

The Order being read for the second reading and reference to the Standing Committee on Miscellaneous Estimates of Bill C-38, An Act respecting the office of the Secretary to the Cabinet for Federal-Provincial Relations and respecting the Clerk of the Privy Council;

Mr. Trudeau, seconded by Mr. Sharp, moved,—That the Bill be now read a second time and referred to the Standing Committee on Miscellaneous Estimates.

And debate arising thereon;

The House resumed consideration of the point of order raised by the Honourable Member for Edmonton West (Mr. Lambert) Wednesday, December 11, 1974, to the effect that Bill C-40, An Act to amend the Excise Tax Act and the Excise Act, was not in conformity with the relevant provisions of the Ways and Means Motion upon which it was based;

RULING BY MR. SPEAKER

MR. SPEAKER: The question concerns the relationship between the provisions of Bill C-40, An Act to amend the Excise Tax Act and the Excise Act, and the Ways and Means Motion tabled by the Government, and concurred in by the House on December 2, 1974.

The motion deals with proposed taxation of boats as follows:

"17. 11. Boats, other than naval vessels, designed to be propelled primarily by motors exceeding twenty horsepower (including drive assemblies) for boats ten per cent."

The bill deals with proposed taxation of boats as follows:

"Clause 21 (1) (11)

"Boats, other than boats purchased or imported by Her Majesty in right of Canada for use exclusively by the Government of Canada, designed to be propelled primarily by motors exceeding twenty horsepower; and motors exceeding twenty horsepower (including drive assemblies) for boats other than boats purchased or imported by Her Majesty in right of Canada for use exclusively by the Government of Canada ten per cent."

The question is an extremely important one because it relates to the financial initiative of the Crown and to one of Parliament's most basic processes—Ways and Means.

Examples prior to 1969 are of little assistance, because they relate to circumstances under which the Ways and Means process was begun by a resolution and continued in a committee of Ways and Means, both of which were eliminated in the 1968 rule changes. Since that time there have been similar questions raised, but none dealt directly with the precise problem before us.

Certain things however are quite clear.

First, that the Ways and Means motions which follow the budget presentation are by virtue of time honoured practice and tradition, the very expression of the financial initiative of the Crown and therefore a most important aspect of our procedure.

Second, S.O. 60(11) establishes the relationship between the Ways and Means motion and the bills which follow. "The adoption of any Ways and Means motion shall be an order to bring in a bill or bills based on the provisions of any such motion."

Third, the critical words are "based on". It must be assumed that if it was intended that the bills be required to be identical to the motion, the rule would say so.

Fourth, I am further unable to find any support, either in the Minutes of the Procedure Committee of 1968 which recommended the rule changes, the debates on those new rules, or even in analogous precedents, for the proposition that the bills must be identical to the Ways and Means motions.

It is equally clear that the taxing power of the Crown is limited by the Ways and Means motion, and any bill which sought to extend such power beyond the provisions of the Ways and Means motion would be out of order.

In the case before us, the bill differs from the Ways and Means motion in the clause related to the proposed taxation of boats.

The specific difference relates to those craft which would be excepted from the tax.

In the motion the exception is for naval vessels.

In the bill the exception is for "boats purchased or imported by Her Majesty in the right of Canada for use exclusively by the Government of Canada".

By my understanding of the terms involved, the bill widens the class of Federal Government craft that would be excepted.

The tax remains the same.

The rate of tax remains the same.

The change relates to one of degree of exclusion, but remains within the general description of Government purchases.

Under these circumstances, I cannot see how I could hold that the bill is not "based on the provisions of the Ways and Means motion".

I must therefore find that the point of order of the honourable Member for Okanagan Boundary (Mr. Whittaker) subsequently dealt with by the Honourable Member for Edmonton West (Mr. Lambert) has not been established.

I wish to repeat and emphasize however that the terms of the Ways and Means motion are a carefully prepared expression of the financial initiative of the Crown and frequent departures from them can only invite deterioration of that most important power.