

# **SPEAKER'S RULING**

## **Government Motion to Deal with an Item of Other Business (Decision overturned by the Senate)**

I am ready to rule on the point of order raised by the Honourable Senator Cowan about whether government motion 117 is in order. I was aware of the concerns that might give rise to this point, and I have been considering the issue ever since. The arguments that I heard today raised both sides of the question — the claim of the Government to be able to propose any motion as part of its business, and the competing claim that such motions cannot relate to Other Business. We also heard concerns about the duration of debate on the bill.

The issue in this case has to do with the fact that the Government disposition motion would apply to a non- government bill, Bill C-377. As has been explained to us, using a Government disposition motion to determine how non-government business will be conducted directly contradicts a ruling given by Speaker Kinsella on October 30, 2013. In that ruling the Speaker explained the clear distinction that must be drawn between Government Business and Other Business. A motion such as the one at issue here could allow the Government to use its powerful tools to limit debate on non-government items.

The tools that the Government has to facilitate the passage of its business were granted to it by the Senate in 1991. They include, for example, control over the order in which Government Business will be called and, most significantly, the power to propose time allocation. With respect to Other Business, on the other hand, the Senate has decided that these powers should not be available to the Government.

Let me quote from Speaker Kinsella's ruling, which provides a convenient synopsis that is directly applicable to the current situation:

Honourable senators, there is a coherence in our Rules. Government Business has priority, and there are mechanisms to facilitate its dispatch. As to Other Business, the Senate follows more traditional practices, so that debate is more difficult to curtail. The disposition motion currently before the Senate appears to cross the boundaries between these two categories.

A proposal of this type could, in the long term, distort the basic structure of Senate business, allowing the Government's time allocation powers to, in effect, be applied to items of Other Business. To avoid the long term risks to the integrity of the basic structure of our business, it would be preferable to find a solution to this particular case that avoids establishing such a far-reaching precedent.

Given the Government's important role, it has specific means, already discussed, to secure the dispatch of its business. But even under Other Business, there are ways to seek to curb or limit debate and to come to a decision. The most obvious

is by moving the "previous question," which forestalls further amendments, but is only available on the main motion.

Honourable senators, my concern as Speaker in this case goes beyond the specifics of this particular point of order. All senators have an obligation to the long term interests of the Senate, to maintain the integrity of its traditions and practices, especially open debate within a clear structure, that have been hallmarks of the Senate since its very beginning. The changes that have been made over the years to modernize our practices, and to establish mechanisms to facilitate the dispatch of Government Business, were made after consideration and reflection. This approach should not change. At the same time, I am aware that the Speaker's preoccupations cannot trump the judgment of the Senate itself, which always remains the final arbiter of any point of order or question of privilege.

The motion before the Senate does not respect the fundamental distinction between Government Business and Other Business. If the motion only dealt with a government bill, there would probably be no procedural basis to call it into question. But, proposing to use a government motion to determine the dispatch of non-government business violates a fundamental distinction in our Rules and practices. Accepting such a proposal would subject non- government business to the powerful tools of which the Government can avail itself. This would be inconsistent with the basic principles of our Rules and practices. The ruling on this point of order is, therefore, the same as it was in October 2013. The motion is out of order and is to be discharge.

Whereupon the Speaker's Ruling was appealed.

The question being put on whether the Speaker's Ruling shall be sustained, it was negatived