

February 7, 2007

Ajournment of Bill S-222 - Speaker's Ruling

The Hon. the Speaker *pro tempore*: I am ready to rule on the point of order raised yesterday by Senator Comeau when adjournment of Bill S-222 was proposed.

At the end of the initial speeches on the bill, Senator Moore moved that further debate be adjourned to the next sitting and that the item stand in the name of Senator Jaffer.

Senator Comeau rose on a point of order to argue that, since Senator Jaffer did not appear to be present at the time, the item should not be adjourned in her name. This led to a discussion of the practice of adjourning an Order of the Day in the name of a particular Senator. During this discussion some Senators asserted that items have often been adjourned in the name of another Senator, while others considered this a questionable practice.

After discussion on the point of order, the item was adjourned by Senator Moore, seconded by Senator Robichaud, as indicated in yesterday's *Journals*, at page 1016. Given the different views that had been expressed, I indicated that I would address the matter in a ruling. Senator Fraser then rose on another point of order to express concerns about a recent tendency to refer to absent senators and to encourage senators to avoid this in the future, a point that Senator Comeau noted reinforced his position on the original point of order. I indicated that I would also address this issue in the same ruling.

Let me begin by reading Rule 49 in its entirety:

49.(1) A motion to adjourn a debate on an item, other than an item of government business, shall be deemed to be a motion to postpone that debate to the day specified in the motion, or, if no day is specified, to the next sitting day. In either case, the said item shall stand on the *Order Paper* in the name of the Senator who moved the adjournment, or another Senator, if so indicated.

(2) A motion to adjourn the debate on any item of government business shall be deemed to be a motion to postpone that debate to the next sitting day. In this case, the item shall not stand on the Orders of the Day or the *Order Paper* in any Senator's name and may be called pursuant to rule 27(1).

This rule is key in dealing with adjournment of debate in a senator's name, and it leads to conclusions of relevance, depending on whether the item is government business or not.

With respect to government business, under rule 49(2) items are adjourned to the next sitting of the Senate and do not stand in the name of any particular senator. In practice, a senator's name will sometimes be specified when the motion for the adjournment of an item of government business is proposed, but this is of no procedural weight and the

name does not appear on the *Order Paper*. Instead, it is an indication that a particular senator is interested in speaking to the matter.

In the case of an item of other business, rule 49(1) is clear that, when adjourned, it will stand either in the name of the senator who adjourned debate or in the name of another senator, if so specified. Accordingly, it is acceptable to move a motion to adjourn debate in another senator's name. The rules allow this, and practice confirms it. Indeed even substantive motions, which can trigger debate, are sometimes moved by one senator on behalf of another, as in the case with motion 131 currently on the *Order Paper*, which was moved by Senator Tkachuk for Senator Segal. Similarly, rule 56(3) allows for notice by one senator for another senator not then present.

Of course, adjournment by one Senator in the name of another will most frequently occur if the Senator in whose name the item is adjourned happens to be away from the Chamber. A senator who expects to be absent, but who wishes to speak to an item, may ask a colleague to adjourn debate in the absent senator's name.

This does not mean that the senator in whose name an item is adjourned has a monopoly on speaking to it next and can therefore hold up debate. This matter was addressed in a ruling by Speaker Molgat on December 10, 1996, which appears at pages 744 and 745 of the *Journals*. This ruling noted that, although an item of other business may be adjourned in a particular senator's name, this

. . . does not give that Senator alone the right to decide if that item will be proceeded with, though it has sometimes appeared that way because of the courtesy usually extended by the Senate towards the Senator who adjourned the item.

The ruling goes on to note that:

Should the Senate decide to debate the item, the Senator who had adjourned it will usually be accorded the opportunity to speak first; otherwise any other Senator will be recognized to speak.

Therefore, a senator in whose name an item is adjourned has the right to speak first when it is next debated. If, however, another senator is ready to speak and the senator in whose name the item stands is not, the senator who is ready to speak has every right to do so.

As to the matter of referring to senators who may or may not be present, *House of Commons Procedure and Practice* by Marleau and Montpetit is clear, at page 188, that "the Speaker has traditionally discouraged Members from signalling the absence of another Member from the House because 'there are many places that Members have to be in order to carry out all of the obligations that go with their office'." This is just as much the case for senators. Similarly, *Beauchesne's*, at page 141, citation 481(c) of the sixth edition, prohibits reference to the presence or absence of specific members. This general caution applies most clearly to debate, and I should note that the very wording of rule 49(1) does provide the basis for an exception when dealing with motions to adjourn

debate, as I outlined earlier. In other cases, where our rules require the recognition of a senator's absence, such as rule 11 under which the clerk must inform the Senate of the Speaker's unavoidable absence before the Speaker *pro tempore* takes the chair at the beginning of a sitting, reference to this absence is entirely appropriate, indeed required. Moreover, information about attendance is readily available in the Journals and the Attendance Registry — in fact, the Senate has a comprehensive regime for tracking senators' work. Nonetheless, senators should be cautious in referring to the absence of members in debate.

In conclusion, I find that the proposal to adjourn debate on Bill S-222 in the name of another senator was in order.