

Income Tax Act

Mr. McGrath: Madam Speaker, if you hold that the borrowing authority is correctly in the bill, then it seems to me you have created a conundrum of having a bill before us for which notice has not been given. We are entitled to ask the question flowing from what the hon. member for Winnipeg North Centre (Mr. Knowles) has said, namely, where does this borrowing authority come from? Notice of ways and means substitutes for notice of motion. But if you hold to the argument that the borrowing authority has no place in a ways and means motion, then you have a borrowing bill before the House which has not conformed to the regular notice required under the rules of the House. I would just put that to Your Honour as a very important argument.

My other point is with respect to what was said by the Minister of Finance (Mr. MacEachen). The fact that something like this has slipped through once does not constitute a precedent. I would submit to Your Honour that in this particular instance two wrongs do not make a right.

[Translation]

Mr. Pinard: Allow me to make a few comments, Madam Speaker. Strange as it may seem, yesterday we were censored for breaking with tradition but today, to support their argument they are quite prepared to disregard a precedent which was clearly established in 1977. It is important to recall that. What I respectfully want to bring to your attention, Madam Speaker, is the fact that the Standing Order which refers to the way taxes are to be levied in Canada is relatively limited. It is Standing Order 60. Sections 1 and 11 of that order which have to do with our problem and all the other sections, except perhaps section 2, refer to the budget, the budget speech and the budget debate. So when a government wants to levy taxes, contrary to the practice applicable to all other bills it has to table a ways and means motion and, of course, the ensuing bill must faithfully reflect the ways and means motion. And that is the whole extent of the very limited rules we must follow. The significant aspect in this case, in the ruling you have to make, is the fact that first of all it is not written anywhere, there is absolutely no order, no specific rule which states that the borrowing authority cannot originate from a bill to amend the income tax legislation. That is a fact, it is not mentioned anywhere. My colleagues opposite maintain that the borrowing authority should not be part and parcel of the bill but, Madam Speaker, they cannot tell you that it goes against the Standing Orders because it says so at a given page, in a given section. Nothing anywhere stipulates that it cannot be done. So that is the first basic and significant point—it is not forbidden.

When there is no rule to enlighten us we examine parliamentary practices. And as the Minister of Finance (Mr. MacEachen) so aptly put it a few moments ago, according to parliamentary practice until 1975—I will not give more details, I will not repeat everything that has been said—the borrowing authority was found in supply bills. One day in 1975 a ruling was made by Mr. Speaker, I have it here as

reported on page 924 of the *Journals* of the House of Commons for December 9, 1975, where Mr. Speaker said after a point of order had been raised, I will ask that the section having to do with the borrowing authority be taken out of the supply bill, but not a bill such as this one to amend the income tax legislation because, in keeping with our parliamentary practice and the Standing Orders, the supply bill is adopted without debate at the very end of a supply period. As pointed out by the Minister of Finance, hon. members would have no opportunity to debate the issue of borrowing authority. I will read the ruling because it is fundamental to demonstrate to what extent it cannot apply in this case since there is plenty of time for debate. I am still quoting from page 924 of the *Journals* of the House of Commons:

[English]

I would therefore suggest at this stage, when the supply bill is about to go through all stages before this Parliament without debate or without amendment, that in my view it can only go forward through that sort of process if clause 5 can be stricken from it.

[Translation]

That is the essential part on which the Speaker rested his ruling which did not refer to a case identical to this one but both have something in common because the borrowing authority was provided in a supply bill. The Speaker had stated that there was no time to debate that aspect and he had thought that in all fairness for hon. members it had to be taken out. That was in 1975. So the practice was dropped but there is another one where an obvious precedent was set in 1977, and here I refer hon. members to page 78 of *Journals* for November 2, 1977, when Bill C-11 had been introduced by Mr. Chrétien, seconded by Mr. Horner. I quote:

[English]

"An act to amend the statute law relating to income tax and to provide other authority for the raising of funds, was read the first time and ordered to be printed."

And so on.

● (1240)

[Translation]

And my last quotation appears on page 70. This bill including the borrowing authority was finally approved and passed, which creates precedent. It is not, as mentioned by the hon. member for St. John's East (Mr. McGrath), because it was not consistent with his argument, what he described as a slip or a caper. It happened in our parliamentary system, in our procedure and it had been current practice for years. The borrowing power was related to a supply bill until the Speaker decided that there was not enough time to discuss it. We now have sufficient time to deal with it.

This was explained a while ago by the Minister of Finance. There will be second reading followed by consideration in Committee of the Whole and third reading.

Therefore, while in 1975 the Speaker was justified when he dissociated the borrowing power from a supply bill, that argument is no longer valid today, and secondly, we have the