

By third reading, a bill is generally reconsidered in its final form after the shaping it has received in its earlier stages. This is maintained by *Erskine May* in his work at page 528. What is this shaping, to use May's term, that a bill has undergone by the time it is examined at third reading?

Honourable senators, what lies between the first look at second reading and a knowledgeable review at third reading is the work of the committees and their reports. How important, therefore, is a committee's thorough examination of a bill and proposal of various amendments for the consideration of the Senate. The British experience in 1945 is instructive. Sir Gordon records, at pages 536 to 537, that a government witness, speaking to the Select Committee on Procedure about the committal of bills to standing committees, recommended that an exception would have to be made if any bill of first class constitutional importance were introduced. Bill C-43, I maintain, is of first-class constitutional importance.

The British House of Commons has since then regularly committed such bills to a Committee of the Whole house. Bills of prime constitutional significance deserve all the more to be dealt with in a full scale committee, not merely at second reading, as though that were sufficient to appraise the objects, and not left to third reading.

● (1410)

*Erskine May*, for example, states at page 499 in the twentieth edition of his work, where he is addressing second reading in the Upper House, as follows:

It is irregular at this stage to examine minutely the details of the clauses, which can be discussed more properly in committee.

By third reading any possible amendments will have taken shape for informed debate, a shape conferred in committee where senators should conduct a thorough study of a bill.

There can be no doubt that a committee given a bill as controversial and far-reaching in its ramifications as this abortion bill is bound to be, and should undertake the serious work of amending its legislative weaknesses. It is possible that a bill flawed as Bill C-43 can be sufficiently amended so as to produce sound law, and a law that can be abided and obeyed by all who respect life in all its stages.

*Beauchesne*, at paragraph 764.(2), Fifth Edition, states:

The committee may so change the provisions of the bill that when it is reported to the House it is in substance a bill other than that which was referred. A committee may negative every clause and substitute new clauses, . . .

That is provided if the committee is so instructed, and if the new clauses are at least relevant to the bill as read a second time.

Following British practice cited in *Erskine May*, twentieth edition, page 539, *Beauchesne* also notes at paragraph 764(3) that even with reference to the long title of the bill, which should include its objects, amendments are not necessarily limited to these. He explains further, as pursuant to Standing Order No. 44 in 1854, that all committees were empowered—and here I quote from *Erskine May*:

. . . to make such amendments therein—

That is, to committed bills—

as they should think fit, provided that the amendments were *relevant* to the subject matter of the bill;

*Beauchesne* in paragraph 764(4) clarifies that without instruction from the house—and this concerns my question of privilege and especially the topic of my motion—"an amendment which is outside the scope of the bill cannot be entertained."

With or without an instruction, therefore, it is assuredly in the interests of complete and detailed consideration of a bill, according to parliamentary principles, that there exist abundant measures for committees. These measures in our rules and practices include, among others, first, committal of a bill after second reading to a special or joint committee or Committee of the Whole; second, withdrawal of a bill from one committee and committal to another committee—this can be substantiated by reading *Beauchesne*, on page 755, paragraph 4; third, instruction to the committee to give prior consideration to a portion of the bill and report separately on it. That authority can be found in *Beauchesne*, at page 761, paragraph 4.

The fourth measure is a combination of the latter two with the effect of treating parts or aspects of bills in separate committees, as happens in the British Parliament. That can be found at page 537 of *Erskine May*.

The fifth measure is a mandatory instruction of a committee to go beyond its usual acceptance of the bill's principle for the sake of argument, to the consideration of amendments

"which extend its provisions to objects not strictly covered by the subject matter of the bill as agreed to on the second reading, provided that these objects are cognate to its general purposes."

That authority is also from *Beauchesne*, page 761, paragraph one.

Honourable senators, there exists a unique Senate rule in our house, rule 78(4), which provides that if, after the expected thoroughgoing assessment of a bill, a committee finds no reason to recommend any amendments at all, which I fear might be done in this case, then its report is tabled without debate, and the third reading commences. Such a rule can only be understood to entail that a committee has made every due consideration of all known legislative weaknesses, and found none worth amending.

Honourable senators most assuredly entrust their privileges to the learned efforts of their colleagues who undertake the thorough business of committee. The streamlining rule 78(4) in our rule book does not mean that a committee is free to dispense with its mandate. Again, to quote *Beauchesne*, this mandate is to "make such amendments . . . as may seem likely to render a bill more generally acceptable." That authority is found at page 763 of *Erskine May*.

The point of my motion, honourable senators, to instruct the Standing Senate Committee on Legal and Constitutional Affairs regarding Bill C-43, is therefore the following. At the