



Speaker's Ruling

Question Period and Order in Council Appointments, Speaker John Fraser, December 11, 1986, House of Commons



Background: When major reforms are introduced it takes some time for all the procedural implications to work their way through the system. The February 1986 rule giving parliamentary committees the right to scrutinize government appointments has been the centre of numerous points of order in questions of privilege. On November 6, for example, the Deputy Prime Minister rose on a point of order relating to the appropriateness of certain questions asked during Question Period relating to Order in Council Appointments currently before standing committees. Such questions had been ruled out of order when the matter was before the committee.

Ruling (Speaker John Fraser): In the report of the Special Committee on the Reform of the House of June, 1985 at page 34 is the following somewhat prophetic and relevant sentence: "In making recommendations regarding scrutiny and confirmation of certain appointments we are heading into uncharged water."

The Chair fully agrees with that statement and believes it would be useful at the outset of this ruling to review the content of Standing Orders 103 and 104.

Standing Order 103 provides that a Minister of the Crown shall lay upon the Table a copy of appointments made by Order in Council not later than five sitting days after the Order in Council is published in the Canada Gazette. At the time of tabling, they are referred to a specified committee for a period not exceeding thirty sitting days.

Standing Order 104 provides that a specified committee shall, if it deems it appropriate, call appointees or nominees for a period exceeding 10 sitting days. That same Standing Order clearly states that the committee shall examine the qualifications and the competence of the appointees. It is the opinion of the Chair that the

committee's powers of examination are narrowly limited to the qualifications and competence to perform the duties of the post, and questions in committee and reports thereon ought to be strictly relevant to such qualifications, competence and performance of duties.

The Chair should add that it is not imperative for a committee to review Order in Council appointments that have been referred to it, since Standing Order 104 specifies it is up to the committee to decide which Order in Council appointments will be reviewed, if any.

In attempting to address the issue of questions relating to Order in Council appointees or nominees being allowed in Question Period, I believe it is useful to make an analogy with the specific mandates of two other committees. Standing Order 96(3)(f) provides for the referral of all reports of the Auditor General to be deemed permanently referred to the Public Accounts Committee immediately they are laid upon the Table. Standing Order 96(4)(a) provides that the annual report of the Commissioner of Official Languages shall be deemed permanently referred to the Standing Joint Committee on Official Languages immediately it is laid upon the Table.

Is it, therefore, a breach of our rules for Members of the House to ask questions in Question Period relating either to the Auditor General's or the Commissioner of Official Languages' reports simply because they have been referred to their respective committees upon tabling and certainly have the opportunity to be considered by these committees? While there are no specific rulings on this point, a review of our records did not produce any objections by Hon. Members to questions during Question Period on reports of the Auditor General of the Commissioner of Official Languages. Indeed, *Hansard*

abounds with many questions posed to the front benches on the above-mentioned reports after they were referred to the committees concerned.

The Hon. Member for Kamloops-Shuswap (Mr. Riis) remarked quite correctly that the authority of the new standing committees in the House is now so broad that practically all questions raised during Question Period would be out of order if it depended on whether or not they were being reviewed by a standing committee.

In his statement to the House on April 14, 1975, relating to Question Period, Speaker Jerome stated: "Much has been said in the precedents about restrictions and disqualifications or interferences with the right of Members to put questions. This is not the approach I prefer to take in attempting to establish a rational approach and understanding concerning how the question period should operate I much prefer to take the positive approach of attempting to arrive at a statement of principle within which questions can be put and to reduce to an absolute minimum the negative disqualifications that may limit or restrict a Member's right so to do."

Guided by that principle, the Chair has chosen to rule that in general, questions to the Ministry relating to Order in Council appointments are in order, particularly if they are within the administrative competence of the Government. Conversely, I must tell the House, as I did on November 6, that out of concern for good manners, out of fairness and without impinging on the duty of all Hon. Members to be diligent on matters of public interest, I will not hesitate to rule questions out of order if I feel that the bounds have been exceeded.

The Chair wishes to thank the Hon. Deputy Prime Minister for having

raised the matter, and is also grateful for the contributions of the Hon. Member for Kamloops-Shuswap and the Hon. Member for Ottawa-Vanier (Mr. Gauthier). I must add that the Chair feels reassured that in this new process of review of Order in Council appointments, jurisprudence that will reinforce Standing Orders 103 and 104 will eventually emerge.

I think the Chair can also add on the basis of fairness that the citizens who appear before these committees have probably never gone through a procedure such as this before. It behooves all Hon. Members to recognize that these citizens are serving our country and that questions concerning them that are appropriate before the committee ought to be put in a manner of good will and care for the sensibilities of ordinary citizens who, as I say, would probably never in their lives, if they are lucky, have to appear before a group of people who are asking them a lot of questions that they had never, in some circumstances, anticipated.

I know that Hon. Members who have had some experience with the law, whether as litigants or as members of the bar, will know that one of the most awesome things a citizen is called upon to do is to be a witness in a proceeding. I would ask all Hon. Members to take special care, when citizens have responded to the request of the Government of Canada to serve, that they are treated with appropriate courtesy and fairness at all times when appearing before committees.

Again, I wish to thank the Hon. Deputy Prime Minister for bringing this matter to the attention of the Chair and I hope the remarks of the Chair will assist all Hon. Members and the committees in providing fair and proper treatment for the citizens who come before them.