

*Administration of Justice*

the point of order. I reserve the right to deal later with the arguments of substance which have been advanced by the hon. gentleman with respect to the alleged usurpation of the rights of parliament by the executive.

• (3:10 p.m.)

May I remind hon. gentlemen of the situation which exists. On Thursday last a question of privilege was raised against the Minister of Justice. It was raised initially by the hon. member for Calgary North (Mr. Harkness). Consideration was given to that matter by Your Honour, who had the responsibility to determine whether a *prima facie* question of privilege did exist. That decision was made; Your Honour declared that in your view there appeared to be a possible question of privilege. Then after your decision was made, Mr. Speaker, it was up to the house to take the next necessary step; that is, to propose a motion directed against the Minister of Justice, because the complaint had been lodged that he had breached the privileges of this house. That is the situation which is confronting us today.

The Minister of Justice still is alleged to have committed a breach of the privileges of the house, and there is a traditional way by which his conduct can be subjected to question. You have declared, Mr. Speaker, supported by judgments made by previous Speakers, that any motion in order to meet the specifications at this time must first of all declare a special charge against the Minister of Justice. You have quoted a judgment by Mr. Speaker Michener to the effect that it is simple justice, prior to putting the conduct of an hon. member of this house under scrutiny, that a charge be preferred against him. That is the essential ingredient. It is open to hon. members to charge the Minister of Justice, to take the responsibility for making the charge, and to take the responsibility if the charge is proven to be unfounded.

**Some hon. Members:** Hear, hear.

**Mr. MacEachen:** Hon. gentlemen have made several unsuccessful attempts to formulate a motion. Each motion has been declared defective by the Chair because it lacked this essential ingredient.

**Some hon. Members:** No, no.

**Mr. MacEachen:** Otherwise this motion makes no sense; it has no place within the house if it does not relate to the conduct of the Minister of Justice, because it is not open to the house at this particular time to make a

motion referring an order in council to a committee. That is unheard of; it is a grotesque parliamentary device at this particular stage, but it would be completely proper and could be made later in the day in the ordinary way on a supply motion. It could be entertained then, and it would be perfectly proper; it would be a perfectly proper procedural effort on the part of the hon. member.

I suggest, however, Mr. Speaker, that when the conduct of the Minister of Justice is called into question a specific charge is necessary in the motion; but it is quite impossible under this particular guise to send an order in council to a committee for study. I respectfully suggest on this particular procedural point that the motion cannot be entertained by the Chair.

**Mr. H. A. Olson (Medicine Hat):** Mr. Speaker, I think we should bear in mind that we are dealing with at least two and probably three separate matters at the same time. One of the things which disturbs me, and I think you will agree, is that this discussion at this stage, except during the last few minutes, has been completely out of order because we have not even had a motion. We are dealing now, at least to some extent, with the order in council P.C. 1966/482. We are dealing with the whole matter of whether there should be a judicial inquiry, and the order in council; but I think, Mr. Speaker, we would be wise to consider the overriding matter that is before this house, and that is this matter of privilege. It is a question of privilege affecting certain members of the former Conservative government.

Whether or not this motion which has been moved by the hon. member for Edmonton West is in order, it may be a way in which we in fact can initiate some kind of action to deal with this question of privilege; because, Mr. Speaker, as I said last night, I think we would be making a serious mistake for a long time into the future if we were to accept the proposition that by an order in council a judicial inquiry can in fact deal with a question of privilege affecting members of this house.

I do not withdraw from that position. I am pleased to hear the opinion of the member for Edmonton West, and I know this is the opinion of the Leader of the Opposition and the Prime Minister, that this house is supreme and deals with its own questions of privilege. When I made this plea last night I think I was misunderstood by some of the