

Point of Order—Mr. Clark

order, I propose to hear first all of the questions of privilege having to do with the Constitution.

I would enjoin the hon. members who want to speak on these particular questions of privilege, since there are quite a number of them, to restrain themselves so that I will not have to, and I ask them to pick their arguments very carefully because I have questions of privilege on other subjects that I have to deal with today.

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POINT OF ORDER**MR. CLARK—THE CONSTITUTION—SUGGESTED PROCEDURE FOR AMENDING PROPOSED RESOLUTION**

Right Hon. Joe Clark (Leader of the Opposition): Madam Speaker, I rise on a point of order having to do with government business which may well facilitate proceedings in the House. It arises from an exchange between the Prime Minister (Mr. Trudeau) and myself today in which he posed some questions to me and, as Your Honour knows, it would be improper for me to respond during question period to questions posed to me by the Prime Minister. I would like to raise a matter which may well be of interest to the Prime Minister and the government House leader, because it would elaborate upon a way in which we can resolve the impasse now before the House. It would allow us to get on with other business and resolve this question of the legality of what Parliament is being asked to consider before it is asked to consider it.

Madam Speaker: Order, please. It really has to be a point of order and deal exactly with what the Leader of the Opposition (Mr. Clark) has said, and, of course, it should be as short as possible.

Mr. Clark: Madam Speaker, I am prepared to wager that my point of order will be briefer than most of the Prime Minister's responses.

What we have done today is propose that the government adjourn debate on the resolution now before this House and thereby allow Parliament to get on to other urgent business of the nation. It would also allow the government to send to the Supreme Court of Canada, either by following the appeal procedure or by reference, a question which would determine the legality of the proposal we are being asked to judge. I would appreciate some attention being paid to this serious proposal by the government side.

The Prime Minister responded to my suggestion by posing a question to me. He asked me what questions would go to the Supreme Court. He asked whether or not it would simply be the resolution proposed by the Government of Canada or whether it would have appended to it the amendment proposed by the hon. member for Provencher (Mr. Epp), the amendment on women's rights proposed by my party in the other place, the amendments which are apparently of interest to the New Democratic Party and certain other amendments. That question did not occur to the Prime Minister when he made a

reference in relation to Bill C-60, but apparently it occurs to him now. I am prepared to take it as a matter of some seriousness to him.

• (1510)

There is a way to resolve this problem, and that would be to have an agreement among the three parties in the House as to the amendments we would want to have seriously considered in the House, if it were judged by the Supreme Court of Canada that it was legal for the House of Commons to consider this question at all. For the consideration of the government and the House leader on the other side, we would propose consultations now to determine with which amendments the various parties would want to proceed.

Once it was agreed which amendments were of priority to us—certainly there is the one standing in the name of the hon. member for Provencher and there are a number of others that are priority amendments—there could then be an agreement that the reference to the Supreme Court of Canada could include those amendments as well, so that we would know the legality—

Some hon. Members: Hear, hear.

Madam Speaker: Order, please. I am having a bit of trouble—

An hon. Member: He is the Leader of the Opposition, Madam Speaker.

Madam Speaker: Oh, yes, I am very conscious of that, but I am having a little trouble allowing this point of order. It seems to me that these kinds of negotiations are not covered by the rules of the House and that the Right Hon. Leader of the Opposition is continuing debate on this whole question.

If the Right Hon. Leader of the Opposition has any proposal concerning the technical means at our disposal to get out of what other members—not myself—have called the "impasse", I could entertain this as a point of order after question period. But it seems to me that this kind of proposal ought to come out of the debate.

Some hon. Members: No, no.

Madam Speaker: I am afraid it is very difficult for me to see a point of order in what the hon. member is now discussing.

Mr. Clark: Madam Speaker, of course I will be bound by your ruling. I am trying to deal with House business. There was a suggestion put to me by the Prime Minister, which I took to be serious, as to how we could resolve the matter. I am not permitted under the rules to answer his questions, at least until after the next election.

Some hon. Members: Hear, hear!

Some hon. Members: Oh, oh!

Mr. Clark: So I was seeking this opportunity to respond to what I thought was a serious question by putting forward a proposal which I hope might be considered seriously by all parties. It would be the following: that all parties would agree on the amendments which would be put forward to the Supreme Court of Canada to determine their legality; that subsequently the debate in the House would, by agreement, be limited to those amendments submitted as a result of three-party agreement in the House which had been found to be legal and constitutional by the Supreme Court of Canada.

An hon. Member: Blackmail.

Mr. Clark: I suggest it is a way in which we could resolve the impasse with which we are now faced and get on with the business of Canada. It is a way in which we could ensure that the Parliament of Canada is dealing only with questions within the competence of the Parliament of Canada.

I raise it as a matter of House business in the earnest hope that the Prime Minister and the government House leader might consider it a means to expedite the business of Canada by the House of Commons.

Some hon. Members: Hear, hear!

Right Hon. P. E. Trudeau (Prime Minister): Madam Speaker, with your indulgence, I will attempt to deal with what seems to be a matter of negotiation between House leaders on this point of order. If the Hon. Leader of the Opposition (Mr. Clark) is suggesting that there merely be agreement among parties as to what subject would be raised after the Supreme Court has adjudicated, I would point out that obviously that is not enough, because although we know the subject we still do not know in what form it will pass and so on.

If the Leader of the Opposition is suggesting we spell out in detail amendments which would be accepted by this House after the Supreme Court has judged, I ask him how we can spell these amendments out in detail, know how the various members of the House will vote on them, know what parties would align for or against, say, on the property amendment or on the aboriginal rights amendment, unless he asks the House for its opinion. It cannot be the House leaders who would decide the text of an amendment which we would accept the day after the Supreme Court judged favourably. Therefore, the Leader of the Opposition is putting a proposition which seems to me is supporting my point.

Some hon. Members: No, no.

Mr. Trudeau: The only way in which the court can know exactly what will come out of this House is to have it come out of this House.

Some hon. Members: Hear, hear!

Mr. Trudeau: I would also remind the Leader of the Opposition that he quoted in the House—I think it was about ten days ago—a judgment of Beauséne to the effect that the

same subject matter should not be put before two public bodies, presumably at the same time. Now he is suggesting we do exactly that. We have before the House a joint resolution; he is now suggesting that we put it, at the same time, before the Supreme Court.

An hon. Member: We could adjourn.

Mr. Trudeau: Whether we adjourn or not, it is still before the House. We have engaged upon the legislative process; that is the course we are on. If he is suggesting that we go before the Supreme Court at the same time, he is flying in the face of the very judgment of Beauséne he quoted ten days ago.

Let me just remind the opposition that in the 1930s, when the Hon. R. B. Bennett proposed his "new deal", particularly unemployment insurance legislation, the Liberal Party, which was then in opposition, argued the illegality of it, but they let the matter pass. It went to the Supreme Court and the Supreme Court, in effect, decided that it was illegal.

Mr. Andre: What about 1978?

Mr. Trudeau: This is what we are asking now. I can understand that the opposition thinks it is illegal, just as in the thirties the Liberals thought that the then Bennett "new deal" was illegal; but they did not systematically obstruct. They said, "Okay, we defer our opinions as to the legality; let us submit to the court something precise, something upon which it can judge, and we will rest by that judgment." I am just suggesting we continue that course.

Some hon. Members: Hear, hear!

Mr. Edward Broadbent (Oshawa): Madam Speaker, I would like to reply to what was said by the Prime Minister (Mr. Trudeau) and the constructive proposals put forward by the Hon. Leader of the Opposition (Mr. Clark).

Some hon. Members: Hear, hear!

Some hon. Members: Oh, oh!

Mr. Broadbent: It seems to me that we might at last be reaching the basis of some serious co-operation in the House.

I listened to the Prime Minister with care. He said that there was a sort of hypothetical aspect to what the Leader of the Opposition raised. I would like to respond to the suggestion; I hope all of us on both sides of the House can take some time to give it thought. If we could reach an agreement that each party could put forward another amendment—and we have an omnibus one covering two subjects only which are well known in the House—it would not require a lot of debate.

The government has indicated that it is interested in four-day time tabling. Each party could put forward an amendment which could be quickly dealt with and spelled out by agreement, in perhaps one day. We could vote now and then there could be a reference before final reading to the Supreme Court. We could have a vote on the amendments and then a reference to the Supreme Court, with the original resolution as amended by votes in the House. Then we could have a final

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vote in the House after hearing the judgment of the Supreme Court of Canada.

Some hon. Members: Hear, hear!

Hon. Walter Baker (Nepean-Carleton): Madam Speaker, I should like to speak to two points. The first point is the one of the Prime Minister (Mr. Trudeau) concerning the program of R. B. Bennett in the thirties. The difference between R. B. Bennett's proposition and the proposition we have before us is that in the 1930s, when Parliament moved to pass that program, it was not faced with a judgment of the Supreme Court of a province which held the program to be illegal; that occurred afterwards.

Mr. Nowlan: That is absolutely correct.

Mr. Baker (Nepean-Carleton): This is why I suggest the analogy of the Prime Minister does not apply.

With respect to the program itself, what has concerned us from the outset has been that Parliament would be asked finally to make an adjudication with respect to the matter before it had been considered by the Supreme Court of Canada. It appears that we see a split coming in the irresistible force meeting the immovable object.

● (1520)

With respect to this issue, I must say that we would be prepared to discuss an arrangement which would accommodate the constituencies represented by the various proposals for amendments before the House, provided, of course, that as a bottom line of those discussions it was understood that there would be no finality with respect to this matter until after the Supreme Court of Canada had adjudicated the issues which are before the court, or which may well be before the court.

We must remember, of course, that the Government of Canada must enter as a respondent in the appeal. It must defend itself in the appeal from the ruling of the Appeal Court of Manitoba, remembering that however it is resolved the Government of Canada must find itself in court. Finding itself in court, then, allows me to underscore to the Prime Minister, to the government House leader and to the Leader of the New Democratic Party the importance of the arrangement, which is that no final decision will be taken by this Parliament until the highest court in our country has ruled upon the constitutional validity of the proposals before it.

Hon. Jean Chrétien (Minister of Justice and Minister of State for Social Development): Madam Speaker, in the proposition which is being put forward at this time there is one problem, and that is that the court would not be faced with a final decision.

Earlier in the question period the hon. member for Saskatoon West (Mr. Hnatyshyn) asked me how we intend to transmit the resolution, or whatever it is, to the Supreme Court. I would like to advise the House of Commons that the Supreme Court of Canada must take judicial notice of anything which has been passed by Parliament. If we accept the

proposition put forward by the House leader of the Conservative Party, the Supreme Court of Canada will not be considering something which has been finally decided upon by the House of Commons. That would be one of the problems; the Supreme Court of Canada would be faced with a resolution which would not have been finalized. It would still be a hypothetical question to them because, coming back to the House of Commons after adjudication, someone could propose some amendment and the question of legality could be reopened completely.

If the Conservative House leader wishes to be serious in his proposition, he should recognize that we should help the work of the Supreme Court and give them something final, or have a very definite agreement that when the question has been decided by the Supreme Court, we pass it right away without debate.

Some hon. Members: Oh, oh!

Mr. Broadbent: Madam Speaker, I am not sure if the Minister of Justice (Mr. Chrétien) listened with care. If he did, then I am not at all persuaded by his reply. As I heard the proposal of the Leader of the Opposition, there would be very specific amendments agreed upon by all the parties.

Mr. Baker (Nepean-Carleton): That is right.

Mr. Broadbent: The only nuance that I added to the suggestion, and there seemed to be agreement on this side of the House, was that we could take the votes on the amendments here in the House before the package was sent to the Supreme Court for adjudication. There seems to be unanimity on this side of the House on that point. I simply cannot understand the argument of the Minister of Justice.

If there was a solemn agreement entered into, perhaps by a special House order passed in the House and supported by all parties, then that would be the definitive resolution that we are asking the Supreme Court to pass judgment upon. Surely there is no problem with that whatsoever. As I see it, the only problem is that the government is not responding in a reasonable way to a fair-minded proposition.

Some hon. Members: Hear, hear!

Mr. Svend J. Robinson (Burnaby): Madam Speaker, I would like to respond to one argument that was made by the Minister of Justice (Mr. Chrétien) on this question of the reference and the fact that there may be amendments still outstanding. I would draw to the attention of the Minister of Justice the provisions of the Supreme Court Act respecting references. Perhaps the Minister of Justice may like to read Section 55(1)(d), which reads:

55. (1) Important questions of law or fact concerning

(d) the powers of the Parliament of Canada, or of the legislatures of the provinces, or of the respective governments thereof, whether or not the particular power in question has been or is proposed to be exercised;

What is being suggested in the House by the Leader of the Opposition is simply that we, as a chamber, decide what amendments we wish the Supreme Court of Canada to consid-

er as part of the resolution. Having decided that question, having determined quickly and expeditiously in this House what the final form of the resolution will be, it is then completely within the jurisdiction of the government, and I suggest would be desirable, to refer this resolution with the proposed amendments to the Supreme Court of Canada, pursuant to the provisions of Section 55 of the Supreme Court Act, and await their ruling on the jurisdiction question and on what lies within the powers of the federal government as opposed to the provincial governments. Having had a determination on that question, we in this House could then take our responsibilities.

[Translation]

Hon. Yvon Pinard (President of the Privy Council): Madam Speaker, the two parties of the opposition have put forward two proposals that are not quite identical. To be as constructive as possible I would suggest to my hon. colleagues opposite that the House leaders meet this afternoon at which time we can examine more closely what has been proposed. I note a fundamental difference between, on the one hand, the proposal of the Progressive Conservative Party which gives no indication whatsoever about the length of the debate following the decision of the Supreme Court, which is essential. On the other hand according to the NDP proposal there could be an order of the House and one of the Senate, presumably, whereby when the decision of the Supreme Court has been handed down, the debate in the House would be extremely limited, no amendments would be allowed, and the resolution would be adopted probably within a set period of time, something like 24 hours. That is not clear in the Progressive Conservative proposal.

So, I feel that if hon. members are serious, they will accept the suggestion I am putting to them right now. Today, we have a motion that must be considered, ten minutes have already been used up and about two hours remain under the name of the Minister of State for Finance (Mr. Bussières). We would promise not to introduce today the motion providing time allotment to limit the debate on the Constitution provided the Minister of State for Finance is allowed to have the debate on his motion completed today and that motion put to a vote before six o'clock.

We would not introduce, today, the time allotment motion to limit the debate on the Constitution provided we could proceed with the study of the other motion under the name of the Minister of State for Finance. While the House proceeds presumably, with that study, and not being a victim of an opposition party trying to tie up the system, the House leaders in good faith would look further into the two proposals put forth by their respective party leaders.

[English]

Mr. Baker (Nepean-Carleton): Madam Speaker, there have been two House leaders' meetings and I am neither alarmed nor surprised by the proposals put forward by the Leader of

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the Opposition today, nor should my hon. friend be. Of course, I am prepared to meet with my hon. friend to explore the areas upon which we can find agreement, from the point of view of, hopefully, reaching agreement. That has been my position from the outset, and we can begin that meeting, or series of meetings, today.

• (1530)

I note his undertaking with respect to government business. He said he will move ahead with the motion under 75C, which is agreeable, and that he will not call the motion in his name because a point of order is already outstanding with respect to that matter. Perhaps we can sit down and begin the process of exploring a way out of a position in which I regret to say the Parliament of Canada should never have been placed in the first place.

Some hon. Members: Hear, hear!

Hon. Stanley Knowles (Winnipeg North Centre): Madam Speaker, may I indicate that we are also prepared to sit down with the representatives of the other parties to assess this matter. I dare to express the view that we are making progress right here. The Prime Minister's (Mr. Trudeau) principal objection to the initial proposal made by the Leader of the Opposition (Mr. Clark) was that he was asking that a number of subject matter amendments be included in the reference, some of which might be hypothetical because they would not get passed down the road.

My leader offered something which corrected that. We could have a brief debate, one day each, on the various amendments so that we would be submitting to the Supreme Court only those amendments which actually have the support of the House. My leader also suggested that we could agree to a limited debate following the decision of the Supreme Court. I think we could also agree that there would be no further amendments unless amendments were necessary because of the ruling of the Supreme Court to strike certain matters out. I dare to believe we are making progress. I hope it will continue.

Some hon. Members: Hear, hear!

Madam Speaker: If I understand the terms of that proposal, it would be that today we would go to the business of discussing the motion under the name of the Minister of State for Finance (Mr. Bussières). I am in the hands of the House, but if we need two hours to discuss that motion, I would have to be asked by the House to defer the numerous questions of privilege or points of order which might be raised until after that discussion has taken place.

I am in the hands of the House, but if the point is realistic, if that debate requires two hours, and if it is to take place today, it would have to begin almost immediately.

Some hon. Members: Agreed.

Madam Speaker: This is agreed.

Some hon. Members: No, no!

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Madam Speaker: I am sorry. I heard, "Agreed." I will hear the hon. member for Nepean-Carleton (Mr. Baker).

Mr. Baker (Nepean-Carleton): I do have a question of privilege which I would like to bring forward. I was conferring with my leader and my colleagues around me, and I confess that I did not hear you, and I also did not agree. If you are proposing to go to orders of the day, or something like that, I would say no.

Some hon. Members: Oh, come on!

Mr. Baker (Nepean-Carleton): I do have a point to raise.

Madam Speaker: That is fine. There is no agreement. I am in the hands of the House. It is simply that I was listening to the proposal. I tried to calculate the time that the House need to agree with that proposal; but if the House does not agree, I have no other course but to follow the proceedings as I usually do. The hon. member for Yukon (Mr. Nielsen).

Mr. Nielsen: Madam Speaker, I do not know how—the question never having arisen before, in my experience—our House leader or our leader can speak for whatever number of questions of privilege you have before you raised by individual members. That will take time in itself to canvass. Assuming that you have six or seven questions of privilege to deal with, there are at least six or seven members who will have to be consulted before we can come to any party conclusion on the matter. But surely neither our House leader nor any one of the officers of the party can take a position on the spur of the moment as to whether the rights and privileges of individual members on routine proceedings will be set aside.

While our House leader, who has a question of privilege filed with you, is speaking, I might take it upon myself to see you, Madam Speaker, to see what questions of privilege you do have, and then to speak to the members of this party, who might be involved. Others in the other two parties might do the same.

Madam Speaker: I certainly was not suggesting that the Leader of the Opposition or the Leader of the Conservative Party in the House would make a determination regarding other hon. members who have questions of privilege. They are individual questions of privilege, if I understand the concept. I was merely implicit, but I would not have gone up to that point, inviting the hon. members to allow me to do that. But if that is not allowed, that is final.

Mr. Pinard: Madam Speaker, there is a way out of this, and it is very clear under Standing Orders. If the hon. members in the party of my colleague, the hon. member for Nepean-Carleton (Mr. Baker), are serious and are in good faith, and I believe that, maybe they will then accept the proposal I have to make. If they are serious in saying they are interested in negotiating a way out of this situation, then you have the power, Madam Speaker, under Standing Order 17(1) to defer all questions of privilege to a time which is suitable to you. Since the debate on the motion of the Minister of State for

Finance has on hour and 58 minutes to run, the debate would end at about 5.15, a division would be taken and there would be at least half an hour before six o'clock in which the questions of privilege could be heard.

Standing Order 17(1) allows you to defer all questions of privilege. If we look at Beauchesne's fifth edition, the Standing Orders are reproduced in Appendix 2. If you read it, Madam Speaker, you will see you have the right to do that. If the hon. members are sincere, they will agree that the questions of privilege today should be postponed until after the vote on the motion of the Minister of State for Finance, and then we could have the meeting. But if delay is what they want, they will have delay.

Mr. Hnatyshyn: No delay. I have privileges in this House and you cannot deny them.

Mr. Baker (Nepean-Carleton): Madam Speaker, I think you put the matter very correctly in terms of what privilege is. It is an individual matter and not a party matter. As you know, I have put in a notice with respect to a question of privilege which I want to pursue because I believe it is important to me and to other members of the House. I will do my best to be as short as possible.

The bottom line of rule 17(1) is this:

Whenever any matter of privilege arises, it shall be taken into consideration immediately.

We have always done our best to take them into consideration immediately after the question period and to dispose of them. Then the rule goes on to deal with notice. Technically, under our rules now, they can be taken during the question period. This procedure has not been followed, because nobody wants to interrupt the question period, I suppose. I am not quarrelling with that decision today. However, the custom in the House has been to proceed with the matter. I think that as we go forward you will find that my privilege is germane to the position we are in the moment. At least, I hope you will so find, Madam Speaker.

Mr. Pinard: The House leader of the Tory party read from Standing Order 17.

An hon. Member: That is the Conservative party.

Mr. Pinard: Let me bring to your attention, Madam Speaker, what is contained in Beauchesne's fifth edition. The Standing Orders are reproduced and on page 305 I read:

Question of Privilege

17. (1) Whenever any matter of privilege arises, it shall be taken into consideration immediately or at a time appointed by Mr. Speaker.

The important words are "or at a time appointed by Mr. Speaker". I agree with my colleague that in an earlier edition of the Standing Orders dated June, 1978, those words were not included. But I submit that this is an error in printing, and I have grounds for that.

Some hon. Members: Oh, oh!

Mr. Pinard: If hon. members are serious, they will listen. In the January, 1976 edition, those very words "at a time appointed by Mr. Speaker" are included. When we go to the 1978 edition, as I just mentioned, the words are not there. This is an error, since in the latest edition of Beauchesne, which is subsequent to the Standing Orders of 1978, those words of 1976 are restored.

● (1540)

If I may, Madam Speaker, I would draw your attention and the attention of the Clerk of the House to the fact that at the very beginning of the edition of 1978 there is a foreword which says: "The changes in the Standing Orders since the printing of January 1976 are as follows:". That appears at the very beginning. Then there are five changes and Section 17 is not included. So it is obvious that Section 17 should not have been changed. This is an error of printing and Beauchesne is correct in reprinting what was printed in 1976.

That is the explanation why my hon. colleague, by quoting from the edition of 1978, could not find the words in Beauchesne's fifth edition but which were in the Standing Orders of 1976, words which are not quoted as having been amended at the beginning of the 1978 edition.

This is all very technical, but in fact never in this House was there a decision that permitted Standing Order 17 to be altered in the way it has been altered in the 1978 edition. That is why, Madam Speaker, I am saying that you have the power and the right to postpone, under the Standing Order, all questions of privilege to an hour that is suitable to you.

Madam Speaker: On the point of order, the hon. member for Edmonton West (Mr. Lambert).

[Translation]

Hon. Marcel Lambert (Edmonton West): Madam Speaker, in 1976 we tried out something. An order determined that for the remainder of a certain period the Speaker could defer any question of privilege to avoid them during the oral question period. Unfortunately, the temporary order was not renewed and this is why—

An hon. Member: For what reason?

Mr. Lambert: What are the reasons? I do not know, but the order was not renewed nor were the amendments incorporated because the present Minister of Finance (Mr. MacEachen), who was then government House leader, refused to do so. He absolutely refused to refer any procedure matter to the Committee on Procedure and Organization to enable us to refer the recommendations to the House for approval. There are now more shortcomings in the Standing Orders on account of that. It is merely a matter of shortcomings because the Standing Orders of 1978 as printed are correct.

[English]

Hon. Erick Nielsen (Yukon): Madam Speaker, I will be very brief. I submit, first of all, that the little green book that I

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hold in my hand and which you also hold in your hand is the official "Standing Orders of the House of Commons." Nowhere else will they be found than in this book. Similarly with statutes across the country.

I suggest, secondly, Madam Speaker, that any appendix, which is what my hon. friend the government House leader was referring to when reading from Beauchesne, cannot be regarded as the official version of the Standing Orders contained in this green book. There is another explanation than the one given by him; he suggested there was a misprint and that the error occurs in the official edition and not in Beauchesne.

The other explanation and the more logical one is that this Rule 17(1) in Appendix 2 of Beauchesne blends the two occasions upon which privilege is raised. One, we find, is in 17(1) of the official Standing Orders, namely, that it must be heard immediately. The other aspect of it, "or at a time appointed by Mr. Speaker", deals with those questions of privilege that may be raised on occasions not contemplated by 17(1), of which, for instance, notice need not be given if the question of privilege arises out of the question period. The Chair has the power to deal with those at some other time.

The ultimate argument, and I suggest to you, Madam Speaker, the one that you must accept, is that this green book, the "Standing Orders of the House of Commons", is the official rules of this House and cannot in any way be supplemented by any appendix printed in Beauchesne, or anywhere else, for that matter.

Mr. Stevens: Madam Speaker, I rise on a point of order.

[Translation]

Madam Speaker: If I may, I shall try to clarify this first point. The 1975 version of the Standing Orders of the House of Commons did indeed include in Standing Order 17 a provision under which the Speaker of the House had to or could hear questions of privilege at the time specified by the Chair. This was included in Standing Order 17 following a temporary order made by the House which remained in effect from 7 April, 1975, to October 17, 1977.

Later on, this provision was removed from the first paragraph of Standing Order 17 because, if my information is correct, the parties involved had not agreed to have it maintained. However, on the basis of this temporary provision which had been included in Standing Order 17, my predecessor, Speaker Jerome, ruled that questions of privilege could no longer be heard during the oral question period, in all likelihood because the question period was going on indefinitely and Members of Parliament could not arrange their schedule on the basis of what was going on in the House.

He therefore determined on the basis of the temporary order which had then expired that questions of privilege would be heard at three o'clock after the Oral Question Period. After a trial period, he once again determined that his decision seemed to be appropriate, that it was likely to promote the orderly

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conduct of the business of the House, and he decided to maintain it.

If I were now to decide without the consent of all the parties involved in this House that such or such a question of privilege should be heard at another time than three o'clock, I would have to do an exercise of gymnastics that I refuse to do and declare that, since Mr. Speaker Jerome had ruled on the basis of a temporary order of the House which has now expired, I shall now, on the basis of another order of the House which has also expired and of the precedent created by Mr. Jerome when he took it upon himself to determine at what time the questions of privilege would be heard, decide that questions of privilege will be heard at another time. I believe that this would be a much looser interpretation of this provision of our Standing Orders than the Chair can be allowed to make. In my opinion, the 1978 version is the official version, the one I have followed until now, and if another version appears in another volume and another edition, it could be used as a reference if the House decides to amend this provision and allows me to determine at what time the questions of privilege should be heard, but I would not want to go against a custom, or rather a practice of the House which was set in more or less legitimate circumstances and conditions by my predecessor if we consider that the temporary order of the House on the basis of which he had ruled had then expired, and I would not want to take it upon myself to go further than what the previous Speaker had decided at that time. Now the fact that there are so many questions of privilege to be heard at a time when the House or certain members of the House would like to proceed with the orders of the day certainly is a problem. I must say that I quite understand this legitimate desire of some members and the frustration of others who want to expound on their question of privilege. However, the Chair must be guided strictly by the rules, and unless someone can give me undeniable proof that this is a printing mistake, I shall need the unanimous consent of the House to defer questions of privilege to another time than three o'clock. The hon. President of the Privy Council.

Mr. Pinard: Madam Speaker, for our part, we would agree that the questions of privilege be deferred until after the vote on the motion of the Minister of State responsible for Finance (Mr. Bussières).

Madam Speaker: Do the hon. members wish to debate the proposal? The hon. member for Yukon (Mr. Nielsen).

[*English*]

Mr. Nielsen: Madam Speaker, I thought I made it clear before, and I certainly did to the Chair because you understood me, that there is no way we as a party can defer the rights and privileges of individual members who have filed questions of privilege with the Chair. I intend to speak to you, Madam Speaker, and to find out who those members are on this side. I will then see those members and see what can be done. In the meantime, negotiations between my House leader

and the government House leader will not be impeded. As soon as I can get things together with the individual members, then I will come back to my House leader who can convey that information to his other colleagues. I will come to you, and we can take it from there.

• (1550)

Madam Speaker: Obviously, there is no unanimous consent.

Some hon. Members: No.

Madam Speaker: We will then proceed with the questions of privilege. The first one I have is in the name of the hon. member for Nepean-Carleton (Mr. Baker).

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PRIVILEGE

MR. BAKER (NEPEAN-CARLETON)—DECISION OF
NEWFOUNDLAND SUPREME COURT

Hon. Walter Baker (Nepean-Carleton): Madam Speaker, my question of privilege was set forth in the correspondence of which I gave you notice as required by the Standing Order. I base it on four matters. My letter to you of April 1, 1981, reads:

It will be my contention that the use of the House of Commons as part of a process for making amendments to the Constitution of Canada, amendments which have been found illegal as to both substance and process, by the Newfoundland Supreme Court, places all members of the House, and particularly members of the Bar, in an unacceptable and improper position.

Until we have satisfied, if we can, the negotiations—and that is by no means certain at this point—I think the matter is still germane. I meant to say that to you at the outset. I am speaking for myself. This is a matter of personal privilege which may affect others.

I am a member of the Law Society of Upper Canada. As such, upon my call to the bar I took three oaths. The first is the general oath of allegiance, which I took as well when I became a member of the House of Commons. The second was the solicitor's oath. The third, and the most important because it applies to this matter, is an oath which I took in 1957 as a member of the law society as a barrister upon my call to the bar. In that oath are these words:

You shall not pervert the law to favour or prejudice anyone, but in all things shall conduct yourself truly and with integrity. In fine, the Queen's interest and your fellow citizens, you shall uphold and maintain according to the Constitution and law of this Province. All this you swear to observe and perform to the best of your knowledge, belief and ability.

That was the first oath I took which the proposals before the House still affect. The second arises out of the statute. I will give Your Honour these precedents so that you can look at the matter from my point of view, recognizing that I am an Ontario barrister. There are nine other jurisdictions in Canada and it may affect lawyers differently, but at least from the point of view of Ontario, as a member of the Law Society of Upper Canada the law society act of 1970 applies to me. There are certain regulations and rules under the law society act.