

and state a set of facts to him and ask for guidance as to what he should do. The Deputy Minister of Justice, in theory, has to deal with that communication. It is true that he may go behind the scenes and enquire from other sources as to what might be involved, but he gives his opinion based on that particular state of facts. We have followed the practice of quoting him, and of saying that he is responsible for a practice being carried on in a certain way. I do not think it is fair to the Deputy Minister of Justice. I think that the department is in question, the department seeking the opinion, is the one to take the full responsibility and that it should not be able to pass anything off on to the Deputy Minister of Justice.

My thought is, that whenever a matter arises dealing with financial practice or accounting practice, the Deputy Minister of Justice, when he receives a communication of that nature, should ask the Minister of Finance if the minister has any supplementary data which he would like him to take into consideration before giving an opinion.

*By Mr. Sinclair:*

Q. Do you say, Mr. Sellar, that under British practice, these matters are treated as privileged and confidential?—A. Yes.

Q. But you say that our practice here in Canada is not to treat them that way?—A. No.

Mr. ISNOR: Mr. Chairman, I have a question in respect to the last paragraph on page 1.

The CHAIRMAN: I am awfully sorry, Mr. Isnor, but we are still on item No. 1.

*By Mr. Sinclair:*

Q. Mr. Sellar, I take it that these communications and opinions of the Department of Justice addressed to other departments, in your opinion, should be privileged for the use and benefit of the officers who receive them, and not be regarded as legal opinion so far as other cases which might arise. Is that your point?—A. I would not like to go quite that far, Mr. Sinclair. You see, we are not lawyers. The Department of Justice may have a set of facts placed before it. They give an opinion of that set of facts. Then we may take that opinion and use it in connection with another set of facts, in the belief that they are similar. But, in fact, the facts may be entirely different. Therefore, I say that we should not follow the practice of asking the Deputy Minister of Justice: may we or may we not do this?

*By Mr. Croll:*

Q. That is not the deputy minister's difficulty, but rather it is your difficulty, Mr. Sellar, in using facts as a precedent and applying that precedent where it should not be applied. A. That can happen, sir. I do not go to the Deputy Minister of Justice at all. I rather take the view that, as a parliamentary officer, I cannot be bound by the opinion of an administrative officer.

Q. May not the decision given by a department to another department be challenged in the courts? And who is going to challenge any act taken by your department, Mr. Sellar, in the courts?—A. I have no power to reject payment.

*By Mr. Cleaver:*

Q. Is your problem not this, Mr. Sellar, that occasionally parties may cite a ruling or a legal opinion of the Department of Justice in connection with a case to which you do not think that ruling or opinion should apply, on the facts? A. Yes, Mr. Cleaver, and I think the Department of Justice