

SPEAKER'S RULING

BILL S-241 AND THE ROYAL RECOMMENDATION

On November 17, Senator Oliver rose on a point of order challenging proceedings on Bill S-241, An Act to amend the Office of the Superintendent of Financial Institutions Act (credit and debit cards). He argued that the bill should be accompanied by a Royal Recommendation and should therefore not have originated in the Senate.

Senator Oliver's contention was that Bill S-241 would add an additional purpose to the *Office of the Superintendent of Financial Institutions Act*, creating a new oversight body and inevitably requiring additional resources and staff. He stated that such an expansion of purpose would have to be accompanied by a Royal Recommendation. Senator Oliver referred to a number of rulings from the other place, and his concerns were supported by Senator Comeau.

Senators Fraser and Tardif questioned this position. Senator Fraser noted the importance of relying on Senate precedents, suggesting that they have established that merely ancillary expenses do not prevent a bill from originating in this house. Senator Tardif, in turn, noted the importance of only addressing what is required or authorized by the specific bill under consideration. She also referred to various rulings given in the Senate.

Senators Banks and Cools also questioned whether there was a valid point of order. Senator Banks did not see how Bill S-241 mandates the creation of any new body. Instead, the new purpose would be assigned to an existing entity. Senator Cools then explained that the bill does not appropriate monies or impose taxation. As such, she did not accept that it violates the limits on bills originating in the Senate. She later identified relevant provisions of the Constitution and citations from Beauchesne.

For her part, the sponsor of the bill, Senator Ringuette, clarified that Bill S-241 would not create any new body. Instead, the additional purpose is to be assigned to an existing agency, the Office of the Superintendent of Financial Institutions. In her defence of the bill she also referred to a past ruling given in the Senate and to Erskine May.

I wish to thank all honourable senators for their assistance with this point of order. The fundamental issue in this case has to do with the financial prerogative of the Crown. As noted at page 831 of the second edition of *House of Commons Procedure and Practice*, this means that "Under the Canadian system of government, the Crown alone initiates all public expenditure and Parliament may only authorize spending which has been recommended by the Governor General." This principle is reflected in Senate rule 81, which states that "The Senate shall not proceed upon a bill appropriating public money that has not within the knowledge of the Senate

been recommended by the Queen's representative." The rule itself embodies some of the provisions contained in sections 53 and 54 of the *Constitution Act, 1867*.

The existing *Office of the Superintendent of Financial Institutions Act* has as its purpose "to ensure that financial institutions and pension plans are regulated ... so as to contribute to public confidence in the Canadian financial system." Bill S-241 would add an additional purpose, relating to the use of credit and debit cards. This can be seen as directly relating to the act's existing purpose, since credit and debit cards are essential, indeed integral, parts of a modern financial system and the operations of financial institutions.

Bill S-241 does not contain provisions appropriating any part of the public revenue. The Superintendent of Financial Institutions already exists, supported by an office. The office is funded both by a standing appropriation and by assessments on regulated bodies. It is to this office that the new purpose would relate. It is the superintendent who would be mandated to consult with other already existing bodies.

To be clear, Bill S-241 does not mandate new hiring or other expenditures. Although the changes it proposes may impose some administrative adjustments, arguments did not establish how the new responsibility would automatically incur new public expenditures, as opposed to being accommodated within existing funding, or how any expenditures would be "new and distinct." The purpose to be added by Bill S-241 fits within the existing general roles and functions of the Office of the Superintendent of Financial Institutions. In light of the available information, the ruling is, therefore, that the point of order has not been established, and debate on the motion for second reading can continue.