

*Points of Order*

How could the adoption of the budget motion fail to prejudice the rights of the citizens of British Columbia to a fair hearing on their questions?

Would it be fair for the government to be given the opportunity to put on the public record four days of evidence without the Government of British Columbia being able to have the opportunity to rebut or question that evidence or forward some of its own?

Similarly, to allow the bill on notice, if it indeed does limit payments under the Canada Assistance Plan, would prejudice the same appeal. It would also breach parliamentary tradition.

Beauchesne's sixth edition at paragraph 508, clause 4 reminds us that:

The reference of a bill to the Supreme Court of Canada withdraws that bill temporarily from the jurisdiction of Parliament—The question cannot be before two public bodies at the same time.

Beauchesne's cites a 1948 ruling that is germane to the question before us at the moment. At that time the Speaker was asked to accept an amendment to a government motion to appoint a joint committee of the House and Senate to consider the question of human rights and freedoms. The amendment proposed would have called for a reference to the Supreme Court of a general question of federal jurisdiction over the freedoms of speech, assembly, et cetera.

The Speaker at that time disallowed the amendment saying that "this amendment actually proposes that the Supreme Court be asked to consider the same matter that the main motion proposes to refer to a select committee. It seems to me that both these propositions cannot be approved at the same time by the House. If the constitutional situation of human rights is submitted to the Supreme Court, it thereby becomes *sub judice* and cannot be considered by the committee until the court has given its decision. The question cannot be before two public bodies at the same time."

I submit that if the debate on the budget motion proceeds, and if the bill currently on notice is in fact introduced, this is exactly what will ensue. Two public bodies, each trusted with responsibilities over justice, will have before them these questions about the legitimacy of the proposed termination of agreements under the Canada Assistance Plan.

Before I conclude, allow me to address briefly the *sub judice* convention itself. It strikes me that every time a public issue is before the courts, the House is buffeted by opposing whims on how the convention should be applied, whether the convention should be applied, why it should be applied, and so on.

Should such a re-examination occur today, I submit that it should not be material to your decision, Mr. Speaker, or the decision of the House to suspend voluntarily debate on the budget motion.

Nor should it colour your decision on whether or not to allow the bill currently on notice to proceed, because the convention does exist and it continues to be applied.

For example, only last summer, Mr. Speaker, you interjected to remind the House of its self-imposed restraint when members of the Opposition attempted to question the government on its decision to lay charges against Mr. Doug Small and the conflicting evidence given to the House committee.

In fact, since I have been in the House, I can only remember *sub judice* being applied to prevent the Opposition from unrestrainedly asking questions of the government on topical issues of the day.

Although it may sometimes appear so, the convention does not exist to protect the government. It exists to protect those before the courts.

Therefore, Mr. Speaker, I ask you to protect the interests of the citizens of British Columbia whose elected representatives are challenging, on their behalf, the budget measures proposed by this government.

I ask for debate on the budget motion to be suspended and for any proceedings on any bill regarding the Canada Assistance Plan to be stopped until such time as debate will not imperil the rights of these citizens from British Columbia to a fair hearing.

**Mr. Jean-Robert Gauthier (Ottawa—Vanier):** Mr. Speaker, I just want to make a couple of comments on the point raised by the member for Kamloops, House leader for the New Democratic Party.

Indeed he may have a point. The government could be breaking the law or possibly has broken the law already, but in my view this is a matter of law and not a matter for the Speaker of the House of Commons to settle. The courts are indeed empowered to look into these matters,