

HOUSE OF COMMONS

Monday, April 18, 1983

The House met at 11 a.m.

● (1105)

GOVERNMENT ORDERS

[English]

BUSINESS OF SUPPLY

ALLOTTED DAY S.O. 62—GOVERNMENT COMMITMENTS

Mr. Doug Lewis (Simcoe North) moved:

That this House condemns the Government for its failure to live up to the commitments made in the Speech from the Throne on April 14, 1980, and for its conscious disregard for the practices of Parliament and the Constitution of Canada, and urges the Government to prorogue the current, unconstitutional Session of Parliament, convene a new Session, and outline its policies before Parliament in a Speech from the Throne.

He said: Mr. Speaker, this motion was moved by myself on behalf of the Progressive Conservative Party for the following reasons: first, to point out the Government's abject failure to carry out the program of policies enunciated in the Speech from the Throne; second, to bring before this House a serious question relating to the actions of the Government and its constitutional obligations; third, to point out the importance of the Speech from the Throne in the legislative process; and fourth, to sound a warning as to the dangerous precedents which are being set by this Government.

My colleagues following in the debate will examine the sorry record of the Liberal Government. I wish to begin the debate by examining the circumstances which have brought about our argument that this is an unconstitutional session of Parliament. I would also point out that this is the longest session of Parliament since Parliament began in 1867.

Mr. Smith: The most productive, too.

Mr. Lewis: I then wish to deal with the reasons we feel there should be a new session of Parliament and a new Speech from the Throne.

We have brought this matter to Parliament by way of debate rather than a point of order on the basis that the Speaker would refuse to deal with it because it is a point of law rather than procedure. My procedural argument relates specifically to Section 20 of the British North America Act, which states:

There shall be a session of the Parliament of Canada once at least in every year, so that twelve months shall not intervene between the last sitting of Parliament in one session and its first sitting in the next session.

If my interpretation of that Section is correct, it would appear that this sitting of the House was improperly convened and, indeed, all of the sittings which have been held since the end of 1981 have been unconstitutional. If the sittings of the House have been contrary to the provisions of the Constitution, it follows that the business dealt with by the House during this period is invalid. Section 20 is quite clear. It states that there shall be a session of Parliament at least once in every year.

● (1110)

The term "session" is defined at page 259 of the Nineteenth Edition of Erskine May's Parliamentary Practice as follows:

A session is a period of time between the meeting of a Parliament, whether after a prorogation or a dissolution, and its prorogation.

It is further stated at page 278 that the usual practice in the United Kingdom is for a session to run from October to October.

In Beauchesne's Fifth Edition, Citation 162, a session is defined as follows:

A session is a period of time between the meeting of a Parliament and its prorogation. There are a number of sessions within a Parliament, each lasting approximately one year.

In stipulating that there must be a session of the Parliament of Canada at least once in each year, Section 20 of the BNA Act requires that a new session be entered into each year. There is no stated upper limit on the number of sessions that can take place in a given year, but there is a provision that there must be at least one session of Parliament each year.

If there could be any doubt about the intent of Section 20, it is removed when one considers the second part of the Section which reads:

So that 12 months shall not intervene between the last sitting of Parliament in one session and its first sitting in the next session.

The effect of this portion is to ensure that Parliament will meet at least once every 12 months in a new session. Some may argue that that could be taken to mean that there must be a sitting of the House in each year and that there is no requirement for a new session. If one follows this line of reasoning, it would be argued that the requirements of Section 20 would be met, and that appears to be the line of reasoning that the Government is following in extending the first session of Parliament from April 14, 1980 to the present. We must ask ourselves if this is what was intended when the British North America Act was written.

We researched some of the precedents and writings about that period. We specifically looked at a book written by Joseph Pope entitled "A Series of Hitherto Unpublished Documents Bearing on the British North America Act (1885)". There is a