

*Criminal Law Amendment Act, 1985*

judgment, from what I have seen, having read the matter, I think it is clear that the citation to which the Hon. President of the Privy Council (Mr. Hnatyshyn) referred in terms of *Beauchesne* does apply. What in fact is being attempted here is to introduce measures, however legitimate they are in the minds of many Members, which go beyond the original scope of the Bill and therefore must be ruled out of order.

If I may make one small comment on the references the Hon. Member made, particularly the references to what was already done by the committee itself, the Chair has not been asked to comment, will not comment and does not comment on decisions by the committee. However, I think the Hon. Member knows that such a decision by the committee would not represent a precedent or anything that would bind the Chair. I understand the purpose of the introduction of those points, but it is certainly not clear that what the committee did would bind the House or should bind me. If anything, in precedent terms, it would go the other way around. I think the Hon. Member knows that. Therefore, I will rule out Motions Nos. 1 to 4 and Motions Nos. 9 to 12 as being, in my view, out of order.

I must also deal with the question of the request for unanimous consent. As the Hon. Member knows, we do many things here by unanimous consent. They are those things that we cannot otherwise do, and we do them by unanimous consent here in order to be more expeditious. Normally, for instance, we may, as we have indicated today, notwithstanding the general rules about when things may be done, choose by unanimous consent to go through all three readings. However, what is out of order is out of order. The Speaker is in a difficult situation, appreciating what the Hon. Member wants and understanding the seriousness of his concern. The Chair must say that a request to try to make something which is out of order in order by unanimous consent cannot be accepted by the Chair on the simple basis that it is either in order or it is out of order. Something cannot be made to be in order by a decision of the House.

The argument has always been that the House thinks it has the right to waive all its rules by unanimous consent at any time. It does have the right to do some things by unanimous consent which it would not otherwise do. It can decide to do a Bill in one day as opposed to in three sittings, but I cannot accept the request for unanimous consent. I say that notwithstanding that the Hon. President of the Privy Council has already indicated that consent would not be forthcoming.

I am not by this comment changing what the practical effect would be. I am really wanting to give notice for future attempts to use unanimous consent. It is reasonable to do things we otherwise cannot do and to expedite them through the procedure of unanimous consent, but clearly it would be an offence to the House to ask, in a sense by unanimous consent, to do something which cannot be done because the Chair must find it out of order.

If I may be perhaps a little more explicit, it comes close to suggesting that the House have a procedure to overturn a ruling of the Chair. If that is what the House wishes to have, if

it wishes to have that power, the House has a different method, that is, amending its Standing Orders through the reform committee. Those are my views on both the amendment and the request for unanimous consent.

**Mr. Robinson:** Mr. Speaker, I am not in any way questioning the Speaker's ruling with respect to the question of seeking unanimous consent. I would just, however, seek clarification of the Speaker's ruling in light of its serious implications. I think the Speaker recognizes that the House has certainly traditionally understood that effectively we can take a decision on just about any question as long as we do it by unanimous consent. I wonder if the Speaker would elaborate or clarify whether the Speaker is in fact suggesting that it is only in matters of time, where there are requirements with respect to time—and the Speaker spoke about expediting certain matters—as opposed to matters of substance and substantial questions of order. Is it that distinction which the Speaker is making, that the House can in fact give unanimous consent to in effect not observe procedural requirements with respect to time? Perhaps the Speaker—

**Mr. Speaker:** No, the Hon. Member will know why I cannot stand here and indulge in a long clarification at this point. He must also understand that what I am trying to say is that what the House cannot do, it cannot do by unanimous consent. In other words, the request for the amendment is out of order, as I have said and I have ruled. It is out of order whether it is moved by the President of the Privy Council personally. It is out of order if it is moved. It therefore cannot be introduced by unanimous consent because it is *ab initio* out of order and cannot be made in order by a decision to make it in order. That is the point I am trying to make.

**Mr. Hnatyshyn:** Mr. Speaker, I rise at this point to indicate that I understand what you have said. I think there is probably a sense, as I understand it, in the House that one does not try to do what is illegal by unanimous consent. I think that principle would be accepted by everyone here. On the other hand, when the House of Commons operates by unanimous consent, in many instances it has the effect of setting aside a Standing Order. I just did not want to get ourselves into a position where we were tying our hands with respect to doing something which has the unanimous consent of all Members of the House and is in the interests of not only this institution but of our country. I do not want to put Your Honour in a position of having to explain your ruling, by any means. However, I simply thought it would be appropriate at this time for me to ensure that we in the House understood each other and that there was in fact a clear understanding that unanimous consent very often is a matter whereby Standing Orders are set aside by virtue of that act.

**Mr. Speaker:** The point I am trying to make to the House is that the House must also know there are matters which cannot simply be done by consent. I think logic makes that clear. I just wanted to use this opportunity, since it was clear that there would not be consent anyway, to put that on the record; it seemed like a good time.