

*Oral Questions*

to hon. members at all times that the most flagrantly argumentative, irrelevant or frivolous question, disrespectful perhaps, in unparliamentary language can be put by a member, and to leave the situation there, ruling the question out of order and preventing a minister from getting to his feet to at least get off a rejoinder is a little unfair. Often it is impossible to prevent a minister who is quick on the trigger from at least making a rejoinder. The Chair does not have the authority to stop someone engaged in that kind of process. By getting up to rule the question out of order or by going to another member, which I often do, I still cannot physically prevent a minister from getting out of his chair to make some kind of an answer. So whether or not the question is out of order, the Chair, so far as I know, does not have authority to stop a minister from speaking.

In some circumstances, while what I think is an innocuous question to a minister may touch upon the minister's former capacity, if it happens to clarify the situation in the House, the goodwill, good judgment and good sense of the member usually will go along with the situation and indicate that it is not an attempt to subvert the rules and procedures of the House but simply to gain information which might make for a more meaningful question period. In those circumstances it seems to me that any Speaker who did not have discretion to allow that sort of thing to happen would be inviting a very technical House indeed, one which I think would be unhappy and unproductive.

In the situation in which we find ourselves, we fall back upon situations which we have been in many times in the past. The clearest situation here is that the present Minister of Supply and Services (Mr. Goyer), in his former capacity as solicitor general, did or did not do things which are of vital interest to the House. That is very clear. The House would be delighted to be able to question the minister. If the House could question the present Minister of Supply and Services on what he did or did not do four or five years ago, it could equally question the hon. member for Windsor West (Mr. Gray); it could equally question the hon. member for Eglinton (Mr. Sharp). The counter proposal to that is no, that is not the way it should be; it should only be so if the member is still in the cabinet. That is a distinction which has not been known to me up to this point and I have never previously been invited to make that distinction.

The judges situation has been raised in argument. At that time I was in the situation of attempting to decide how to apply this rule. There one or two ministers of the Crown had taken a step which was the subject of interest to the House. The fact that they had taken that step was directly connected to their capacity as ministers of the Crown. There could be no question in my mind about that. Were they not ministers of the Crown, the step they had taken would not have had the importance that it did.

For the Chair then to attempt to say that simply because the step itself was not connected with the direct administrative responsibility of the cabinet would, I think, have been to apply this rule in a technical fashion which would have tied the

hands of opposition members in an unfair way. I therefore concluded that questions to the ministers who had allegedly done those things were permissible. There was no obligation on the ministers to answer, but the questions ought to be put.

That situation, it seems to me, is a long way from covering the one at the present time, which is similar to ones which have arisen many times in the past, namely: Can members ask a question of a minister in that minister's former capacity? The clear answer given time and time again, without any doubt about our practices and precedents, has been no. It is tied very directly to the theory of ministerial responsibility, that the present incumbent of a ministerial office has responsibility which goes back for all time. It does not stop at the time that that incumbent took office. Therefore there cannot be two people responsible to the House in the parliamentary sense for that continuing responsibility.

If one minister who now occupies that position is responsible through all time for answering questions in this House, that responsibility cannot be shared by another minister who is a former occupant. If it is the wish of the House to change its practices to say that the House ought to be able to ask questions of a previous incumbent, then the House must also be prepared to accept the argument that the responsibility of the present incumbent of that office stops retroactively back at the time that he took office.

I am sure that this House would never be prepared to make that trade-off. If the House does want to do so, then I think the proper route would be for the procedure committee or some other body, a debate in the House or some reduction of the House, to tell me or any other incumbent of this office that the procedures of the House have been changed. Unless and until that happens, that is the clearest, most concise and effective rule which in these circumstances is not capable of any misinterpretation of misunderstanding, namely that no such questions can be put in the question period.

Can the minister be brought to account elsewhere, or can other steps be taken, are questions which are irrelevant to this particular procedural debate. Our practice and precedents make it clear that the limit of questions to be put to a minister in the question period in this House must go to the minister's present ministerial responsibility, and clearly not a previous ministerial responsibility. That is exactly the case in point. Therefore I have no choice in the circumstances except to disallow questions to the present Minister of Supply and Services which relate to his capacity as a former minister at a previous time.