

Point of Order—Mr. Hnatyshyn

the question period, to which, I am sure, all hon. members would be opposed.

● (1512)

If we do not wipe out the question period and do as I did today, stop the debate at 2:15 a.m. it seems to me we are caught with Standing Order 45(2) which says that, having done that, the only way we can return to the debate is take it as a government order. That is the background against which I made the decision I made earlier today. I now invite the hon. member for Saskatoon-Biggar (Mr. Hnatyshyn) to continue.

Mr. Hnatyshyn: Mr. Speaker, I want to beg your indulgence and make my submission for your consideration. The preliminary thought occurs to me that there are parallels in other circumstances which have brought this to our attention during the last three days, particularly where there had been preliminary proceedings, the introduction of new members, for example, where there had been, by your leave, a forestalling of the question period, notwithstanding the strict wording of the rules that questions proceed during the hours you mentioned. I want to deal with the substance of the matter first of all.

It seems to me that two points have to be examined in deciding how to deal with motions under Standing Order 43. First, is a motion under that rule different in some previously unnoticed way from any other motion called under motions during routine proceedings, and second, how is Standing Order 45(2), to which Your Honour referred, intended to operate? I am concerned not only about motions under Standing Order 43, but about other motions dealt with under the item motions itself. For example, the result of a ruling that the interpretation of Standing Order 45(2) is to change after 12 years from the original intention to an exact literal meaning, would be to curtail sharply proceedings on concurrence motions. If this is to be done it should be through a change in the rules.

On the first point, Mr. Speaker, the move of Standing Order 43 to a slot before the question period was nothing more than a move to limit their number for the convenience of the government. No new category was created in a formal procedural sense; we have motions under Standing Order 43 which are taken before 2.15 p.m., and the other motions, with Standing Order 43s excluded, taken afterwards. An examination of the proceedings of the Standing Committee on Procedure and Organization will show that there was no intention to create a new category under routine proceedings with a different status and a different relation to the rules governing motions. There was simply a subdivision.

When the period of notice expires on a motion put down for routine proceedings, it is immediately debatable. Similarly, if the notice provision is waived on a motion brought forward under motions, whether this happens during motions as before the rule change, or under a separate subdivision as at present, then the motion is a debatable motion. This has been confirmed by our practice. Once the motion is properly before the House for debate there is no difference in the way the standing orders respecting motions apply.

[Mr. Speaker.]

Then the question is: how was Standing Order 45(2) intended to be applied to such a motion?

As some members of the House may remember, a motion called under motions prior to 1965 had absolute precedence until disposed of. It precluded the question period and any other proceedings each day, since motions came before oral questions. Since the motion was not a government order, Standing Order 18(2) giving the government the right to call its own orders as it saw fit, did not apply. Thus the business of the House could be blocked for days until such a motion was finally disposed of.

To correct this situation Standing Order 45(2) was introduced. In bringing it in the then government House leader, the Hon. George McIlraith, said as reported at page 2132 of *Hansard*, volume II:

Paragraph No. 7 deals with a matter which was not provided for in the rules formerly. There was a provision that caused some concern to those responsible for administering the rules having to do with a motion moved by a private member. It arose, in my experience, where a private member was moving concurrence in a committee report. The change is such that a motion, which seemed to have a doubtful or unclear position on the order paper, is now placed under government orders *after it has been debated for one day*. There will be a safeguard offered in an amendment we will be bringing forward to give that order precedence. The rules now provide that any item of business under government orders can be called in any sequence the government wishes. There will be a safeguard put in to protect the priority of debate of such a motion when it is transferred to government orders.

The amendment referred to was made, and simply meant that although the motion was transferred to government orders, it still had to be called first on government orders until disposed of. This was not satisfactory either, and so in 1969 the amendment that had been made to Standing Order 18(2) exempting Standing Order 45 was dropped.

The third report of the Standing Committee on Procedure and Organization of the House (*Journals* 1969, pages 429 to 438), in dropping the amendment to 18(2) which gave the motions a priority, said:

XII Transferred Motions

33. On June 11, 1965 a provisional section (2) was added to Standing Order 43 (as S.O. 43 then was), providing for the transfer to government orders of an order for the resumption of a debate which had originated on a motion under routine proceedings. Its purpose was to prevent such an order from obstructing indefinitely the normal business of the House. This purpose was only partially achieved, however, because under the provisional rule the government is obliged to call such an item of business before any other government order.

34. Your committee believes that this restriction on the government's discretion should be removed and that it should not necessarily be obliged to call such an order before any other. *One day of debate would already have been devoted to the kind of motion contemplated prior to its transference to government orders—*

The committee therefore recommended the necessary change, and, in addition, made Standing Order 45(2) refer not to Standing Order 15(2)—description of routine proceedings—but to all motions “prior to the reading of the orders of the day”. This had, I believe, the effect of bringing any debate on a motion concerning a prima facie case of privilege under the rule as well.

It is clear from the statements made on these two occasions, and from subsequent practice, that the debate begun on a