

Point of Order—Mr. Andre

● (1440)

The then minister of energy, mines and resources, who introduced the bill, Hon. Alastair Gillespie, describes the bill at page 2314 of *Hansard* for January 27, 1978 as follows:

The bill also authorizes the funding of this program by a levy on all crude oil refined in Canada and oil products imported to this country.

He quite carefully described it as a levy. At no time in the discussion of this act or anywhere in the act is the word "tax" mentioned. It is not a tax measure at all. It is a statute of Parliament to set up a separate fund to fund a program agreed to, I believe, by all parties in the House. In any event, it was agreed to by Parliament. It is not a tax measure whatsoever.

Ways and means is described in Beauchesne's Fifth Edition, section 516(1), page 174, as follows:

A ways and means motion is a necessary preliminary to the imposition of a new tax, the continuation of an expiring tax, an increase in the rate of an existing tax, or an extension of the incidence of a tax so as to include persons not already taxpayers.

That is the definition of ways and means. It is the way in which taxes are changed, not the way in which statutes are changed. The statute has a limitation of \$1 on a separate fund. I maintain that the government cannot through this procedure seek to alter the statute. I agree with the government House leader that under Standing Order 60(1) a minister can introduce a ways and means motion. My point of order is that this is not a proper ways and means motion and, therefore, must be ruled out of order. The proper procedure of introducing a bill with first, second and third reading is necessary to change a statute to amend that section of the act.

[Translation]

Madam Speaker: Maybe it would be better if I recognized the hon. member for Edmonton West (Mr. Lambert) first so that the President of the Privy Council (Mr. Pinard) could answer afterwards. The hon. member for Edmonton West has the floor.

[English]

Hon. Marcel Lambert (Edmonton West): Madam Speaker, the objective of my argument has been ably argued by my colleague, but I wish to draw your attention to a parallel situation in which I suggest the government would not in any way dare move by way of a ways and means motion, and that is to increase the charges under the Canada Pensions Act.

Under the Canada Pensions Act, contributions made by employers and by individuals go into the Canada pension fund. The Government of Canada does not contribute one split penny to the Canada pension fund. It is a fund apart. I suggest, in fact I strongly argue, that if it were to be the purpose of the government to try to increase the levies upon individuals and their employers with regard to the Canada pension fund, which they are going to have to do before too long, it would not be by way of a ways and means motion. There must be an amendment to the statute. In fact, it is within the power of an individual member of this House, in my submission, to so move to bring forward a bill to increase those

charges. It does not affect ways and means of the government in any way whatsoever.

In this particular instance, this is a levy upon the production of certain categories of petroleum products. The revenues from that go into a fund. The government contributes not one red penny to it, one green penny nor blue penny—not one iota. The Petroleum Administration Act, among other things, provides for the levy. It provides for the accumulation of the moneys and it provides directly as to the distribution of those moneys. I repeat, the Government of Canada does not contribute one penny. This is not a tax.

The definition of a ways and means motion clearly confines it to a tax or a duty. There is excise tax, customs duty, income tax. A ways and means motion is simplified by certain requirements. I was part of the procedure committee when these amendments to our Standing Orders were brought in. I recall the former government House leader from Rosedale wanting this provision to simplify tax changes so that a minister could stand in his place and give notice of the ways and means motion which would then be debated on a date subsequent. Once having been adopted, a bill would be brought in to put into effect that tax change. However, this is not a tax.

Therefore, I submit that the government has to go back to the drawing board. The method adopted by the Minister of Energy, Mines and Resources is the wrong procedure. In saying this, I do not want to in any way prejudge what he was trying to accomplish. I simply say he has gone about it the wrong way. Since when in this House has the end ever justified the means? We have been most conscious about avoiding that. There is no way the Minister of Energy, Mines and Resources or any of his colleagues in cabinet can justify using a budgetary procedure to move to amend a statute that is not concerned with taxes. I respectfully submit, Madam Speaker, that the procedure adopted by the Minister of Energy, Mines and Resources was entirely out of order.

[Translation]

Hon. Yvon Pinard (President of the Privy Council): Madam Speaker, the argument raised by the hon. member for Calgary Centre (Mr. Andre) is interesting but unfortunately it is neither fundamental nor accurate. I think that in order to understand correctly—I believe the hon. member had the hiccups and I excuse him, and so does the Leader of the Opposition (Mr. Clark), Madam Speaker.

In order to understand correctly the point which is raised, I think it is essential to proceed with an intelligent reading of Standing Order 60(1) which is very brief. I would like to have it put on the record, and I quote:

A notice of a ways and means motion may be laid upon the Table of the House at any time during a sitting by a minister of the Crown, but such a motion may not be proposed in the same sitting.

Madam Speaker, on page 174 of Beauchesne's in citation 514 *et seq* Standing Order 60 is explained under the heading "Business of Ways and Means." Madam Speaker, I think the Leader of the Opposition does not feel well and he can be excused if he wishes to leave because as far as I am concerned