

*Canada-U.S. Free Trade Agreement*

is that the precedents to which I have just referred date back to a period when the *Notice Paper* was much different from the one used today. In addition, new procedures have been introduced and this complicates the situation still further.

If Members wish to pursue this avenue and move a motion of instruction under Private Members' Business, this option is of course open to them.

[English]

The Chair would certainly have no objection to this approach. However, the Chair, and I suspect most Hon. Members, might share the practical concerns about this approach raised by the Hon. Members for Kamloops—Shuswap and Windsor West namely, that the likelihood of such a motion debated, let alone voted upon, is now quite remote, because of the new rules governing Private Members' Business.

[Translation]

The Chair, however, fails to see why the Hon. Member for Essex Windsor (Mr. Langdon) could not propose his motion under the rubric "Motions". The Hon. Member for Windsor West (Mr. Gray), cited Standing Order 56(1)(p). This Standing Order lists as debatable items usually raised under Routine Proceedings "motions . . . [concerning] the management of [House] business [and] the arrangement of its proceedings."

[English]

The rubric "Motions" usually encompasses matters related to the management of the business of the House and its committees, but it is not the exclusive purview of the Government, despite the Government's unquestioned prerogative to determine the agenda of business before the House. For example, an individual Member's motion for concurrence in a committee report is properly moved under this rubric. Similarly, the Chair judges that, if a Member wishes to give notice of a motion of instruction to a committee on a Bill, it can be filed under "Motions" on the Notice Paper. Once called, the motion is debatable and amendable pursuant to Standing Order 56(1) and, if the motion has not come to a vote by the end of the day, as in the analogous case of concurrence in a report, the motion is transferred to Government Orders where debate will resume only at the pleasure of the Government.

Before our rules pertaining to the referral of Bills to Committee of the Whole were changed, any Member could move a motion of instruction to a committee on a Bill. Were the Chair to rule today that this can now only be done under Private Members' Business, then this would in fact mean that only the Government, under Government Notices of Motion, could move instructions to committees studying legislation in a timely and effective manner.

Another important point in the discussion, and one on which the Chair sought clarification from Hon. Members, was whether the proposed motion of instruction is permissive or mandatory.

Generally speaking, a permissive instruction confers on a committee the authority to do something it otherwise would have no power to do. Citation 761 of Beauchesne's Fifth Edition lists some examples, among them, the permission to travel, to consolidate Bills or to divide a Bill.

According to Citation 757 of Beauchesne's Fifth Edition, if such a motion is adopted, it is then left to the committee to decide whether or not it will exercise this power. As Citation 409 of Beauchesne's Third Edition explains:

An instruction which is generally made when a Bill is committed is not mandatory, and it is therefore customary to state explicitly in the motion that the Committee "have power" to make the provision acquired. The intention is to give a Committee power to do a certain thing if they think proper, not to command them to do it. The committee is not bound to obey the instruction.

Precedents relating to Bills have been examined and all of these respected this permissive approach.

● (1520)

In the case before us, the Chair has closely examined the text of the motion proposed by the Hon. Member for Essex—Windsor and has concluded that it rests squarely within the definition of a permissive instruction.

Finally, at the risk of venturing into highly technical matters, the Chair would like to point out to Hon. Members, although no reference was made to it when the matter was argued, the last sentence of Citation 759(1) of Beauchesne's Fifth Edition states: "If the Bill has been partly considered in committee, it is not competent to propose an Instruction".

The Chair wishes to avoid possible confusion on this point and I would ask the House to bear with me as I briefly explain its intent to Hon. Members. In early House practice, as I discussed earlier, there were specific procedures for moving motions of instruction to a Committee of the Whole considering a Bill.

Citation 412 of Beauchesne's Third Edition states:

All instructions must be moved on the first occasion when the order for the Committee [of the Whole] on a Bill has been read. If the Bill has been partly considered in Committee at a previous sitting, it is not competent to propose an instruction when the order is read for the House "again in Committee," as the rules require that the Speaker leave the Chair (without putting the question) as soon as that order has been taken up.

The same explanation occurs on page 517 of Bourinot's Fourth Edition. Simply put, the passage means only that when the House entered Committee of the Whole for a second or subsequent time, it did so automatically without a motion for the Speaker to leave the chair. A motion of instruction without notice could not be put at that time because this was not immediately after second reading. Further, an amendment to the question "That the Speaker do now leave the chair" could not be put because the Speaker automatically left the chair without the question being put. The only viable option would be for a Member to propose an independent motion of instruction with notice to be taken up under "Motions". Although this is not expressly stated in Citation 412 of