

## **SPEAKER'S RULING**

### **BILL S-201 AND THE ROYAL RECOMMENDATION**

Honourable senators,

On February 3, after Senator Grafstein had spoken to his motion for the second reading of Bill S-201, An Act to amend the Library and Archives of Canada Act (National Portrait Gallery), Senator Comeau rose on a point of order. While refraining from commenting on the merits of the bill, he suggested that it incurs increased government spending and should be ruled out of order since it lacks the Royal Recommendation. In making his argument, he referred to the *Constitution Act, 1867*, Bourinot, Erskine May, Senate rule 81, as well as a previous Speaker's ruling.

Senator Grafstein challenged this interpretation, as did Senators Tardif and Fraser. They noted the need for caution in rejecting any bill so early in the legislative process. Reference was also made to the February 20, 2007, ruling on Bill S-221 when asserting that the fact that a bill has some monetary implications does not automatically mean it needs a Royal Recommendation or that it must be introduced in the other place. Finally, Senator Nolin drew the Senate's attention to specific provisions of the bill, which he saw as requiring expenditures of public funds.

As was noted in the cited ruling on bill S-221, a bill should be examined in terms of what it declares itself to be, that is to say in terms of its actual wording. The text of Bill S-201 appears quite limited: a property already owned by the government must be used by the Library and Archives of Canada to display portraits and other artistic works, and the public must have access to this exhibit. This display is to be called the "National Portrait Gallery." Nothing in the bill indicates how large this gallery is to be, or how many portraits are to be displayed. The text of the bill itself does not seem to require a large project of the type envisioned in previous iterations. A major undertaking would be an option, but is not mandated by this bill.

No part of Bill S-201 discusses an appropriation of the public revenue, or the levying of any tax or impost. Are expenditures involved in the actions required by the bill? Almost certainly. Whether these expenditures are new, however, is less clear. Under the *Library and Archives of Canada Act*, that organization can put on exhibitions that make known the documentary heritage of Canada. In doing this, it can access its rich art collection. The bill thus appears to guide or structure how part of an existing role of the Library and Archives of Canada is to be performed. Consequently, it is far from certain that this bill would incur novel expenditures, as opposed to possibly reallocating existing funds.

During his second reading speech, Senator Grafstein indicated that some expenditures had already been made for the portrait gallery project. To better understand this situation, estimates and supply bills for recent years were reviewed. This confirmed that money was in fact allocated for the purpose of developing a portrait gallery as a program activity of Library and Archives of Canada. Thus, it would seem, these funds were assigned under the ongoing authority of the current *Library and Archives of Canada Act*. The portrait gallery was encompassed in Library and Archives of Canada's existing mandate and objects, and has not been conceived of as a separate, stand-alone, public institution.

While one might suspect that there will be expenses as the bill is implemented, the bill itself does not require or authorize them. Whether they are incurred would depend on separate decisions as to how the measure is implemented. If new monies are deemed necessary as the project advances, they would be provided by the normal funding process.

Preferring to err on the side of allowing senators the opportunity to consider matters when they are not clearly out of order, the ruling is that this bill is in order, and debate at second reading can continue.