

HOUSE OF COMMONS

Tuesday May 16, 1972

The House met at 2 p.m.

ADMINISTRATION OF JUSTICE

STATEMENTS BY MEMBER FOR YORK SOUTH
ALLEGEDLY REFLECTING ON JUDGES—REQUEST FOR
UNANIMOUS CONSENT TO MOVE MOTION UNDER S.O. 43

Mr. Speaker: Yesterday the right hon. member for Prince Albert proposed to move a motion under Standing Order 43 in the following words:

That the subject matter of public statements made by the hon. member, and in particular those which are of a disparaging nature to the integrity and independence of the bench, be immediately referred to the Standing Committee on Justice and Legal Affairs.

Before putting the question the Chair expressed reservations about the procedural acceptability of the motion in accordance with the provisions of Standing Order 51. Although there appeared to be unanimous consent among hon. members to proceed with the debate, the Chair undertook to look into the procedural aspects of the proposed motion.

• (1410)

It should be pointed out that the unanimous consent of the House contemplated by Standing Order 43 has reference only to the setting aside of the notice requirements provided in Standing Order 42. That is the sole purpose of the Standing Order. It does not set aside the ordinary rules applicable to the form and content of motions.

Thus, when a motion is proposed under the terms of Standing Order 43 the Chair has an obligation to ensure that the ordinary usages of the House are observed. Even after the most serious and exhaustive consideration of the matter, the Chair has the same reservations as to the procedural aspects of a motion of this kind.

In the circumstances I would hope that it might be found possible either to redraft the motion and propose it in other terms or, if it is the unanimous desire of the House, to have a debate on this matter in some other form, perhaps under the provisions of another Standing Order or procedure. As hon. members know, there have been discussions in this regard. Hopefully, these consultations will result in due course in some understanding between all parties and individuals concerned. However, this is not for the Chair to decide, and for the moment I would have to leave this in the hands of hon. members themselves.

Mr. Knowles (Winnipeg North Centre): Mr. Speaker, I rise on a point of order. In view of the reference Your Honour just made to discussions among the House leaders with regard to this matter, may I ask the government House leader whether the agreement we reached yesterday for a debate at nine o'clock tonight, on a different

type of motion but with respect to this matter, will be put into effect?

Mr. MacEachen: Mr. Speaker, it is not entirely my responsibility to determine whether this can be or will be done. First of all, I would prefer to hear the views of the mover and the seconder of the motion in question. If there is a desire along those lines, I would certainly be happy to co-operate with the over-all wish to have a debate, but it is not my purpose to bring about a debate that may not be desired at this point.

Mr. David Lewis (York South): Mr. Speaker, in view of what has just happened, and on the basis of the notice which I gave you, I am forced to rise on a question of privilege, which I now do, because what occurred yesterday has resulted in a misrepresentation of what I have said—

Some hon. Members: Oh, oh!

Mr. Lewis: —and has got national attention in a thoroughly unfair way. Mr. Speaker, the first thing I want to say, in view of the attack made on me by the right hon. gentleman, is that I do not retract anything I said last Friday, nor do I make any apologies for having said it.

Some hon. Members: Oh, oh!

Some hon. Members: Hear, hear!

Mr. Lewis: The second thing I want to say is that the reports of what I said which appeared in the *Globe and Mail* and the *Toronto Star* were accurate reports. I do not claim that those reports in any way misquoted or misrepresented me, but I cannot say the same thing for what the right hon. gentleman from Prince Albert put before the House and before the people of Canada—

Some hon. Members: Hear, hear!

Some hon. Members: Oh, oh!

Mr. Lewis: —because what he said was a complete misrepresentation of what I said and, indeed, of what was reported in the papers to which I referred.

As recorded at page 2243 of yesterday's *Hansard* the right hon. gentleman said in part:

—I have never found it necessary to attribute the results to a politically partisan court. I admit that judges are not above criticism and they must be subjected to the constant searchlight of public opinion. But to condemn the judiciary blanket-wise as men virtually without integrity cannot be justified.

Later he said:

That means that the judiciary, unable to protect itself, is not independent.