Act

pre-arranged program of public business, the Speaker requires to be satisfied, both that there is a prime facie case that a breach of privilege has been committed, and also that the matter is being raised at the earliest opportunity.

The attendance system to which objection is taken was proposed to the house approximately two weeks ago. Since then the proposal has been referred to daily by a number of hon. members. Questions have been asked about it, and it has been the subject of a number of points of order. It was also considered at length in connection with the estimates of the President of the Privy Council. However, it has not been advanced until now as a question of privilege. I find it rather difficult to disregard the many precedents to the effect that a question of privilege must be raised at the first opportunity.

The hon. member for Winnipeg North Centre (Mr. Knowles) in the course of his argument reminded the Chair that there is no specific provision in the rules for the attendance of ministers on specific days. Provisional standing order 39(5), as well as long established practice, provide for the right of hon. members to ask oral questions, over and above written questions consigned to the order paper, in urgent circumstances. At the same time the citations and precedents are clear on the point that while a member has a right to ask a question he cannot insist on an answer. On this point I refer hon. members to Beauchesne's fourth edition, citation 181(3), which states "A refusal to answer cannot be raised as a question of privilege nor is it regular to comment on such refusal."

The third point I would like to make has reference to the motion itself which would be put to the house for debate and determination if the procedural requirements were satisfied. As hon. members know, a motion of this nature forms part and parcel of the suggested question of privilege. The redress sought by the motion has to be considered in determining whether the question can be accepted as a valid prima facie question of privilege and if the motion is to be put to the house for debate.

The specific motion proposed by the hon. member for Cape Breton-East Richmond is in my view more in the nature of a substantive motion. What is being proposed is not so much that an alleged breach of hon. members' privileges be considered, possibly by the committee on privileges and elections, but that the proposed system of ministerial

attendance during the question period be considered, along with other procedural changes, by the special committee on procedure.

With respect, I submit that this type of motion is essentially a substantive motion and one which therefore cannot be moved without notice as provided by standing order 41.

For these reasons—and I can assure hon. members after giving the matter much serious thought—I do not find it possible to put the hon. member's motion to the house.

JUDGES ACT**AMENDMENT TO PROVIDE ADDITIONAL JUDGES FOR ONTARIO AND QUEBEC**

Hon. John N. Turner (Minister of Justice) moved the second reading of Bill No. C-114, to amend the Judges Act.

He said: Mr. Speaker, at the conclusion of the resolution stage of this bill I undertook to make a short statement at the second reading stage and, as best I could, to answer the questions that were put to me while we were in committee. I think, sir, that hon. members are well aware that the British North America Act provides that the provinces have responsibility for the "administration of justice in the province, including the constitution, maintenance and organization of provincial courts, both of civil and of criminal jurisdiction..." The salaries, allowances and pensions of superior and county court judges, pursuant to the British North America Act, are to be fixed and provided by the parliament of Canada. Those two provisions are found in articles 92(14) and 100 of the British North America Act.

The legislature of Ontario earlier this year amended The County Judges Act of the province of Ontario to provide three additional judicial positions for the counties of Lincoln, Middlesex and Essex. The amendment received royal assent in Ontario on March 28 of this year. I am informed by the department of the provincial attorney general that these three additional positions are required largely because of the increasing work load carried by the county courts, in large part due to the recent introduction of the Ontario legal aid plan.

[Translation]

As to the amendments to the Courts of Justice Act of the province of Quebec, a similar situation arose because of the new jurisdiction of the Superior Court in divorce matters which has increased a work load which was already extremely heavy.