

Air Canada

C-130, I appreciate that my friend was attempting to argue that when the Constitution is amended, it should be amended through the formal procedure that exists under the British North America Act or the Constitution Act. With respect, Mr. Speaker, that was another way of attempting to argue the constitutionality question. I refer to Beauchesne's on page 38 in Article 117(6) which states:

The Speaker will not give a decision upon a constitutional question nor decide a question of law, though the same may be raised on a point of order or privilege.

I submit that my hon. friend called for a formal constitutional amendment. Although it is not part of a procedural argument, I would submit that there is sufficient support among the provinces to indicate tacit support for the free trade agreement. I submit that we are not changing the Constitution through Clauses 6 and 9.

With respect to the argument on Clause 8, I would submit that it is often the case that clauses in Bills are challenged as to acceptability. If there is to be a challenge, it should be a formal court challenge at some later date on some specific question of law. Our position as legislators is to debate the law in its substance and to decide. We believe that this law has one principle, that is, to implement the free trade agreement. I am satisfied that the drafting of the Bill has been done in such a manner that it does not offend the constitutionality, although I submit it is not your position to rule on same, and that Section 8 will be found to be in order.

Thank you, Mr. Speaker, for allowing us to debate this procedurally. It has been a very useful exercise in which we have been pleased to participate. I appreciate that you will wish to reserve judgment, Mr. Speaker. We are anxious to proceed with the debate on the substance of the issue and look forward to the results of your deliberations at your earliest convenience.

Mr. Gray (Windsor West): Mr. Speaker, I see the House Leader for the NDP entering the House. He may have some comments to make. While the Hon. Member is taking his seat, I wonder if I could bring one point to your attention, Mr. Speaker. The Deputy Government House Leader has stated if I am correct in stating that the action contemplated by the Government in Clauses 6 and 9 of Bill C-130 must be undertaken by way of constitutional amendment, that is already taken care of by the fact that there is tacit support by most of the provinces. I respectfully submit that even if that is correct, and I question it, that cannot be the same as a formal action required of provinces as set out in the Constitution Act, if there is to be a constitutional amendment.

The Deputy Government House Leader in expressing his opinion of the views of the provinces on the subject matter of Bill C-130, even if these views are in the form of tacit support, cannot be considered to be the formal action that is required in order to amend the Constitution as set out in the Constitution Act.

Mr. Riis: Mr. Speaker, I have no further comments to add to the procedural debate. I do wish to indicate, Mr. Speaker, as you made clear earlier, we do reserve the right to intervene on procedural matters as the Bill is proceeding through the various stages, but at this point I have no further words to add.

Mr. Speaker: I do wish to close off debate, but I wish to reply to the Hon. Member for Kamloops—Shuswap (Mr. Riis). He may well be referring to events that may or may not take place. I do not wish anyone to presume what course the debate may or may not take on a Bill when the acceptability of that Bill is the very issue in front of us.

Mr. Axworthy: I wish to provide a citation in considering the point raised by the Hon. Member for Windsor—West (Mr. Gray). It is contained in a document that would be useful for Your Honour to consult. It is the impact of the Canada-U.S. Free Trade Agreement, a legal analysis that was tabled in the Ontario Legislature by the Attorney General for Ontario. I will not take the time of the House to go through all the argumentation, Sir, but it would be very important to deal with the conclusion where it states that the impact of the Bill tabled in the House has a severe limitation on the capacity of the provincial governments to govern, according to the present constitutional arrangements, and that this is a form of unilateral assertion of constitutional change.

● (1630)

I suggest to the Chair that this legal analysis of the Bill is an important substantiation of the argument put forward by my colleague that if we are going to change the Constitution, and certainly the federal Government has the right to do so, then it must be done under the laws prescribed in the Constitution and not by way of a Bill such as Bill C-130.

Mr. Speaker: I thank the Hon. Member. Orders of the Day.

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AIR CANADA PUBLIC PARTICIPATION ACT

MEASURE TO ENACT

The House resumed from Friday, May 27, consideration of the motion of Mr. Mazankowski that Bill C-129, an Act to provide for the continuance of Air Canada under the Canada Business Corporations Act and for the issuance and sale of shares thereof to the public, be read the second time and referred to a legislative committee; and the motion of Mr. McDermid (p. 15859).

Mr. Iain Angus (Thunder Bay—Atikokan): Mr. Speaker, I am pleased to continue my contribution to the debate. I understand I have only about four minutes left.

Mr. Nowlan: Too long.