

As I told honourable Members a moment ago, since yesterday I have spent a great deal of time, which may be well understood, considering the arguments advanced and reported in *Hansard*, both in support and in opposition to the point of order raised by the honourable Member for Bow River (Mr. Woolliams) on the proposed amendment to clause 74 of Bill C-231.

In the comments he has made the Minister of Transport has confirmed how extremely difficult and complex this matter is, both in substance and from a procedural standpoint. My colleague, the Deputy Speaker and Chairman of the Committee of the Whole, has spent at least as much time as I have, I am sure, in the preparation of the very learned ruling which was delivered yesterday, and which is now under appeal. The question is whether our respective and separate studies of the arguments have led us to the same conclusion.

I should state once again that this procedure of appeal from the Chairman of Committees of the Whole House to the Speaker places the Chair in an awkward position. This, I am sure, is recognized by all honourable Members. Yesterday two Members of the House, I refer to the honourable Member for Oxford (Mr. Nesbitt), and, I think, the honourable Member for Winnipeg North Centre (Mr. Knowles), suggested perhaps the procedure may be changed in some way. In passing, I take the liberty to suggest that a review of the Chairman's decision might come to the Chair by way of stated case rather than by way of appeal. Be that as it may, the Standing Order is there and I have no alternative but submit to its requirements.

It seems to me that when there is nothing more at issue than the Chairman's interpretation of the facts on which is based a ruling under appeal, the Speaker should not normally attempt to substitute his own judgment for that of the Chairman. This is a principle I have enunciated before. When it is simply a question of judgment with respect to the personal opinion of the Chairman of the Committee, there is no justification, in my view, for the Speaker to take the Chair to substitute his personal interpretation of facts for those of the Chairman of the Committee. It may be that in this particular case there is more at issue than a limited question of personal judgment.

In his ruling the Chairman made the following statement, reported at page 12240 of yesterday's *Hansard*: "The problem which the Chair has to decide is whether or not the amendment moved by the Minister of Fisheries is sufficiently different from subclause 329 of clause 50 as to constitute a substantially different question."

In fact, most of the arguments advanced in opposition to the Minister's amendment were founded on this approach. I am wondering, however, if this is entirely correct. The problem which the Chair has to decide is not only whether the amendment is different from subclause 329 of clause 50, which in its entirety has been negated by the Committee, but also if the amendment is inconsistent in whole or in part with the Committee's recorded decision. The relevant citation is 406C of Beauchesne's Fourth Edition, which is a restatement of the rules cited in May's Seventeenth Edition, page 549. The citation from Beauchesne is the following: (c) "Amendments are out of order if they are inconsistent with a decision which the Committee has given upon a former amendment;"

The statement in May's Seventeenth Edition is the following: "An amendment must not be inconsistent with, or contrary to, the bill as so far agreed to by the committee. . . , nor must it be inconsistent with a decision of the Committee upon a former amendment."

I am in full agreement with the Chairman that there are many substantial differences between this amendment and the clause formerly deleted by the decision of the Committee. This, however, does not necessarily satisfy the requirement of the citation to which I have just referred.