

Government Orders

Mr. Speaker: Perhaps the hon. member for Kamloops would defer to his colleagues on the Official Opposition side. I will hear that argument and then move to the hon. member for Kamloops, presuming that the arguments will be brief.

Mr. Peter Milliken (Kingston and the Islands): Mr. Speaker, of course I will be brief. I wanted to refer Your Honour to a couple of authorities that support the propositions put forward by the hon. member for Cape Breton—East Richmond, but I have a couple more points that I wanted to urge on Your Honour in respect to this important matter.

First I draw Your Honour's attention to Standing Order 1 of the House which states that in cases not provided for in the rules or by any other order of the House procedural questions should be decided by the Speaker—I am paraphrasing the rule slightly—whose decision shall be based on the usages, forms, customs and precedents of the House of Commons of Canada. I stress that.

What is happening today is unprecedented in that the government is moving a motion under Government Orders for debate to reinstate bills in this session. I have searched precedents back to 1938 and did not find one where a motion of this kind was moved for debate. It was always agreed to by unanimous consent. Never before has a government moved to suspend the rules in effect and put bills back into their position at the time of prorogation of a session.

If the royal prerogative is to mean anything the prorogation ended those bills. They have to be reinstated in the usual course, but they ought to have been introduced and dealt with as new bills in this session. That is the proper procedure in the absence of unanimous consent.

The usages and procedures of this House have always been that unanimous consent of the House is required in order to suspend the rules in relation to the reinstatement of bills. That is my first and primary point.

Based on the authorities—and I would like to cite the 21st edition of Erskine May on this point—the obligation to determine the procedural regularity of this motion clearly falls on you, Mr. Speaker. The power is a substantial one and it is set out on page 181 of this 21st edition, and I quote from it:

It is the duty of the Speaker to preserve the orderly conduct of debate by repressing disorder when it arises, by refusing to propose the question upon motions and amendments which are irregular, and by calling the attention of the House to bills which are out of order (and securing their withdrawal).

Those are relevant words. I could go on if I were to take more time and read more of that paragraph. I commend it to Your Honour's reference on this very important point.

Second, I would refer Your Honour to—

[*Translation*]

—Beauchesne's, Sixth Edition, citation 171—I believe this is the first reference in this House to the French version of the new edition—and citation 171 reads as follows: "Foremost among many responsibilities, the Speaker has the duty to maintain an orderly conduct of debate by repressing disorder when it arises, by refusing to propose the question upon motions and amendments which are irregular, and by calling the attention of the House to bills which are out of order. The Speaker rules on points of order submitted by Members on questions as they arise".

This is more or less the same wording as Erskine May, Mr. Speaker. I think this is an important citation which gives a good indication of your authority.

Mr. Speaker, I will now refer to Beauchesne's, citation 566. In paragraph (5) of the citation we read: "Any irregularity of any portion of the motion shall render the whole motion irregular".

The author referred to the Journals of the House of Commons for May 31, 1954, at page 674. I found the quote, Mr. Speaker, and I have a copy here. The Speaker of the House at the time referred to this citation with great enthusiasm but did not follow it in his ruling. On that occasion he made a distinction.

So even if the reference is correct and the citation is favourable, I feel that the irregularity to which the hon. member for Cape Breton—East Richmond referred is an irregularity in the motion, and therefore the whole motion is irregular.

[*English*]

Finally, I would refer to the citation in support of the division of motions to which my hon. friend from Cape Breton—East Richmond referred so ably. There is another serious problem with this motion which I would