

Point of Order

Your Honour will have read these words, but I refer the Chair to page 9247 of *Hansard* where it states:

I suggest that any member of this House could have moved any of the amendments that have come down to this House from the Senate. We could have moved them at any stage on this bill, and they would have been in order. The government House leader knows that full well.

And he did. He had a choice. He could have proceeded at that time with his resolution and message to the Senate, or he could have argued before Your Honour that these amendments were out of order and asked Your Honour to kill this bill. Yet he did not do it. He chose to take his chances and move the resolution that he did on March 12 and then force it through the House with his substantial majority on March 13.

It seems to me, having taken that step, it was not open to him, given the rule in *Beauchesne* that a point of order must be raised promptly and at the earliest opportunity, to raise that point the day before yesterday.

The second point is that in effect the House has already made a decision that in fact these amendments are in order. If they were out of order, they had to be out of order before the House adopted a resolution relating to those amendments. Yet on March 13 I believe the minister himself was here and voting. He voted for this resolution which, admittedly, condemned the amendments, but it accepted certain ones and agreed in principle with certain others. Now he is trying to in effect have his cake and eat it too.

Mr. Cooper: We always do that.

Mr. Milliken: As the parliamentary secretary says, that is the government's continual effort.

That is what happened. There was the minister getting his majority to vote in favour of a resolution to approve certain of these amendments and to deny certain others. Having already voted on this issue the House has made its decision. In so far as this House is concerned, the amendments must be in order. If they were out of order, we should never have had that vote.

If they were out of order, and the House leader believed them to be out of order, and if he believes what he says now—and I invited him to do this on March 13 before the vote—then he had plenty of opportunity to

make this argument. He chose to allow the House to come to a decision on those amendments.

Now he says: "Boy, we won the vote in the House. We have lost it in the other place. Now I want the House to in effect do something it should have done before, that is, rule these amendments out of order," for whatever good that is going to do. I will come to that in a moment.

That is the second argument, and I suggest he is wrong on both those counts.

The question that arises is this. What does the government House leader really want Your Honour to do? That is not clear. He gives reasons why he thinks this is a valid point of order. But does he want Your Honour to say that these amendments are out of order and thereby kill this bill? Or does he want Your Honour to say that the Senate cannot do this and send some kind of message to the Senate?

What is the purpose of this point of order? I think with respect, what Your Honour must look at is the situation that has already obtained in this case. The question of the propriety of these amendments, having regard to the Constitution Act, was argued in the Senate. The Speaker of the other place rendered a decision on those arguments.

Hon. Senators representing the government in the other place stood up and argued before the Speaker of the other place that certain of the amendments proposed by the Senate committee that considered Bill C-21 were out of order—the very ones that the government House Leader now says are out of order.

The members argued the point in the Senate. There was an extended debate. At the conclusion of the debate the Speaker of the Senate handed down a ruling.

What did he say? Did he say those amendments were out of order? He said that two of them were, which is my recollection of that ruling. Those two were struck out. They could not be presented to this House. But he ruled that all the others were in order.

Can you imagine, Mr. Speaker, how ridiculous our Parliament would appear in the eyes of other Parliaments in the Commonwealth if we had the Speaker of one of the Houses saying that these are proper under our Constitution and the Speaker of the other House saying that they are not proper? Surely, the Constitution is the