

I was going to refer to the citation referred to by the President of the Privy Council—the ruling of Mr. Speaker Lamoureux on July 20, 1973, on the Criminal Code capital punishment bill. I would only add to the passage quoted by the President of the Privy Council these words of Mr. Speaker Lamoureux:

If this bill were not a bill which, as I understand it, is not a government bill—a bill on which there is a cross-section of views on both sides of the House—

I believe that was, in fact, a government bill but Mr. Speaker Lamoureux had in mind what is known as a free vote, with greater freedom than normally permitted.

Your Honour can take judicial note of the fact that when this bill was up for debate and the question was put on second reading, there was a division of opinion on both sides of the House. That requirement of Mr. Speaker Lamoureux has been met by the actual facts of this particular case.

● (1620)

Mr. Knowles (Winnipeg North Centre): The hon. member's arguments are getting weaker as he goes along.

Mr. Baldwin: My arguments would be stronger if the hon. member for Winnipeg North Centre had given me something to aim at.

I wish to point out, also, that we are in a different position from some of the situations referred to by the hon. member for Winnipeg North Centre. Before we adopted the report procedure, if there were amendments brought about in committee of the whole which exceeded the royal recommendation, and if by some chance they slipped past the vigilance of the Chair or of the officers at the table—something which does not happen very often but it happens occasionally—then the proper course to take during third reading was to refer the bill back to committee. I suggest, though, that a different situation prevails today because when the rules were changed and the report stage was introduced, a particular Standing Order was established, Standing Order 75, which states in paragraph (6):

When the recommendation of the Governor General is required in relation to any amendment to be proposed at the report stage of a bill, at least 24 hours written notice shall be given of the said recommendation and proposed amendment.

I suggest that when the House adopted the rule changes which put Standing Order 75 into effect, we had in mind a situation of this kind where at the report stage it might be essential for amendments to be discussed, either because of what had gone on in committee or because the government had concluded that because of what was said in the committee it was essential to bring about suitable changes at the report stage. Only the government can do this, of course, because only the government can bring down a recommendation from the Governor General.

It was this situation, or variations of it, which must have been contemplated at the time Standing Order 75 was brought into existence. Let us assume, for the purpose of argument—and I might find it difficult to argue to the contrary—that the committee exceeded its instructions. Let us assume that it did, and there was a failure to appeal to the Chairman as to the validity of any amendments

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which were offered. A report was presented to the House and was to be considered. In those conditions, I would suggest there is no better way in which to make use of Standing Order 75(6) than to bring back into the House, through a person authorized to do so, the amendment or amendments with suitable royal recommendations which would give effect to the conclusions of the committee.

It is possible, as was suggested, that the committee could have contented itself by passing the bill in its existing form and merely making recommendations as to changes. In light of a number of decisions by the Chair in the past, I think it is doubtful how far a committee could go along these lines. But surely there is no better evidence of the intentions of a committee than the amendments it proposes and embodies in a report to the House, even though its procedure might not have been proper. I therefore suggest, Mr. Speaker, that you should rely strongly upon the authority given in Standing Order 75(6).

Finally, I would say this: in our parliamentary system, a committee is a subordinate and junior section of the House. It has functions to perform as laid down in our Standing Orders. With respect to the consideration of legislation, a committee acts as a forum in which bills are considered clause by clause and before which witnesses are called when considered necessary; amendments are discussed and there is full opportunity to evaluate all the situations and conditions surrounding a particular piece of legislation. However, a committee remains perpetually subordinate to the House, and if a committee exceeds its authority the House always has the right to purge any defects or improprieties.

With all due respect to the argument advanced by the hon. member for Winnipeg North Centre, it would be monstrous if we could not make use of Standing Order 75(6) in order to reform a bill, with the proper royal recommendation, so as to correspond with the views of a committee but, rather, were obliged to send the bill back to the committee for the appropriate recommendation to be brought in by the government if it saw fit to do so. It would be the height of folly for the House to adopt the circuitous and unnecessary procedure which has been suggested.

If Standing Order 75 were not applicable, if we were faced with dealing with this matter in committee of the whole, it might well be that the proper motion would be one referring the bill back to committee with instructions to reform it in accordance with the royal recommendation. However, we have now permitted the intervention of a report stage at which there is an opportunity to change or correct what was done incorrectly in a committee—assuming anything had been done incorrectly.

I make this argument without in any way indicating the position to be taken by my party with regard to the various amendments which have been placed on the order paper by private members or on behalf of the government. We reserve the right to debate these matters and, possibly, to divide on them from time to time supposing the House finds itself in the position where it can engage in debate and divide on the issues. I strongly urge the Chair not to permit the House to be placed in the ridiculous position of having to take a circuitous route in order to do something