

HOUSE OF COMMONS

Thursday, July 3, 1969

The house met at 2 p.m.

PROCEDURE

NEW PROVISIONS RESPECTING DEBATING TIME ALLOTMENT—RULING BY MR. SPEAKER

Mr. Speaker: Order. A point of order was raised yesterday by the hon. member for Peace River (Mr. Baldwin) in respect of a notice of motion in the name of the President of the Privy Council (Mr. Macdonald) dealing with proposed amendments to the Standing Orders of the house. Other hon. members, including the hon. member for Winnipeg North Centre (Mr. Knowles), the hon. member for Edmonton West (Mr. Lambert) and the hon. member for Parry Sound-Muskoka (Mr. Aiken) supported the contention that the minister's motion should not be accepted by the Chair for purposes of transfer to government orders pursuant to Standing Order 21. The President of the Privy Council argued in support of the government's position. At the conclusion of the procedural debate I undertook to study the arguments advanced in the course of the discussion and to make an early ruling.

Stated briefly, the problem is whether the government can set down a motion that follows substantially the terms of a committee report presented to the house, but the concurrence of which has not yet been moved by the committee chairman. I must remind hon. members that the Speaker can only rule on points of order and questions of procedure. The decision to be made at this time is whether it is procedurally in order to transfer the minister's motion for debate. During the discussion yesterday serious questions of principle were raised by hon. members who questioned the propriety of a government motion which, if proceeded with, might in effect block the discussion of a motion to concur in the report of a standing committee.

It has been suggested that the government's motion as it now stands is in contempt of the house; and that the Chair, on its own initiative, should determine that the house will consider the proposed rules changes within the framework of the committee report rather than under the heading of the proposed motion. I am not convinced that the question

can be considered by the Chair in those terms.

Generally speaking, hon. members who have taken part in the procedural argument in opposition to the government, have based their objections on the rule of anticipation. It is of interest to note that while the British practice in reference to this rule is sufficiently clear, the same cannot be said about Canadian precedents where attempts have been made to apply the rule to our own Canadian practice. The difficulty stems from the fact that the British Commons' standing orders include a specific rule on this subject. Standing Order 11 of the British House of Commons is as follows:

In determining whether a discussion is out of order on the ground of anticipation, regard shall be had by Mr. Speaker to the probability of the matter anticipated being brought before the house within a reasonable time.

In our own house, we have attempted over the years to develop a practice which has no support in our own standing order and where British precedents are not always relevant. If hon. members will study May's definition of the rule, they will see that the rule relates to discussion or debate of a matter already set down, and not to the setting down itself of an item of business on the order paper.

Campion's third edition, at page 180, indicates that the anticipation rule applies to the discussion by anticipation of an order already set down by the house. But, there is nothing in our rules and no precedent in Canadian parliamentary practice to prevent the setting down of more than one bill or motion dealing with the same subject. No precedents have been quoted by hon. members who took part in yesterday's procedural debate that could support the contention that the minister's motion cannot appear on the order paper along with a notice of motion to be moved in similar terms by a committee chairman.

What we are concerned with at the moment is whether the minister's notice of motion can be transferred for debate under government orders. Standing Order 21 is perfectly clear on this point. The rule is as follows:

When any other government notice of motion is called from the Chair, it shall be deemed to have been forthwith transferred to and ordered for consideration under government orders in the same or at the next sitting of the House.