

Point of Order—Mr. Andre

other way to do what they want to do. Surely there is another way, the proper way, and that is to amend the statute.

Some hon. Members: Hear, hear!

Mr. Baker (Nepean-Carleton): That is what Parliament is here for, or that is what I thought Parliament was here for. So that argument falls completely to the ground and I hope you will not be moved by it.

As to the point that the discussion here today is, in a sense, preliminary to a debate because at some time the government may bring in a bill, it is certainly that. If the government brings a bill down, there will certainly be debate on it. We are talking now about an important point of order, the question whether or not the government of the day has moved appropriately under the law.

Madam Speaker, of all the decisions you have been asked to make, this is likely to be the most judicial. The position as it has been put before the House by the hon. member for Edmonton West (Mr. Lambert) and the hon. member for Calgary Centre (Mr. Andre) is very clear. The government can, of course, put down a ways and means motion—if they have legal authority to do so. In this case they have not, except under the terms of the Standing Orders of the House. We are not arguing the right to do it. We are arguing whether or not it is lawful in its terms, and it is clear on the face of the document that this is not a tax but a levy. It is a levy for a fund, not for the Consolidated Revenue Fund. It is a different thing. That is the one point you have to come to terms with, Madam Speaker, and it is very important to the House.

It is not by accident that we have established rules of practice here which require in certain circumstances, when it is appropriate and lawful for it to be convenient to the government to table a ways and means motion, that they can table a ways and means motion that is effective.

● (1500)

Equally, when the government enacted the Petroleum Administration Act in the first place, it chose the method by which it would make the levy. The levy would be made by an act of Parliament, and the only way the government can change that levy, under these circumstances in any event, it not being a taxing statute, is by another act of Parliament. That is the question as simply, clearly, and succinctly as I can possibly put it.

Mr. Fox: It is clearly wrong.

Mr. Baker (Nepean-Carleton): This is important for a number of reasons. An announcement was made today which I am sure has had a tremendous effect on the market. It is an announcement which, under these circumstances, I suggest is inappropriate. Surely the law officers of the Crown could advise the minister differently. Surely they could have done that, but much more fundamental than that is the position in which you, Madam Speaker, find yourself because this motion is to take effect tonight at midnight, assuming it is right, proper and legal, which it is not, in my respectful submission.

This decision of yours is one which should be reserved but really cannot be reserved, and I think the House has to accommodate Your Honour. The House should be prepared to accommodate you so that you can make that decision, and make it today. If Your Honour feels that it is appropriate, I think the House would be agreeable that the sitting be suspended until such time as you have had an opportunity to consult with your officers, because of the fact that it is a Friday and we are heading to an effective time at midnight. I hope the House would be agreeable with respect to that matter. It is for you to decide as to whether you need the time, but that is not the main reason I rise.

The main reason is clearly that there is one way, and one way only by which the government can act with respect to the Petroleum Administration Act because the government chose it originally when it brought in the act. It chose not to move by ways and means but to move by statute, a statute which imposes a levy, which is not a tax. A tax is the only thing subject to a ways and means motion. By statute is the only way this government can appropriately and lawfully move. It may be inconvenient for the government, but it is the only way it can move.

Hon. Stanley Knowles (Winnipeg North Centre): Madam Speaker, there is no doubt that the hon. member for Calgary Centre (Mr. Andre) has raised a very important procedural—if not constitutional—point, and I am pleased that instead of the rather heated discussion we had earlier about courtesy versus discourtesy we are now having a calm and collected discussion about this serious point. I also feel that it is a difficult one for Your Honour and that you will have to give it very serious consideration.

If I may come to the conclusion of my argument first and then go back and try to point out how I arrive at that conclusion, I would say that the question before us is whether the fact that the Minister of Energy, Mines and Resources (Mr. Lalonde) put a title on this piece of paper that it is a notice of ways and means motion makes it a notice of ways and means motion. I have the feeling that the case is very strong for the fact that what the minister is proposing is an amendment to a statute and that the way to bring about that change is by giving notice of an amending bill. The difference which faced the minister, of course, is that we have a certain tradition around this place to the effect that an amending bill's provisions do not come into effect until that bill has been passed and the corresponding statute has been amended. However, the other side of that tradition is that a notice of ways and means motion, which is an amendment to a taxation statute, can come into effect immediately or, as usually is the custom, at midnight that night.

As I look at it, and I am following the argument put forward by the hon. member for Calgary Centre, what we have before us is the Petroleum Administration Act, which has in it certain provisions for charges, and the government, through the minister, wants to amend the Petroleum Administration Act. It seems to me that the only way he can do that is by giving notice of a bill to amend the Petroleum Administration Act.