

## **SPEAKER'S RULING**

### **BILL S-203 AND THE ROYAL RECOMMENDATION**

Honourable senators,

On February 4, during questions following Senator Grafstein's speech on his motion for the second reading of Bill S-203, An Act to amend the Business Development Bank of Canada Act (municipal infrastructure bonds) and to make consequential amendments to another Act, Senator Nolin rose on a point of order. He claimed that the bill appropriates funds from the Consolidated Revenue Fund and is therefore out of order because it does not have a Royal Recommendation.

A number of senators, including Senators Comeau, Tardif, and Fraser, spoke to the matter. It became apparent that two distinct issues could be involved. Senator Nolin's basic concern was that a tax exemption and consequent reduction in government revenue, which the bill provides for, is actually the equivalent of an appropriation of public funds. A second issue, to which mention was also made, although not extensively explored, was that the bill would appear to change the mandate of the Business Development Bank of Canada.

On the first point, as to whether a reduction in a tax is an appropriation, authorities and precedents are clear. Marleau and Montpetit states, at page 711, that "a royal recommendation is not required for an amendment whose effect is to reduce taxes otherwise payable." Beauchesne, at citation 603, also notes that tax measures do not require a Royal Recommendation. As the first quote makes clear, this includes reductions in the incidence of a tax. Likewise, Erskine May indicates that "Provisions for the alleviation of taxation are not subject to the rules of financial procedure," at page 901 of the 23<sup>rd</sup> edition.

In the Senate, the May 11, 2006, decision on Bill S-212, to which Senator Tardif referred, made clear that a measure to reduce taxes is in order. Although that particular bill was finally determined to be out of order, this was because of other provisions, not the proposal to reduce tax rates. It may also be noted that, since tax relief is clearly not a tax imposition, the issue of the bill having to originate in the House of Commons, under section 53 of the *Constitution Act, 1867*, does not arise.

From this, it is evident that the first concern in the point of order, that a measure to reduce taxes is an appropriation, is not valid.

The second concern relates to the fact that Bill S-203, in clause 2, expands the purposes of the Business Development Bank of Canada. Be that as it may, the bill does not contain any provisions appropriating money; indeed it is not immediately evident how often the bank receives appropriations. Although the bill may impose some administrative burdens, arguments did not establish that the new responsibilities would automatically incur new public expenditures or could not be accommodated by reallocating existing resources.

On this point, it is helpful to refer to Erskine May and what it says about "Minor administrative expenses," which do not need a Royal Recommendation. This is at page 888

of the 23<sup>rd</sup> edition. As already noted, the actual text of Bill S-203 does not make clear that anything more would be required.

As has been noted in previous rulings by several Senate Speakers, matters should be presumed to be in order unless the opposite is established. In light of the available information, the ruling is that the point of order has not been established, and debate on the motion for second reading of Bill S-203 can continue.