

SPEAKER'S RULING

TWENTY-FOURTH REPORT OF STANDING COMMITTEE ON INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

Honourable Senators,

On May 21, the Honourable Senator Harb raised a question of privilege concerning the twenty-fourth report of the Standing Committee on Internal Economy, Budgets and Administration, presented on May 9. Senator Harb argued that the content of the committee report harmed his reputation and undermined his ability to fulfil his duties, and damaged the Senate itself. He took issue with the process followed in the review of living allowances, arguing that it amounted to a violation of basic principles of natural justice. He also challenged the conclusions reached by the committee. In presenting his position, Senator Harb outlined how, in his view, the question of privilege fulfilled the four criteria of rule 13-3(1).

A number of honourable senators made interventions on the question of privilege. Senator Carignan noted that Senator Harb himself recognized that he had been able to participate throughout the process that led to the twenty-fourth report. He emphasized that the report's recommendations would only take effect if adopted by the Senate, so the Senate itself would make the final decision. Senator Harb himself could take part in the debate. This being the case, Senator Carignan argued there was no *prima facie* question of privilege.

Senator Furey then posed questions to Senator Harb about the pattern of travel reviewed in the report. Afterward, Senator Nolin cited the second edition of *House of Commons Procedure and Practice* and Erskine May in arguing that Senator Harb had not raised a proper question of privilege. Senator Fraser generally endorsed Senator Nolin's comments, identifying the complaint as one involving a reassessment of living expenses, which falls within the mandate of the Internal Economy Committee and the authority of the Senate. She noted "nowhere does it cast aspersions on Senator Harb's character or anything else. It does not say that he made the claims in bad faith ... It simply says that the claims should not have been made."

As honourable senators know, a question of privilege is “An allegation that the privileges of the Senate or its members have been infringed.” Privilege is made up of “The rights, powers and immunities enjoyed by each house collectively, and by members of each house individually, without which they could not discharge their functions, and which exceed those possessed by other bodies or individuals.” These definitions are from Appendix I of our Rules.

There are a range of privileges and rights enjoyed by this house and by its members. One of these rights is to regulate internal affairs. In exercising this right, the Senate can implement measures intended to safeguard its public reputation, even if it appears to be detrimental to the interest of individual members. This is confirmed at page 88 of the second edition of *House of Commons Procedure and Practice*, where it is stated that “...individual Member’s rights are subordinate to those of the House as a whole in order to protect the collectivity against any abuses by individual Members.” That is to say that the privileges and rights exercised by the Senate itself take precedence over those of individual senators.

The report by the Internal Economy Committee involves a proposal to the Senate on the use of Senate resources and the application of Senate policies with respect to these resources. The committee has a clear mandate to do this. Rule 12-7(1)(a) allows it “to consider, on its own initiative, all financial and administrative matters concerning the Senate’s internal administration.” The report is an exercise of this mandate. Of course, the report will only take effect if it is adopted by the Senate.

Senator Harb raised his question of privilege at the earliest opportunity. However, it does not meet the three other criteria of rule 13-3(1). The complaint raised by Senator Harb does not directly concern the privileges of the Senate, a committee or a senator. No grave or serious breach has been identified. There is nothing *prima facie* to substantiate a claim that Senator Harb’s ability to function as a parliamentarian has been damaged.

The report falls within the Senate’s legitimate control over its internal administration. The question of privilege does not meet the second and third criteria. Concerns about the fairness of the process for developing the report and

its conclusions can be explored during debate, and any senator can propose that the report be referred back to the committee for further study. Indeed, this is what has happened with respect to the twenty-second report. The report could also be amended or rejected. There are a range of reasonable parliamentary processes available to address the issues raised by Senator Harb. Consequently, the condition of the fourth criteria has not been met.

The ruling is that a prima facie case of privilege has not been established.