

*Canada-U.S. Free Trade Agreement*

She also said that it was open to the House, if it wished, to do something further about the matter, saying in effect that the House itself could deal with the matter.

I submit therefore that Speaker Sauvé's ruling should not be followed by yourself for two reasons. First, it clearly applied only to the one energy security Bill of 1982. It did not in any way attempt to set out any principle of general application on omnibus Bills that would be, if not binding as a precedent in future cases, at least helpful to Speakers like yourself who would come after Speaker Sauvé and have to deal with questions of omnibus Bills.

I repeat that Speaker Sauvé's ruling was so brief as to be almost peremptory in nature. There was no attempt to analyse the energy security Bill in light of other Bills on which previous rulings had been based. There was no effort at all to respond to the very interesting and lengthy point of order that had been argued on behalf of the Conservative Party.

I respectfully submit again without any disrespect to one of your distinguished predecessors, Madam Sauvé, that her ruling on the energy security Bill should be distinguished from this particular case, set aside, and looked on as something of a nature that applies only to the particular case under which it arose.

Second, let me say that if Speaker Sauvé's ruling has any application at all to the present case, it is with reference to what it said about the House dealing with the matter. I submit that the House did in fact deal with the matter when it accepted the request of the Government that an order be adopted withdrawing in effect the original energy security Bill and allowing it to be replaced by a series of individual Bills, because in effect the Government admitted that the original Bill was of an unacceptable omnibus nature.

I submit that the House, in dealing with the matter as it did, adopting the order it did to permit the withdrawal of the energy security Bill and its replacement by a number of individual Bills, created a precedent of general application that should apply and must apply to the consideration of the question of whether or not Bill C-130, the trade Bill, is of an unacceptable procedural nature.

In short, I am saying that therein you have a precedent which, taken together with the very wise and compelling words of Mr. Speaker Lamoureux, must lead you to find that Bill C-130 is of an unacceptable omnibus nature and cannot be proceeded with in this House in its present form and, instead, must be withdrawn. If it is to come back to the House for consideration by this House, it must come back in a series of Bills reflecting the fact that it is intended to deal with as many as 27 different Acts.

I am also saying that this situation is one where it is clear that the point spoken of by Speaker Lamoureux has been reached, has been crossed, and has been transgressed so that it must be found by you, Sir, that Bill C-130 is of an unacceptable omnibus nature.

I want to make some additional arguments about the unacceptable omnibus nature of Bill C-130. First, let me deal with the matter of the umbrella of the Bill. It is a rather technical but important point because the umbrella of the Bill basically is that under which the drafters seek to include its various facets. Second, there is the matter of whether or not the implications that exist with respect to the omnibus procedure are harmful to the parliamentary process.

In the 1982 energy security Bill the drafters used what might be called the "kitchen sink approach" to the long title of the Bill. The title of the Bill creates the umbrella under which the drafters seek to include its various facets and is relevant as to whether or not the Bill is of an unacceptable omnibus nature. This also has implications for the extent to which the Bill can be amended.

In the present case the drafters have given Bill C-130 a very general long title. It reads: "An Act to implement the Free Trade Agreement between Canada and the United States of America". They went on to combine it with a preamble that attempts to do the work of the long title by including the phrases:

Whereas the Agreement applies generally throughout Canada;

And Whereas it is necessary, in order to give effect to the Agreement, to make related or consequential amendments to other Acts;

Beauchesne's Fifth Edition, Citation 703, bears directly on this aspect of the matter. It states:

Although there is no specific set of rules or guidelines governing the content of a bill, there should be a theme of relevancy amongst the contents of a bill. They must be relevant to and subject to the umbrella which is raised by the terminology of the long title of the bill.

Beauchesne's goes on to say, in the same citation:

Some of the constituent parts of a bill are essential; some are optional. The title is an essential part; the preamble is not.

Beauchesne's Fifth Edition, Citation 704, goes into more detail on the long title. It states:

The long title sets out in general terms the purposes of the Bill. It should cover everything in the bill.

Citation 705 provides further evidence of the unimportance or even irrelevance of the preamble:

The purpose of a preamble is to state the reasons and intended effects of the proposed legislation. Though a preamble is not necessary in a public bill, it is sometimes inserted in bills of great importance in order to place on record the intentions of the framers of the bill.

I submit that it appears that the Government has departed from accepted practice, even in the attempt to define the all important umbrella of its omnibus Bill. It has resorted to what I might call a two-punch vagueness, if one can combine vagueness with the concept of a punch. It has done so by adopting an excessively general long title and by attempting to insert an ill-defined reference to the real legislative purpose of the Bill in the preamble which is dispensable, which is not necessary, rather than in the essential long title where it properly and in a better defined manner belongs. In other words, this Bill is of an unacceptable omnibus nature because