

Capital Punishment

different form of execution, and therefore it is out of order.

May I merely point out to you that there was no mention in the original bill of any details or any procedures or any length of time in respect of parole, and the committee, albeit in my absence, decided in its wisdom to insert in that bill restrictive provisions regarding parole and parole procedures. My point, put as simply as I can, is this. The Chair is accepting amendments from the committee as being in order. I appreciate you have very grave doubts about this one, but I assume you are accepting it. If the Chair is accepting amendments that come from the committee as being in order, then I submit that in fairness you have no choice but to accept motion No. 11.

● (1450)

If the only ground for ruling motion No. 11 out of order is that there is no mention of this question in the initial bill, then I am sorry and we must leapfrog back one further stage and you should also refuse to accept the bill as coming to the House from the committee. It should be returned to the committee. I suggest that you have a duty to perform if a committee reports an improper bill to you. I know Your Honour would be making a precedent-making decision, if you make it. I submit that the Chair has the duty and responsibility to supervise the actions of committees of this House. The only way Your Honour can exercise that responsibility, obviously, is by refusing to accept improper reports to you. If you are about to rule that motion No. 11 is improper, I submit you should also rule that the committee's report is improper, because it deals with exactly the same type of matter. The same question of principle is involved in this matter.

I will not flog the matter any further, Sir, hoping I have made my point. It is simple: if you accept the committee report, in all fairness and equity you should also accept motion No. 11.

Mr. J. A. Jerome (Sudbury): Mr. Speaker, for obvious reasons, as the chairman who ruled on this amendment in the first place, I was reluctant to enter this debate on whether the amendment or the bill is in order. I only do so now because the previous speaker in his argument referred to the fact that the amendment was moved. The amendment was in a certain form and a ruling was made on it. The amendment was rejected, but that amendment is identical to the one which is before you now as motion No. 11.

There are two comments I want to make. The hon. member has conveniently overlooked two important distinctions. The first distinction he overlooked has to do with the power of the Chair at this juncture. The power of the Chair, of course, is absolute with respect to motions which are before the Chair at this time. Accordingly, it is the privilege and obligation of the Chair to rule on whether motion No. 11 is in order, because it is before the Chair at this time. So Your Honour must rule on it. As Your Honour pointed out in your preliminary remarks, the Chair does not possess anything like the same powers with respect to an amended bill, which is before you, and therefore your handling of the matter in that regard would have to be totally different.

[Mr. Lawrence.]

The second distinction that the hon. member conveniently overlooked has to do with the nature of the two motions that he is discussing, the first being motion No. 11. That motion is a direct affront to the rules of procedure in that it proposes to go beyond the amending bill, Bill C-2, and do one thing only, amend a section of the Criminal Code which it is not intended will be amended by Bill C-2. That is a direct contravention of the rules. A comparison of amendments which have now been passed by the committee and now form part of the bill, and the provisions of the Parole Act, which are included in the bill, is not a valid comparison inasmuch as the amendments to the Parole Act are only consequential to the main thrust of the amendment which was accepted in committee.

The amendment which was accepted in committee was to define or clarify what is meant by life imprisonment and to give the judge certain powers with respect to those parts of Bill C-2 which deal with life imprisonment. If that amendment, which automatically is part of Bill C-2, is on any dangerous ground it is because it went beyond that matter and dealt with an amendment to the Parole Act; this would have to be done in due course. That is the only consequential aspect of the main thrust of the amendment. Also, it is separable. It would be entirely possible for the government not to go that far. The government could do that at any other time.

In other words, faced with the main thrust of the amended bill, the government, if it did not want to amend the Parole Act, would have been obligated, in order to bring the Parole Act in line with the Criminal Code as amended by the passage of Bill C-2, to present a further bill to amend the Parole Act. If that simple step had been taken to cut adrift that consequential aspect that relates only to the Parole Act, the amendment, surely, would have been beyond attack. Therefore I submit that the comparison is not valid.

Mr. Speaker: I thank the hon. member for Sudbury (Mr. Jerome) and the hon. member for Northumberland-Durham (Mr. Lawrence) for their guidance in respect of this very important motion. I wish to assure the hon. member for Northumberland-Durham that I fully understand the strength of his argument. This is what perhaps caused me most anguish in the last hours and days when I have been giving this matter serious consideration.

The hon. member states that his amendment, or motion, should be treated in the same way as amendments which are accepted in committee and adopted by the committee, so that they are now part of the bill. I think there is some distinction between the two. In addition to the distinction to which the hon. member for Sudbury alluded, there is another distinction. While I had some doubts as to the validity of the amendments, I was not prepared to make a clear ruling that they were clearly out of order. I said that I had some doubts. When I referred originally to the amendment proposed by the hon. member for Northumberland-Durham, I said that I had some doubts as to the procedural validity of his amendment. I might say that this was a polite way of putting things. I had perhaps more than doubt. I was basically convinced that the amendment was not acceptable for the very simple reason that it goes beyond the terms of the bill which we have before us.