

were going to make a decision which could be binding on this House forever. It would then become a precedent on an issue, as the hon. member says, which is as fundamental as this. Under those circumstances, I certainly think that you must consider the enormity of a legalistic approach to this situation. I say to you, Madam Speaker, it would be not just unfair to the Leader of the Opposition, which it would be, but it would be unfair to Parliament, unfair to the development of precedents, it would fly in the face of the doctrine that practice and procedure must never be so applied and so dealt with that they lose sight of the equity of the situation.

This is the Parliament of Canada, and the decisions which you make, Madam Speaker, which are now unappealable, you may make on the evidence. That evidence is not even fully before you now on a case that is fundamental in relation to Parliament and the courts. I say to you, Madam Speaker, the decision which you will make is on an issue in the Constitution. You could be setting a precedent which could live to haunt this Parliament, succeeding parliaments, and render life in this place intolerable for everyone in it.

Some hon. Members: Hear, hear!

Mr. Baker (Nepean-Carleton): That is why, Madam Speaker, I am happy you said the matter was still open, at least in the sense that you have reserved it. Madam Speaker, you smile. I do not think there is anything to smile about.

Some hon. Members: Hear, hear!

Some hon. Members: Shame.

An hon. Member: Insult.

An hon. Member: Shut up, over there.

Some hon. Members: Oh, oh!

Madam Speaker: Order, please. I think I owe an explanation to the House. I am smiling to indicate generally to the hon. member that I did not say the case was still open. I said I had taken it under advisement. Therefore, I did say quite clearly that when the Chair says a question is going to be taken under advisement, it is open to further comments. That is why I was shaking my head and smiling at the hon. member, to remind him that that is not exactly what I had said.

Mr. Clark: Madam Speaker, I should like to rise on a new point of order. I had the opportunity earlier this afternoon to discuss a point of order in relation to a matter which could be sub judice. And I made an argument which you have interpreted by your decision here tonight as being a complete argument on the element of the case I was able to discuss before five o'clock. There is a new element to this case which I would like to raise now as a new point of order because it has to do with a series of circumstances that have not been discussed before in the House and, indeed, do not fall within the normal circumstances, or indeed the precedents of this House.

Point of Order—Mr. Clark

Some hon. Members: Hear, hear!

● (2030)

Madam Speaker: The right hon. member has a new point of order. I am afraid I must listen to the hon. member for Winnipeg North Centre (Mr. Knowles) who wanted to speak on the point of order raised by the hon. member for Nepean-Carleton. I would like to close that part of our proceedings. In this way we will proceed in an orderly fashion and I will then go to the right hon. member.

Hon. Stanley Knowles (Winnipeg North Centre): Madam Speaker, all I wanted to say, and I say this as calmly as I can—I had my moment of warmth earlier today—is that in my view this whole discussion on whether or not the constitutional resolution is in order has been conducted at the wrong place.

The point of order the Right Hon. Leader of the Opposition (Mr. Clark) tried to raise is that the constitutional resolution is not in order, that it should not be proceeded with. It was not before us today; it was not before us when he raised it at 4.50 p.m., it is not before us tonight. I submit that any discussion, as to whether government order No. 36 is in order, should wait either for discussion or for a ruling until government order No. 36 has been called. We are not on that. We are in the midst of routine proceedings, and when we get through routine proceedings tonight, the point of order will be on order No. 41; it is not now on the constitutional motion itself.

Some hon. Members: No, no.

Mr. Knowles: The Right Hon. Leader of the Opposition is contending that because of certain citations in Beaudesne about the sub judice question, the constitutional package before the House is not in order. I, too, want to contribute to that debate, if I may, when the time comes, but this is not the time. He has to wait and the House has to wait until the order for the constitutional resolution is before the House.

Mr. Baker (Nepean-Carleton): Madam Speaker, my learned friend and colleague in House leadership is wrong. The question is not whether the constitutional package is in order; that is not the issue here.

As I understood the exchange and read the precedent or the statement in Beaudesne, the issue was whether when a new element had intervened, and that is the application, the leave to appeal, the notice of appeal, or the appeal which is now before the Supreme Court of Canada on a matter now before the House of Commons—it has been filed—it was proper that there be discussion in this House with respect to the question of constitutional amendment, not just with respect to the order, whatever is the number of that order. It is much broader than that. That request was dealt with.

I say to my friend that it is not inappropriate now. It would certainly be appropriate later; it would be appropriate today when the issue came up. It might have been appropriate yesterday, if we look over the question period. I do not believe it was, but it is appropriate today. It would be appropriate