

The ruling by Mr. Speaker Sproule was based on the rules of the House as they existed at that time, November 21, 1912, when Standing Order 40 under "Notice of Motion" had this to say about the practice then:

● (1125)

Two days' notice shall be given of a motion for leave to present a bill, resolution or address, for the appointment of any committee, or for the putting of a question; but this rule shall not apply to bills after their introduction, or to private bills, or to the times of meeting or adjournment of the House. Such notice shall be laid on the table before five o'clock, p.m., and be printed in the Votes and Proceedings—

I emphasize, the time was explicit—at five o'clock p.m. Mr. Speaker Sproule of that day had to deal with the same question that is now before the Chair. As reported in Beauchesne's Third Edition at page 827, we find the following:

(a) The publication of a proposed motion once in the Votes and Proceedings and the next day on the Order Paper is sufficient to cover two days' notice under Rule 17 (now S.O. 45).

Rule 17 is now Standing Order 45. The (b) paragraph is most important. It reads:

(b) The exact time at which these notices should be handed to the Clerk at the Table is of minor importance.

The paragraph continues:

The House, according to Order, resumed the adjourned Debate on the proposed Resolution of Mr. Borden, to amend Rule 17\* of the House of Commons, and the proposed motion of Mr. Hazen: "That the question be now put."

A point of Order was raised by Mr. Maclean (Halifax). That as forty-eight hours had not elapsed between the time the notice was given and the said Resolution was proposed in the House, the said notice was insufficient.

On the next page we find the following:

MR. SPEAKER: I have only to say that my understanding has always been that the notice is intended to be given to the members of Parliament for a specific purpose, namely, that they may not be taken unawares, but may have an opportunity to prepare for the motion. The two days' notice, as I have always understood it—and I have discussed this question with the Clerk previous to the present one, and with the one before him—means that the notice must appear on the official paper of the day twice, first on the day after it is given, in the Votes and Proceedings, and then, on the day following that, the day that it might be considered, on the Order Paper of the House. I am told that the usual practice has been followed in this case.

It was not followed in the case before us today and it should have been, in my submission. Mr. Speaker Sproule continued:

With regard to the exact time at which the notice should be laid on the table of the House, my information always has been that that is for the convenience of the officials who prepare the Votes and Proceedings for to-morrow, and the Order Paper for the following day, and for the convenience of the Printing Bureau. Therefore it was provided that the notice should be laid on the table of the House before five o'clock. I had occasion some years ago to make inquiry with regard to the time when these notices were laid on the table of the House, and I found that in many cases it was done as late as eleven or twelve o'clock, and sometimes after twelve o'clock at night. The first clerk whom I sat under, Mr. Patrick, when I applied to him gave me the explanation that the exact time at which they were laid on the Table did not matter so much but the essence of the rule was that they should appear on the official papers twice—first in the Votes and Proceedings, so that the members might have full notice, and the second day upon the Order Paper for that day. Therefore my decision is that the point is not well taken.

In other words, notwithstanding the late filing, the motion was accepted and the business of the House was allowed to

### *Point of Order—Mr. Nielsen*

proceed, as I will be suggesting it should be allowed to proceed today.

In my submission, it was possible to file the notice of the Opposition day motion at any time during the sitting of the House yesterday and, at the same time, meet the 24-hour notice requirement, notwithstanding Standing Order 47, which has no application in this instance. But even if it did, that six o'clock has not pursuant to our practices in this place been so stringently interpreted as to mean that a notice filed at 6:01 p.m., 6:05 p.m., or indeed 6:15 p.m., could not be accepted as long as the House was sitting. That such a filing should happen to take place shortly after 6 p.m., as is the instant case, rather than precisely at 6 p.m. or before 6 p.m., should have placed no great burden upon the Table as the Order Paper could not be printed until such time as the House had completed its sitting last night.

● (1130)

It is the right of Members to give notice of motions, and I submit that in any case where there is any doubt as to the procedural validity or standing of a motion, the Chair and the Table should err on the side of Members rather than deciding not to print the notice of motion on the Order Paper. In this case, however, there can be no doubt of the procedural regularity of the notice. At the time the unanimous consent of the House was sought by the Speaker yesterday, the House had not concluded yesterday's sitting. We still had two decisions to make—first, the recorded division on the Minister's motion and, second, just before adjournment when the Speaker at my request sought unanimous consent so as to remove any doubt which might have been in the minds of the officials at the Table. At the time unanimous consent was sought by the Speaker yesterday, the House had not concluded yesterday's sitting. This point is born out at page 28360 of *Hansard*, where the following may be found under the heading "Point of Order" and under the sub heading "Allotted Days, S.O. 62—Proposed Motion":

HON. ERIK NIELSEN (YUKON): Madam Speaker, I rise on a point of order. There seems to be some doubt with respect to whether or not we in the Opposition, as of right, have the privilege of filing notice of an allotted day subject after six o'clock.

That gets to the point the Chair was asking me. It continues:

It is clearly after six o'clock now and if the House would feel so disposed to grant its consent to extend time for filing under Standing Order 47—

That was the Standing Order which was causing some concern to the officials at the Table.

—we would want to move the following motion for tomorrow's allotted day which has been designated by the Government House Leader:—

At that stage it still had the status of being designated. Then I read the motion which appears in the official record of the debates during the sitting yesterday as follows:

That this House condemns the Government for its contempt for the taxpayers of Canada, which it demonstrates by the creation of a taxation system in the form of the Income Tax Act that is increasingly incomprehensible for individual taxpayers and by its failure to end capricious and unfair practices of the Department of National Revenue.