

Income Tax Act

given, there is nothing to prevent such a resolution being moved in a form which differs from the notice.

It is the opinion of the Chair that there is nothing before the chairman but the resolution which has been appended to ways and means. It is also the opinion of the Chair that if the 48 hours notice was to be questioned, it should have been questioned at another time.

[Translation]

Mr. Grégoire: Mr. Chairman, under standing order 59 (4), I appeal from your ruling.

[English]

Mr. Speaker resumed the chair, and the chairman of the committee made the following report:

Mr. Speaker, the question is as follows.

In committee of ways and means, when the Minister of Finance proposed a certain resolution to amend the Income Tax Act, the hon. member for Lapointe raised a point of order to the effect that 48 hours notice should have been given in the proposed resolution. The chairman, using page 734, May's seventeenth edition, ruled that in his opinion 48 hours notice was not required in the present case, and that in his opinion the question of order should have been raised on another occasion. Whereupon, in accordance with standing order 59(4), the hon. member for Lapointe appealed the ruling to Mr. Speaker.

Mr. Speaker: I should perhaps mention to hon. members that I have listened to the argument which has been submitted to the chairman of the committee. I have taken judicial notice of the arguments, and I am prepared to give a decision at the present time on the appeal from the chairman's ruling in committee.

● (8:30 p.m.)

[Translation]

Mr. Gilles Grégoire (Lapointe): Mr. Speaker, if I may be allowed to say a word or two, there are two contradictory authorities in this case. The first one, which I think prevails, is the standing orders of the house.

Standing order No. 41 specifies very clearly:

Forty-eight hours' notice shall be given of a motion for leave to present a bill, resolution—

And so on.

Mr. Speaker, the wording of the standing order is very clear. Against that, the standing order is not denied, another rule is not quoted, but reference is made to May's Parliamentary Practice. When was it written? Maybe the hon. member for Winnipeg

[The Chairman.]

North Centre (Mr. Knowles) could tell me, but it is only a citation.

Has Sir Erskine May's treatise as much authority in this house as the standing order which was agreed to by all members of the house and agreed to unanimously many times, after being amended.

May's treatise has never been agreed to in this house; it is merely a collection of precedents.

It is true, Mr. Speaker, that in Great Britain common law is used, that precedents are created but there are also civil law proper.

On the other hand, we have here a digest of provisions accepted by the entire house. Which must prevail? The standing order which is clear and specific or May's treatise on procedure which has never been accepted as a rule in this house and which goes back to some twenty or thirty years. Which, Mr. Speaker, must prevail?

The standing orders are quite clear, definite and specific. What do we have before us? A motion of the Minister of Finance (Mr. Sharp) for the passage of a resolution. This is the measure which is submitted to us and the standing orders clearly state that a 48-hour notice is required.

Mr. Speaker, at this time, we have to consider not only the motion before us, but also the fact that we are trying to find out what authority should govern our proceedings. Is it the standing orders of the house to which we agreed to, or any other authority, such as May, Bourinot, Beauchesne or any other?

Besides, in consulting all these experts, we find they often contradict one another. When Sir Erskine May wrote his citation, at page 707, to which the Chairman referred a moment ago, was he aware of our standing order 41? Had he read our rules to write a citation such as this? Was his Guide to Parliamentary Practice still official when our rules were amended? Can May contribute anything to our own standing orders?

Naturally, Mr. Speaker, if you want other arguments, I can find any number of authorities who say that we have the right to appeal against a decision of the Speaker although the standing orders no longer allow it. Who will prevail? Who will give a ruling on a citation according to which we have the right to appeal against a decision of the Speaker, and when this can be done, whereas the standing orders have been changed to say that we no longer have the right to appeal against a decision of the Speaker?