Point of Order—Mr. Cossitt

The answer by the Prime Minister was:

See Beauchesne's Parliamentary Rules and Forms, Fourth Edition, Citation No. 171 (a), (e), (h), (l) and (g).

It is undoubtely, it seems to me, Mr. Speaker, axiomatic that any question accepted for appearance on the order paper has been approved, and therefore bears the same standing as if it were an oral question asked in this House. All hon. members, I am sure, have experienced representations from the officers at the table declining to accept a question for the order paper on the grounds that it is in some way out of order, or advising that the wording must be changed to make it acceptable. On all such occasions, I believe I am quite correct in stating that Your Honour, as would be expected, is the final judge, so to speak, as to acceptability or otherwise of the question, if a member disagrees with the ruling from the table officials.

First, therefore, I am contending that an accepted order paper question and an accepted oral question have the same status in so far as acceptability before the House is concerned, in that the ultimate authority of the Speaker has been applied to such acceptance.

Referring specifically again to question No. 347, it was obviously accepted for the order paper in the usual manner. I quite realize the Prime Minister, by the rules of the House, is not obliged to give any answer to a question. However, in this case he has not just given an answer but he has taken it upon himself, Mr. Speaker, to rule my question out of order by using Beauchesne's citations to do so.

In taking such a step the Prime Minister has therefore usurped the powers of the Speaker of the House of Commons. The Prime Minister may be, in his opinion, many things, but he is not the Speaker of the House of Commons, and his interpretation of a Beauchesne's citation therefore has absolutely no standing whatsoever unless Your Honour confirms it after hearing argument from any members who wish to present a case.

● (1512)

Certainly it cannot seriously be contended that the Table officers cannot possibly examine in detail all submitted written questions, because that is the actual procedure we presently follow. Nor can it be argued that the Prime Minister, whatever views he may hold, is permitted to decide arbitrarily that a question is out of order. Only the Speaker of the House of Commons has such authority, I would think.

In my view, Mr. Speaker, I would respectfully submit that question No. 347, and any other questions ruled out of order by the Prime Minister, a minister or a parliamentary secretary in this session of parliament, on the basis of a citation in Beauchesne should be restored to the order paper forthwith. If table officials accept a question which subsequently is ruled out of order by the Prime Minister or by a member of the government, as it now stands Table officials refuse to accept the question again for the order paper because they naturally claim it is a question which has already been asked. Thus we have the ridiculous situation in which Table officials are

[Mr. Cossitt.]

confirming a ruling by someone who is not entitled to make a ruling in the first place.

In no circumstances can I find any precedent for this unbelievable situation. I f it were to be accepted, then any member of the House would presumably have the same right as the Prime Minister; supposedly he would be able simply to rise and cite a quotation from Beauchesne and get it accepted as a ruling binding on all other members, on the officers of the Table, and even upon Your Honour.

In conclusion, I respectfully submit that the use of a Beauchesne citation by the government is not conclusive but is, rather, just one side of a procedural dispute. I submit that, as in any other procedural argument, both sides must be heard and a ruling then made by the Speaker. May I finally add that Beauchesne's citation 171 is archaic and cannot be used indiscriminately without reference to precedent and changes in rules and practices which have come into force since 1958?

Mr. Speaker: The hon. member raises a matter which we will have to consider. He has described the practice correctly—we do examine a question for its acceptability and we do pass judgment on it. There are a great many questions on the order paper and we try to give each one a detailed examination. Possibly we may not have correctly interpreted the precedents in respect to the particular question referred to, though I do not recall it precisely. It would seem to me that in all likelihood the best way to make a test would be for the hon. member to refile the question, giving the table the opportunity to examine it and to see whether there are any procedural grounds upon which to reject it.

Even in the oral question period to which the hon. member has alluded, it is not uncommon that though the Chair may allow a question to go unchallenged, a minister may rise in his place and resort to a defence of some sort which the Chair has not called upon. This may occur particularly with respect to a matter which may be sub judice, or to areas of privileged information about which the Chair has not passed upon. In some cases—in fact this afternoon—the Prime Minister (Mr. Trudeau) made reference to a question being hypothetical in nature. Again, this might be based upon information which the Chair did not possess.

It may often happen that a minister will use this kind of answer, and since the Chair has not procedural grounds upon which to compel an answer, it is impossible for the Chair to say that an answer given on procedural grounds is not, in fact, an answer. However, if such a matter becomes an issue, as is the case now, then the right way to test it at the time, in the oral question period, would be to ask the Chair to rule whether it is hypothetical or not. In these circumstances equally, in the case of a written question, the way to test it would be to say, as the hon. member has said, I have received a reply which begs the question on procedural grounds. Are the procedural grounds correct or are they not?" Then we can make a determination and decide whether or not the question should be refiled.