

Income Tax Act

Mr. Speaker: With the respect to the point raised by the right hon. member, there is no objection, so far as I am concerned. I may say that I am guided in taking the action I have taken by similar action on the part of the Speaker of the British House of Commons in respect to an analogous case some ten years ago.

Mr. Murphy: Does the precedent to which Your Honour has just referred also extend to the entry which you propose to have made in the *Journals* of the house, as emanating from the Speaker rather than from the house?

Mr. Speaker: I have used the exact language of the Speaker of the British House of Commons, except that I have added a line taken from the entry made in the *Journals* of this house in 1874.

Generally, as to the right of the house to waive its unchallengeable right on the part of the House of Commons not to have its money bills or legislation changed or altered in the other place, it is very clear that that right exists and that it can in particular cases be waived.

I believe the latest example can be found in 1947 and I particularly recall an example that occurred on June 11, 1941. On that occasion there had been a similar action taken by the other place in respect of a money bill. This is reported in the *Journals* of the house for 1941 at page 491 in these words:

Mr. Hsley then moved.—That the said amendment be now read the second time and concurred in; but that this house, while disapproving of any infringement of its privileges or rights by the other house, in this case waives its claims to insist upon such rights and privileges but the waiver of said rights and privileges is not to be drawn into a precedent; and, further, that this house agrees to the incorporation in this bill of Bill No. 101, an act to amend the Special War Revenue Act.

The question was asked by the hon. member for Kenora-Rainy River (Mr. Benidickson) as to whether or not it would require unanimous consent on the part of the house. Without going into that question directly, I think perhaps that as a whole, while strongly asserting the right of this house to be the sole emanation for legislation connected with finance, taxation and the like—and I hope that will be the view of this house—in view of the motion of the Minister of Finance the house will give unanimous consent to that motion. The house will thereby assert in the clearest and most unequivocal language the undoubted constitutional right of this house, so that there can be no doubt that in allowing an amendment in this particular case there shall be no suggestion of precedent established and no future basis for the assertion in the other place of its right to continue this course.

Hon. L. B. Pearson (Leader of the Opposition): Mr. Speaker, it seems to me that a very important constitutional principle is involved in this matter. I am sure we all feel that we have a duty to ensure that the rights and privileges of this house are not

[Mr. Diefenbaker.]

violated, circumscribed or abridged by any action which we might be taking arising out of action taken in the other place. The rights and privileges of the House of Commons are well known in this matter and the limitations on the action of the other house in respect of those rights and privileges are also well known.

The Prime Minister (Mr. Diefenbaker) has just said that we must make perfectly certain that our rights are clearly expressed in any action we may take and that nothing that could constitute a precedent should be established, but in order to justify the action we might desire to take this afternoon reference has been made to action taken previously which was taken at that time on the understanding that it would not be a precedent. So action does become a precedent when you refer to it to justify action which you may take but which you do not wish to be taken as a precedent. That is the difficulty we are in, as I see it.

The Minister of Finance (Mr. Fleming) said a few moments ago, I believe, that the government accepted this course reluctantly. If the government's reluctance was due to the substance of the amendment in question, it seems to me all the more surprising that the government would take this particular course. If the government's reluctance is due to misunderstandings which may be created in the future because of the procedure we are following and because of the possible effect of that procedure on the rights and privileges of this house, then it seems surprising to me that having this reluctance the government would pursue this particular course.

Why should we run the risk—even if it is only a risk—of waiving our rights in this matter as a House of Commons if some other course could be followed which would accomplish the same purpose, if it is the intention of the government to make this change in the legislation? Could the government not take its responsibility in this matter, if it so desires, and introduce an amendment to its own bill in its own right without referring to any amendment from any other place? Would that not be a possible course of action? Would that not be the best course to be followed? If that course could be taken, I can assure the government that we would certainly do everything we could to expedite the procedure.

Mr. Diefenbaker: Mr. Speaker, I should like to ask my hon. friend this question. Is not the course that has been suggested by the Minister of Finance that which has been followed by successive governments since 1874 in particular cases?