

*Canada-U.S. Free Trade Agreement*

motion concerns the legislative committee on Bill C-130, which is, of course, the committee studying the Canada—U.S. Trade Agreement and whose deliberations have already begun, I wanted to proceed expeditiously in rendering this decision. I just want to say to Hon. Members and to the public that this is a technical ruling, but it is of importance and I ask all Hon. Members to bear with me.

In his point of order, the Hon. Minister of State argued that this type of motion should not be moved under the rubric "Motions"—which is one of the items we go through each day under Routine Proceedings—but should rather be taken up as an item of Private Members' Business. In reply, the Hon. Member for Kamloops—Shuswap (Mr. Riis) and the Hon. Member for Windsor West (Mr. Gray), presented arguments for allowing it to be moved under the heading of "Motions". After listening to the points made by all Parties, I wish to proceed as follows.

As most Hon. Members know, after second reading, a Bill is normally sent to a legislative committee for detailed consideration, as it was in this case. It is this stage when the Bill has been referred to committee that motions of instructions are to be moved. A motion of instruction is nothing more than a motion passed by this House sending a message to a committee that is already in place empowering it to do something and, in some cases, if one wants to go back through the history, perhaps to instruct it. I say for the record that this motion moved by the Hon. Member for Essex—Windsor was a motion to empower the committee to travel both in Canada and abroad, if the committee so decided to do.

● (1510)

It is at this stage, when the Bill has been referred to committee, that motions of instruction are to be moved. The purpose of such an instruction is to empower a committee to do something which it could not otherwise do. In this case, the committee studying the trade agreement does not have on its own, nor does any other committee, the automatic right to travel. It would have to seek that right or else the House could, on the motion of the Hon. Member, or on the motion of the Government, or on the motion of any other Hon. Member for that matter, empower the committee to decide whether it wanted to travel or not—but at least empower it to do so.

What the Hon. Member for Essex—Windsor has done is he has tried to move under "Motions" during Routine Proceedings to have this House consider sending to the committee an instruction empowering it to travel if it so wishes. I think I see the Hon. Member for Essex—Windsor nodding. I think I have put the situation as clearly as I can.

Practically all existing Canadian precedents dealing with motions of instruction relating to Bills took place in a period when the practices and procedures of the House were quite different from those used today. During this period Bills were referred to Committee of the Whole, that is to say a committee of the whole House. The Speaker goes out of the chair and the

Deputy Speaker takes the table. The entire House sits here in this Chamber as if it were in committee. That is what Committee of the Whole means.

As I said, during this period Bills were referred to Committee of the Whole following second reading after the adoption of a motion: "That the Speaker do now leave the chair". This procedure is no longer applicable. Consequently, our rules on motions of instruction to committees studying Bills need to be reviewed in a new context.

Citation 759(1) of Beauchesne's Fifth Edition reads in part:

The time for moving an Instruction is immediately after the committal of the bill, or, subsequently, as an independent motion. The Instruction should not be given while the bill is still in the possession of the House, but rather after it has come into the possession of the committee.

While the above citation is accurate, it leaves a considerable number of questions unanswered. An examination of precedents and citations in Beauchesne's Third Edition and Bourinot's Fourth Edition reveals that under previous practice a motion of instruction could be moved after second reading under one of three different conditions. The first is immediately after second reading, without notice or debate, but prior to the Speaker leaving the chair. The second is as an amendment to the motion "That the Speaker do now leave the chair". The third is at some point following second reading as an independent motion, after notice.

In the first situation the Speaker accepted the motion without notice immediately after second reading because it was a privileged motion intrinsic to the progress of the Bill to committee stage. If this approach is taken, and logically it can only be taken in instances where a referral has been made to Committee of the Whole, the motion is not debatable or amendable according to Standing Order 56(2). This is in keeping with precedents found on March 19, 1948, at page 269 of *Journals*, and on July 30, 1956, at page 942 of *Journals*.

In the present case, the opportunity to move a motion of instruction at that particular time has not been available since Bill C-130 has been referred to a legislative committee.

[*Translation*]

The second approach, that of moving a motion of instruction as an amendment to the motion that the Speaker do now leave the Chair no longer applies because Standing Order 78 now provides for the Speaker to leave the Chair without question put.

[*English*]

The third option, that of proposing an independent motion with notice, is in keeping with the authorities cited, and at least one known precedent which occurred on March 26, 1888, found at page 136 of *Journals*.

[*Translation*]

The Hon. Minister of State (Mr. Lewis) argued that this particular motion should be moved more properly under Private Members' Business. The dilemma that the Chair faces