

• (3:10 p.m.)

GOVERNMENT ORDERS

PRAIRIE GRAIN STABILIZATION ACT

PROVISION OF PAYMENTS TO WESTERN CANADA PRODUCERS IN YEARS WHEN RECEIPTS BELOW FIVE-YEAR AVERAGE

On the order:

September 24, 1971—Resuming the report stage of Bill C-244, an act respecting the stabilization of prairie grain sale proceeds and to repeal or amend certain related statutes, as reported (with amendments) from the Standing Committee on Agriculture—The Minister Responsible for the Wheat Board.

Mr. Stanley Knowles (Winnipeg North Centre): I rise on a point of order with respect to the proposal to proceed with the order which has just been read from the chair. As Your Honour will recall, I made a brief reference to this matter on Friday morning as reported in *Hansard* for that day at page 8345. My point of order arises from a citation in Beauchesne's Fourth Edition which I shall read. It is found at page 127 and the part I wish to quote is citation 149 (c) which reads as follows:

149. Besides the prohibitions contained in Standing Order 35; it has been sanctioned by usage both in England and in Canada, that a member, while speaking, must not:

(c) refer to any matter on which a judicial decision is pending;

I ought to point out, Sir, that the first person who raised this question was the Parliamentary Secretary to the Minister of Justice (Mr. Béchard). He raised it last Thursday evening when it was his turn to respond to a question which had been put to him by the hon. member for Halifax-East Hants (Mr. McCleave). The Parliamentary Secretary to the Minister of Justice pointed out that there is now a matter before the Federal Court of Canada, notice having been filed in that court last week, at Regina, on behalf of the Attorney General of Saskatchewan and four farmers of that province, as applicants. The respondent in the case is the Minister of Finance (Mr. Benson). I think it is appropriate to read again, as did the parliamentary secretary the other night, the first part of the notice of motion. It is as follows:

Take notice that an application will be made to this honourable court on Wednesday, October 6th, 1971, at the hour of 10 o'clock in the forenoon, central standard time, or so soon thereafter as counsel can be heard on behalf of the applicants, at the Court House, at the city of Regina, in the province of Saskatchewan, for a writ of mandamus, directing the respondent Minister of Finance to pay to the Canadian Wheat Board forthwith all sums of monies required to be paid to the Canadian Wheat Board by the respondent minister by virtue of the provisions of The Temporary Wheat Reserves Act of Canada, chapter 2 of the Statutes of Canada, 1956.

After reading that part of the motion, the Parliamentary Secretary to the Minister of Justice referred to the hon. member for Halifax-East Hants as a distinguished member of the bar and said that he would know "that it is inappropriate for the Minister of Justice and others to comment on this subject at this time."

Sir, there has now been called for debate in this House Bill C-244 which includes a clause that seeks to repeal, effective July 31, 1970, the Temporary Wheat Reserves Act. The entire question of the government's position in relation to that act, a question arising from the fact that it

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has not paid the last 14 or 15 monthly payments that it should have paid, is now before the Federal Court of Canada. Any discussion of this bill is bound to involve a discussion of that situation. Any comments that are made are bound to involve comparisons of the results of operating under one formula or under another. Also, if discussions on this bill were to come to the point where we would be called upon to vote, I submit that we would be expressing an opinion. We would be taking a decision on a matter that is, in the terms of Beauchesne's citation, "before the courts for a judicial decision". It seems to me that our discussion of whether or not the government is in default at a time when the matter is before the courts is, in the language of the Parliamentary Secretary to the Minister of Justice, inappropriate. Indeed, now that the whole question has been referred to the courts, we shall have to look very seriously at whether or not we can discuss it.

I am ready to admit that there are strong arguments on the other side of the question. It can be argued that Parliament is the supreme court of the land and that we have the right to change the law. No one here ever denies that; indeed we, in this place, insist on that right. At present it is not the right of Parliament to change the law that is in question but the position of the government under the law, as that law now stands. Since that matter is before the courts, we must consider whether we have the right to discuss it. As I said the other day when I raised this matter briefly, a ruling is called for one way or the other. Either the matter is sub judice, in which case this bill should not be proceeded with until the court's decision has been made, or it is not sub judice, in which case the Parliamentary Secretary to the Minister of Justice and others should not refuse to answer questions about it.

To this legal objection there has now been added, I believe, the weight of the moral position in which the government finds itself. The minister in charge of the Wheat Board only a few days ago requested of us on this side of the House an agreement to delay discussion of this matter, because he was discussing the whole bill with the prairie Ministers of Agriculture. We feel, in fairness to them and in fairness to ourselves, that the matter should not be proceeded with at this time. That may be slightly aside from the legal point I have raised. However, we are in a new regime. The Prime Minister says that it is not just legalistic matters that count; it is justice. I suggest that proceeding with this bill at this time does not do justice to Parliament and does not do justice, to say nothing of fair play, to the prairie Ministers of Agriculture. Therefore, Mr. Speaker, as I said on Friday I would do, I raise this point now, feeling that there should be some discussion of it and a ruling from the Chair as to where we stand.

Mr. G. W. Baldwin (Peace River): Mr. Speaker, I will not detain Your Honour and the House for long. The hon. member for Winnipeg North Centre (Mr. Knowles) has summed up the position with admirable clarity. I sometimes think he would have practised successfully in the profession to which Your Honour and I belong. I sometimes am under the impression that the hon. member is a member of the bar.

Mr. McCleave: And a distinguished member at that.