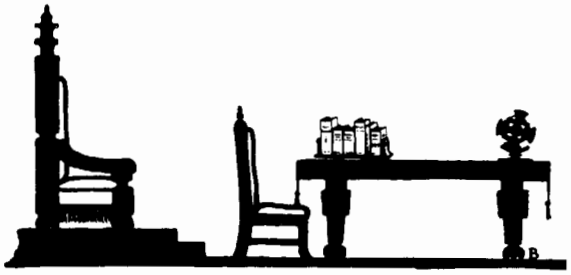

Speakers' Rulings

Inadmissability of Identical Motions

Manitoba Legislative Assembly, August 10, 1983

James Walding

The background: By mid-summer of 1983 debate on a government resolution proposing changes to the French language provisions of the province's constitution had come to the fore. On July 22, the government introduced a resolution which sought to refer the subject to the Standing Committee on Privileges and Elections in order to solicit the views of Manitobans.

The resolution proposed that the committee report during the current session. The opposition favoured referral but rejected the proposition that the committee report at the current session on the assumption that this would likely allow only two to three weeks for public hearings as the session's business was nearing completion. Accordingly, the opposition moved an amendment proposing that the committee sit after prorogation.

When the government expressed its opposition to this amendment, the opposition moved a sub-amendment proposing that the committee report before December 31, 1983. The date was significant in that it was stated by the government to be the deadline by which the province had to transmit any constitutional proposals to Parliament. Twenty-one out of twenty-three opposition members spoke to the sub-amendment.

This sub-amendment was defeated but on August 3, another sub-amendment was introduced proposing that the committee report before December 30, 1983. No one challenged the propriety of that motion and twenty-two opposition members spoke to it. On August 6, after nine hours of bell-ringing, this sub-amendment was also defeated and the opposition moved yet another sub-amendment which sought to require the committee to report by December 19, 1983.

The acting Government House Leader claimed that the third sub-amendment was out of order on the grounds that it contravened Manitoba Rule 58 which states, "A motion shall not be made if the subject matter thereof had been decided by the House during the same session". Beauchesne (5th ed.) citations 430 and 432 dealing with the inadmissibility of substantially identical motions were also cited. The Opposition House Leader rebutted that the essence of the sub-amendment was the date itself and, since it differed substantially from earlier dates, the subject matter of the motion was therefore substantially different. The Leader of the Opposition argued in support that, having accepted the second sub-amendment, the Speaker should also accept the third.

The ruling: (Speaker James Walding): On Saturday, August 6th, the Honourable Member for Sturgeon Creek (J. Frank Johnston) moved to introduce for debate, a sub-amendment to the amendment to the Language Resolution of the Honourable Attorney-General. When the admissibility of the sub-amendment was questioned and several members had spoken to the matter, I took it under advisement in order to review Hansard and the remarks of members. I have perused Hansard and have reviewed our rules, Beauchesne, Erskine May, and past rulings.

The Commonwealth Parliamentary Association Conference, presently in session in Winnipeg has given me the opportunity to seek the advice and counsel of other Speakers and parliamentarians. I thank them for their wisdom and advice given so generously and for their interest in the issue.

Although there is considerable interest in this matter amongst members who may be anxious to receive a ruling in order to proceed, I have given this ruling the same thorough review and careful consideration given to all rulings.

I am not unaware of the deep political differences that exist on this issue and of the steps being taken to utilize the opportunities permitted within the parliamentary system.

However, I have tried not to be influenced by what the consequences might be, but to consider the proposed sub-amendment on the basis of its merits.

The decision has not been an easy one to make and I will freely admit to being constantly preoccupied with the problem since last Saturday. I will not review the arguments advanced so eloquently at the time of the proposed sub-amendment.

The key to the problem is the question of whether the second sub-amendment

constitutes a precedent governing further subsequent calendric amendments.

There is no doubt that both our rules and Beauchesne clearly prohibit consideration of a matter previously decided by the House at the same Session.

A sub-amendment to an amendment is one which modifies an amendment and must refer to the amendment and not to the main motion. See Beauchesne Citation 416. Thus, a second sub-amendment was in order by this limited definition, in that it proposed a new date differing by one day to the first proposed sub-amendment, although no member objected on the grounds of reviving debate.

If the proposed sub-amendment is not to infringe on the prohibition mentioned above, it is clearly incumbent on the supporters of the sub-amendment, to demonstrate that a difference of one day is substantially different in seeking to limit consideration by an intersessional committee.

I listened carefully to the debate on the December 30th sub-amendment to hear the arguments in favour of a one-day reduction in the limit on debate, but did not hear one member make that all-important point. Since it had not been shown that the one-day difference is substantially different, it follows that the value of the December 30th sub-amendment as a precedent, is considerably reduced or even non-existent.

Thus, since the supporters of the proposed sub-amendment have not demonstrated the need for any further restriction of the time required for intersessional hearings, although given ample time to do so, the proposed sub-amendment amounts to substantially the same proposition which has already been decided upon by the House. I must therefore conclude that the proposed sub-amendment is not in order.

Editor's note: The ruling of the Chair was appealed by the Opposition but sustained by a vote of 23 to 15. The Government and Opposition subsequently concluded an agreement whereby the House would adjourn until the Committee hearings were completed. The amendment was defeated and the referral resolution was adopted on August 12, 1983.

Amendments at report stage

House of Commons, October 13, 1983

Jeanne Sauvé

The background: The rules of the House of Commons provide for bills to be given three readings: first (pro-forma – no debate); second (with debate on the principle of the Bill); third (with debate reviewing the Bill, as amended). Between second and third reading, Bills are usually given consideration in committee, which can make amendments. When a Committee reports a Bill, consideration at the report stage is undertaken at which time motions in amendements may be proposed. The Speaker is empowered to select report stage motions and group them for debate and voting and has the duty to consider the procedural acceptability of such motions.

Bill C-155 (the so-called Crow Bill proposed to alter the 86 year-old fixed rates of freight charged to grain producers for shipment of their product west through the Crows Nest Pass in British Columbia). When the consideration of the Bill at the report stage began there were a record 174 motions on the *Notice Paper*. On October 13, after first having made two preliminary statements and listened to procedural arguments, the Speaker ruled some 78 of the motions out of order.

The bill contained seven Parts and had two Schedules, of these Parts, two had definition clauses contained in them. These definitions were limited in effect to the Part in question, as well, the Bill had an interpretation clause which, of course, applied to the entire Bill.

There were a series of motions, by means of which members proposed to transfer definitions from the Parts of the Bill to the interpretation clause — covering the whole bill. In making this novel approach the members proposed to add definitions to the interpretation clause. In many cases — though by no means in all — the definitions were identical in all respects to those which had been subsumed in the two Parts.

The following extract illustrates that report stage motions pose some of the most difficult and complex questions for the Chair and that deciding these questions can be among the most onerous tasks facing a Speaker.

The ruling: (Speaker Jeanne Sauvé): Last Thursday I expressed a number of reservations concerning certain motions in amendment to Bill C-155. I am now prepared to rule on the procedural acceptability of these motions.

Before doing so, may I take this opportunity to thank all Hon. Members who participated in the extensive procedural debate for their very valuable contributions. I must say that these contributions have facilitated the Chair's deeper understanding of a very complex and technical piece of legislation. I am grateful for the arguments they have set forth.

During the debate Hon. Members often referred to the desirability or merit of certain proposed motions. Of course, that puts the Chair in a rather awkward position. I must remind Hon. Members that unfortunately such remarks could not be taken into consideration by the Chair in reaching a decision since only the procedural acceptability of motions concern it.

When I made my preliminary remarks in relation to Motion No. 1, I indicated to the House that this was an attempt to place into the Bill a disguised preamble. Although the Hon. Member for Vegreville (Mr. Mazankowski) in presenting his argument used the term "statement of purpose and intent", I am not convinced that there is a substantial difference between such a statement and a preamble.

In his very valuable contribution to the procedural debate, the Hon. Member for Yukon (Mr. Nielsen) quoted Citation 779(3) of Beauchesne's Fifth Edition as follows: "Where the Bill, as introduced, does not contain a preamble, it is not competent for the committee to introduce one".

In my view, the effect of Motion No. 1 would be to introduce a preamble into the Bill. However desirable it may be to some Hon. Members — and I understand that it is to many Hon. Members — the introduction of such a preamble is contrary to our rules and practice. Therefore I have no alternative but to rule that Motion No. 1 is not acceptable.

With reference to Motions Nos. 2 to 19 inclusive, 59, 64, 66, 67, 70, 129, 134 and 135 to which I referred in my statement to the House last Thursday as substantive amendments to an interpretation clause, I have not been convinced otherwise. Hon. Members argued that a great many of these motions attempted to move definitions from clauses later on in the Bill and place them in Clause 2, which is the general interpretation clause in the Bill. Of course, this is a novel approach.

In his presentation the Hon. Member for Hamilton Mountain (Mr. Deans) quoted from May's Nineteenth Edition that it was perfectly in order to move clauses from one part of a Bill to another part of a Bill. The Hon. Member is quite right in this regard. However, the motions in question do not attempt to move clauses but to move definitions into an interpretation clause which covers the whole Bill. This is the dilemma faced by the Chair. The fact that these motions, as argued by the Hon. Member for Hamilton Mountain, could be considered to be within the scope of the Bill and within the terms of the Royal Recommendation does not necessarily ensure that they are in order, and this is not the Chair's main concern. What concerns the Chair is that substantive amendments are being proposed to an interpretation clause.

In my preliminary statement I referred to a ruling of one of my predecessors in this regard. For the benefit of Hon. Members I would like to quote from Citation 773(10) of Beauchesne's Fifth Edition, which reads: A substantive amendment may not be introduced by way of a modification to the interpretation clause of a bill.

In my view to transfer definitions limited in scope to parts of a Bill to the general interpretation clause which applies to the whole Bill enlarges substantially the effect of the definitions, and this is not an acceptable procedure. Likewise, to modify existing definitions substantially or to add new definitions substantive in scope is not procedurally acceptable... Therefore, with regret, I have no alternative but to rule Motions Nos. 2 to 19 inclusive, 59, 64, 66, 67, 70, 129, 134 and 135 out of order...