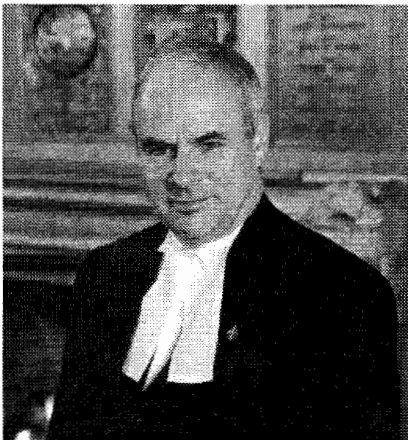




Speaker's Ruling

Interpretation of Motion Regarding Amendments at Report Stage, Speaker Peter Milliken, House of Commons, March 21, 2001.



Background: On February 26 the Government House Leader introduced the following motion relating to the selection of report stage motions by the Speaker.

"For greater clarity, the Speaker will not select for debate a motion or series of motions of a repetitive, frivolous or vexatious nature or of a nature that would serve merely to prolong unnecessarily proceedings at the report stage and, in exercising this power of selection, the Speaker shall be guided by the practice followed in the House of Commons of the United Kingdom."

After debate, it was adopted on February 27, 2001. On March 15, in a ruling on a point of order raised by the the Member for Richmond—Arthabaska, André Bachand, the

Speaker undertook to return to the House with a statement on how this motion will be interpreted.

The Ruling (Speaker Milliken): From time to time when the House adopts new procedures, Speakers have seen fit to address the manner in which they will be implemented. Often this occurs when a certain amount of latitude or discretion is given to the Chair. In enforcing new procedures, the Speaker acts as a servant of the House, not as its master. Therefore, in order that these new procedures function properly, I see it as my duty to make a statement on their operation now, before the House is seized with a bill at report stage.

In 1968, rules concerning the selection of report stage amendments were established. At that time, the House first undertook a thorough revision of its legislative process which resulted in our modern rules where bills are sent to committee for detailed examination, followed by an opportunity for consideration in the House in what is known as report stage. As *House of Commons Procedure and Practice* explains:

In recommending that report stage be revived, the 1968 Special Committee on Procedure considered that stage to be essential in order to provide all Members of the House, and not merely members of the committee, with an opportunity to express their views on the bills under consideration

and to propose amendments, where appropriate. However, the intent of the Committee was not for this stage to become a repetition of committee stage. Unlike committee stage where the bill is considered clause by clause, there was not to be any debate at report stage unless notices of amendment were given, and then debate would have to be strictly relevant to those proposed amendments. (p. 663)

In order to prevent report stage from becoming merely a repetition of committee stage, the Speaker was given the authority to select and group motions of amendment for debate. Over the past 30 years, a large body of practice has grown on how this important legislative stage is conducted.

Let me briefly review how it works today. When notice of a motion of amendment is given by a member, the Speaker has a number of issues to address. First of all, the Speaker must judge the procedural admissibility of the motion; if the motion does not meet the time-tested rules of practice, it will not be deemed admissible and therefore will not be accepted for publication on the the notice paper.

Once a motion passes the basic test of admissibility, the Speaker must then determine whether the motion can be selected for debate. For guidance, the House has given the Speaker certain criteria to apply, for example, motions already de-

feated in committee are not normally selected. Once the Speaker has selected the motions that will be debated, a decision is made on grouping them for debate with other motions that have a similar theme or purpose. Finally, the Speaker determines how the motions should be voted on, for example, whether one vote applies to several motions, or whether the adoption of one motion obviates the need to vote on another motion. When all of these questions – admissibility, selection, grouping, voting pattern – have been addressed, the Speaker provides the House with the report stage ruling.

The first two tests which the Speaker applies to motions, those of admissibility and selection, are the most important in our discussion today. I would refer the House to Marleau and Montpetit, pages 649 – 669, for a detailed discussion of our rules and practice in this regard.

With regard to admissibility, the Speaker must strictly apply a number of rules of procedure. Does the motion go beyond the scope of the bill? Is it relevant to the bill? Or is the motion incomplete? Either the motion is inadmissible and is returned to the member, or it is admissible and proceeds to the next test, that is, the test of selection.

With regard to selection, the Speaker in 1968 was given a greater amount of flexibility and discretion. In the last 30 years, as practice evolved, successive Speakers were encouraged to exercise more rigour in the selection of motions in amendment.

In 1985, the third report of the all party Special Committee on Reform of the House of Commons, the McGrath committee, recommended that the Speaker use existing powers to select as well as combine amendments at the report stage. The committee suggested certain

principles to guide the Speaker on how this could be done.

An amendment disposed of in committee should not be revived unless it is of exceptional significance. Amendments ruled out of order in committee should not be reconsidered unless there are reasonable grounds for doing so. Amendments proposed to implement government undertakings should be selected automatically. In selecting other amendments, the Speaker should seek guidance through consultation. The Speaker should determine, in consultation with the House leaders, which amendments are regarded as the most important from the party point of view.

The report proceeded to list several other guidelines. It is evident that this was a very tall order for any Speaker. The committee recognized the significance of such discretionary powers in the hands of the Speaker and commented that, in their view, successive Speakers had hesitated to use to its fullest the power to select without further direction from the House.

The House sought to provide such direction in 1986 when amendments to the standing orders included for the first time the note to the present Standing Order 76. This note took up some, but not all, of the criteria contained in the McGrath Committee report.

From that point on, our practices have evolved to where they are today and in reviewing those practices, I was struck by the reluctance of my predecessors to use the powers of selection in any but the most generous manner, giving members the benefit of the doubt in most instances.

In the last Parliament, the House was faced with several bills (i.e., Nisga'a, clarity, young offenders) where, at report stage, hundreds of

motions in amendment were placed on the notice paper.

The most recent attempt to address the situation occurred last February 27, 2001 when, by adopting Government Motion No. 2, the House again sought to provide the Speaker with more guidance on the manner of selection of report stage amendments.

Here again, as so often in the troubled history of report stage, we see the hope that a more interventionist approach by the Chair will resolve difficulties that are being experienced.

It is not for me as your Speaker to interpret the confluence of events that led up to the unprecedented gridlock the House faced at report stage in the last parliament.

However, even if one grants that the Chair has, in the past, been too reticent in the exercise of its power of selection, I would argue that this abundance of caution, if such we may call it, is only one of the circumstances that have contributed to the potential crisis that we face at the report stage.

As your Speaker, I am ready to shoulder the report stage responsibilities that the House has spelled out for me. However, I think it would be naive to hope that the frustrations implicit in the putting on notice of hundreds of motions in amendment of a bill will somehow be answered by bringing greater rigour to the Speaker's process of selection.

On that cautionary note, I want now to outline my approach with regard to the selection of report stage amendments for debate in view of this most recent directive from the House.

First, past selection practices not affected by this latest directive will continue to apply. For example, motions and amendments that were presented in committee will not be selected, nor will motions ruled out

of order in committee. Motions defeated in committee will only be selected if the Speaker judges them to be of exceptional significance. I refer hon. members to pages 667 – 669 of *House of Commons Procedure and Practice* for a fuller discussion of these practices.

Second, regarding the new guidelines, I will apply the tests of repetition, frivolity, vexatiousness and unnecessary prolongation of report stage proceedings insofar as it is possible to do so in the particular circumstances with which the Chair is faced.

It is in regard to these four criteria alone that I will have reference to the practice followed in the House of Commons of the United Kingdom, and not to the wider practice surrounding what is called “consideration stage” of bills at Westminster, which practice is not relevant to our own traditions and not helpful to their clarification.

I intend to apply these four criteria to all amendments at report stage no matter which side of the

House they come from. I also intend to apply those criteria in the original note, whose validity has been endorsed by the adoption of government Motion No. 2. Specifically, motions in amendment that could have been presented in committee will not be selected.

Accordingly, I would strongly urge all members and all parties to avail themselves fully of the opportunity to propose amendments during committee stage so that the report stage can return to the purpose for which it was created, namely for the House to consider the committee report and the work the committee has done, and to do such further work as it deems necessary to complete detailed consideration of the bill.

That being said, I believe that this approach will result in the Speaker’s selection of amendments at report stage being a far more rigorous exercise than it has been to date, no matter how challenging such an exercise may be.

Finally, the Chair intends to maintain its current practice of not providing justification for the selection of amendments, or reasons for the non-selection of amendments at the time of a report stage ruling.

However, in exceptional circumstances, the Chair may expand this usual approach and explain its reasons where this shall be deemed necessary or appropriate.

May I end my remarks by reminding members that at the conclusion of today’s debate, the House will have adopted a motion creating a special committee to make recommendations on the modernization and improvement of its procedures.

Without anticipating what the committee may decide to recommend, it is entirely possible that the House may at some future date be seized with proposals that may have an impact on my statement today.

Naturally, as your servant, I will continue to be guided by whatever rules the House may, in its wisdom, decide upon to conduct its business.