HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

SELECTED DECISIONS OF SPEAKER ANDREW SCHEER

Photo: Christopher Schlesak

ANDREW SCHEER

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2011–2015

Scheer, Andrew, 1979–

Selected Decisions of Speaker Andrew Scheer, 2011–2015

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Table Research Branch
Telephone: 613-996-3611
Fax: 613-995-5357

Note to readers: The rulings and statements included in this volume are taken from the *House of Commons Debates*. Some editorial changes have been made to these excerpts, without altering the content, to ensure consistency of style throughout the volume. Corrections and substantive changes are indicated in square brackets.

SELECTED DECISIONS
OF
SPEAKER ANDREW SCHEER

2011–2015

HOUSE OF COMMONS

FORTY-FIRST PARLIAMENT

First Session—June 2, 2011 to September 13, 2013
Second Session—October 16, 2013 to August 2, 2015

SPEAKER OF THE HOUSE

Hon. Andrew Scheer, P.C., M.P.
June 2, 2011 to December 2, 2015

DEPUTY SPEAKERS AND CHAIRS OF COMMITTEES OF THE WHOLE

Denise Savoie, M.P.
June 6, 2011 to August 31, 2012

Joe Comartin, M.P.
September 17, 2012 to December 3, 2015

DEPUTY CHAIR OF COMMITTEES OF THE WHOLE

Barry Devolin, M.P.
June 6, 2011 to September 13, 2013
October 16, 2013 to August 2, 2015

ASSISTANT DEPUTY CHAIR OF COMMITTEES OF THE WHOLE

Bruce Stanton, M.P.
June 6, 2011 to September 13, 2013
October 16, 2013 to August 2, 2015

PREFACE

THE *SELECTED DECISIONS OF SPEAKER ANDREW SCHEER* is the ninth in a series of volumes that brings together, in a comprehensive collection, the significant modern rulings of Speakers of the House of Commons. Earlier volumes contained the decisions of Speakers Lucien Lamoureux (1966–1974), James Jerome (1974–1979), Jeanne Sauvé (1980–1984), Lloyd Francis (1984), John Bosley (1984–1986), John A. Fraser (1986–1994), Gilbert Parent (1994–2001) and Peter Milliken (2001–2011). The present volume contains 101 decisions from the period 2011 to 2015, when Speaker Andrew Scheer presided over the House.

Andrew Scheer was first elected to Parliament in 2004 and was re-elected in 2006, 2008, 2011 and 2015. Serving as Speaker for the Forty-First Parliament, he was the fourth Speaker to be elected by a secret ballot of his peers and, at the age of 32, became the youngest Speaker of the House of Commons, as well as the first Speaker to represent a Saskatchewan riding. Speaker Scheer brought considerable experience to this position, having served as Assistant Deputy Chair of Committees of the Whole from 2006 to 2008 and Deputy Speaker and Chair of Committees of the Whole from 2008 to 2011.

Through numerous decisions and statements, Speaker Scheer was a staunch defender of the rights and privileges of the House and its Members, both collectively and individually. His rulings, founded on procedural principles, were characterized by a sense of fairness and respect for the role and authority of the Chair as well as for Parliament itself. With his casting vote, Speaker Scheer further demonstrated his knowledge of and respect for procedure and tradition. Moreover, he was appreciated by his peers for his affability, diplomacy and judgment.

Speaker Scheer gave several significant prima facie rulings regarding the collective rights of the House as well as the rights and immunities of individual Members. On questions of privilege regarding the right of Members to sit and vote in the House despite disputed electoral campaign returns and allegations of election expenses exceeding the limit, his rulings reaffirmed the exclusive authority of the House to allow Members to continue to sit and vote.

Speaker Scheer also continued to uphold the inalienable right of Members to unfettered access to the Parliamentary Precinct at all times.

Speaker Scheer was instrumental in maintaining the authority of the Chair, in balance with the rights of Members and the will of the House. When the right of Members to make statements under Standing Order 31[1] of the *Standing Orders of the House of Commons* was raised, he defended the indisputable authority of the Chair to recognize which Member is to speak, while respecting the practice of parties to submit speaking lists. In doing so, Speaker Scheer recognized the need for a balanced approach that would satisfy the will and practices of the House as well as the rights of individual Members.

Presiding over a Parliament with a relatively high number of Members from unrecognized parties, Speaker Scheer favoured their participation in various proceedings, all while respecting the will of the House with its practices and rules. In particular, some of his decisions led to the trend in committee procedures whereby independent Members can now participate in the clause-by-clause study of legislation, an opportunity that was not previously afforded to them.

Speaker Scheer also guided the House and its Members through the tragic events of October 22, 2014, following the killing of a ceremonial sentry at the National War Memorial and the assassin's subsequent death in Parliament. When the House resumed sitting the next day, it was Speaker Scheer who reassured Members that the work of the House, on behalf of all Canadians, would withstand this affront. As significant changes to security operations within the Parliamentary Precinct were implemented, Speaker Scheer was steadfast in ensuring the preservation of a balance between the need for enhanced security and continued access to the Parliamentary precinct for all Canadians.

1. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 497.

The purpose of this volume is to present highlights of Speaker Scheer's procedural legacy. Each of the selected decisions is presented here in a format that includes a brief account of the background surrounding the issue raised followed by a summary of the resolution of the matter, along with any necessary footnote references. The entire text of the decision as delivered by Speaker Scheer or one of his fellow Presiding Officers is then presented. Each decision within a given chapter has a descriptive header that indicates the primary procedural question being decided; in some cases, a postscript explaining a pertinent outcome or subsequent action is also included. The decisions are grouped into nine chapters, each of which begins with a brief introductory explanation. In all chapters, decisions are grouped by subject matter in the order of date delivered. All *Standing Orders of the House of Commons* and sections of the *Conflict of Interest Code for Members of the House of Commons* referenced in the decisions have also been included as an appendix.

There are a number of search methods by which particular decisions can be located. At the back, the volume contains a chronological listing of all decisions, a detailed analytical index and a list of statements by Chair Occupants and of Members who raised the matter before the House. In addition, readers are encouraged to refer to the introductions to the various chapters and to scan the descriptive headers located at the top of each decision to determine whether the subject matter or even a particular aspect of that subject matter would encourage them to read the entire decision. It should be remembered that this volume, like others in the series, represents a *selection* of decisions. In all, Speaker Scheer and his fellow Presiding Officers were required to adjudicate on many more occasions.

This book is the product of the commitment and professional excellence of many within Procedural Services. I would like to express my gratitude to André Gagnon, Deputy Clerk, Procedure, and Beverley Isles, Clerk Assistant, House Proceedings, who helped in the preparation of this volume, as well as the Deputy Principal Clerks of the Table Research Branch, who led the team

of procedural clerks assigned to the project. I would also like to extend my particular thanks to them for their efforts in collecting, selecting and drafting the chosen decisions and editing the book. Finally, special acknowledgement goes to the important contributions of the Parliamentary Information Directorate, the Parliamentary Publications Directorate, and Printing and Mailing Services, as well as the Information and Document Resource Service of the Library of Parliament and the Parliamentary Translation Directorate of the Translation Bureau, Government of Canada.

Equally, thanks are due to Audrey O'Brien, Clerk of the House of Commons (2005–2014), and Marc Bosc, Acting Clerk of the House of Commons (2014–2017), for their advice and support to Speaker Scheer during his tenure. It was a privilege and a pleasure for all Table Officers to work closely with Speaker Scheer, who displayed an impressive knowledge of parliamentary procedure and unwavering dedication to the institution of Parliament.

Ottawa, 2018

Charles Robert
Clerk of the House of Commons

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PARLIAMENTARY PRIVILEGE

INTRODUCTION

The House collectively and Members of Parliament individually enjoy certain rights and immunities without which Members could not carry out their duties and the House could not fulfill its constitutional role. These various rights and immunities are referred to as parliamentary privilege.

Whenever Members feel a contempt against the House has been committed or that their rights as Members have been infringed upon, they rise on a question of privilege to voice their complaints. In presenting their case, Members are claiming that the breach they are complaining of is of such importance that it demands priority over all other House business. It is the role of the Speaker to judge if that claim is well founded; that is, if, on a prima facie basis or as far as can be judged by first disclosure, it deserves immediate consideration.

In order to assess the claim, the Speaker first hears a description of the problem from the Member raising the question of privilege. The Speaker also hears comments from other Members, as Speaker Scheer often did. While, in theory, debate on a question of privilege properly begins only after the Speaker has decided that a prima facie question of privilege exists, in practice, there is usually extensive discussion beforehand. Formal debate on a question of privilege can properly begin only if the Speaker has decided that a prima facie question of privilege exists. In reaching such a decision, the Speaker reviews the facts and the arguments presented by Members, as well as the relevant rules, authorities, and precedents. The Speaker's decision may also consider factors

other than the merits of the case itself, such as the terms of the motion the Member seeks to move to remedy the situation, whether the issue was raised at the first opportunity, whether the notice, if required, was given, and whether the question was raised at the appropriate time during the proceedings. In the vast majority of questions of privilege, the Speaker decides that a prima facie case has not been made. This was also true during Speaker Scheer's tenure.

Speaker Scheer rendered more than 50 decisions on matters related to parliamentary privilege. This chapter includes 30 of these decisions, which are grouped into three categories: those relating to the rights of the House, those relating to the rights of individual Members and one relating to procedure for dealing with matters of privilege. The decisions are listed by order of date delivered within groupings of like subject-matter headings.

With regard to the collective rights of the House, there were several prima facie questions of privilege concerning matters of contempt. These included questions on the right of two Members with disputed electoral campaign returns to sit and vote in the House; a motion to suspend a Member from sitting and voting after a conviction on several counts of violating the *Canada Elections Act*; and allegations that the Prime Minister, a Minister, and Members had deliberately misled the House.

The chapter then focuses on the individual rights of Members. Those questions of privilege found prima facie were argued from the perspective that Members had been impeded in carrying out their duties. One question arose from a cyber-campaign against a Minister, which seemingly attempted to intimidate him with respect to proceedings in Parliament. There were also three questions of privilege found prima facie concerning the denial of access to the Parliamentary Precinct to a Member or Members, once during a state visit, and twice more during routine security checks.

PARLIAMENTARY PRIVILEGE

RIGHTS OF THE HOUSE

Contempt of the House: notice of proposed procurement alleged to have anticipated a decision of the House

September 28, 2011
Debates, **pp. 1576–7**

Context

On September 19, 2011, Wayne Easter (Malpeque) rose on a question of privilege in relation to a notice of procurement concerning the Canadian Wheat Board. Mr. Easter maintained that text used in the notice led the public to believe that the repeal of the *Canadian Wheat Board Act* and the dissolution of the Canadian Wheat Board had been decided by the House. He stated that, in reality, no legislation to that effect had been introduced and no act of Parliament passed, nor was any committee examining any aspect of the Canadian Wheat Board. He believed the Government's presumption that the *Canadian Wheat Board Act* would be repealed and the Canadian Wheat Board dissolved to be a contempt of the House. After hearing from other Members, the Speaker took the matter under advisement.[1]

On September 23, 2011, David Anderson (Parliamentary Secretary to the Minister of Natural Resources and for the Canadian Wheat Board) stated that the notice was related to part of the Government's planning efforts in preparing a bill and that it did not prejudice the ultimate decision of Parliament. After further interventions that day and on September 26, 2011, the Speaker again took the matter under advisement.[2]

1. *Debates*, September 19, 2011, pp. 1181–6.
2. *Debates*, September 23, 2011, pp. 1398–401, September 26, 2011, pp. 1453–4.

Resolution

On September 28, 2011, the Speaker delivered his ruling. He stated that, in his view, the language used in the notice of proposed procurement was not absolute and the notice presented a hypothetical scenario which did not presume the outcome of any legislative action. Furthermore, he viewed it as part of a planning process that might be expected in contemplating the possible repeal of the *Canadian Wheat Board Act*. He concluded that the matter did not constitute a contempt of the House and that there was no prima facie question of privilege.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the question of privilege raised on September 19, 2011, by the Member for Malpeque concerning a notice of proposed procurement in respect of the Canadian Wheat Board.

I would like to thank the Member for having raised this matter, as well as the Parliamentary Secretary to the Leader of the Government in the House of Commons, the Members for Winnipeg Centre and Winnipeg North, and the Parliamentary Secretary to the Minister of Natural Resources and for the Canadian Wheat Board for their interventions.

Before reviewing the arguments in the case before us, it might be useful to offer Members a short explanation of what constitutes a contempt of the House. Whereas the privileges that extend to Members individually and to the House as a collectivity are finite and can be categorized, contempts cannot be enumerated or categorized.

House of Commons Procedure and Practice, Second Edition, at pages 82 and 83, notes that the House claims the right to punish, as a contempt, actions which are not specific breaches of privilege, but which tend to impede the House or its Members in the performance of their functions or are offences against the authority or dignity of the House. While all breaches of privilege are contempts of the House, not all contempts are necessarily breaches of privilege and the House of Commons enjoys a very wide latitude in maintaining its dignity and authority through the exercise of its contempt power.

As noted on page 85 of *House of Commons Procedure and Practice*, [Second Edition]:

> By far, most of the cases of privilege raised in the House relate to matters of contempt challenging the perceived authority and dignity of Parliament and its Members.

In the present case, the Member for Malpeque has alleged that a contempt of the House has arisen from "the presumption that the repeal of the *Canadian Wheat Board Act*, a procedure which can only be sanctioned by an act of Parliament, will in fact occur". This presumption, he maintains, is evidenced by a direct reference in the notice of proposed procurement for a contract posted on the MERX Canadian Public Tenders website on August 11, 2011. To support his contention, the Member for Malpeque has pointed to a statement in the notice that reads as follows:

> The purpose of the audit is to provide reasonable assurance of the total financial impact of the repeal of the *Canadian Wheat Board Act* and the dissolution or winding up of the CWB after the final pooling periods (expected to be July 31, 2012).

In his view, the posting of this notice constitutes contempt since no legislation has been tabled, let alone passed, regarding the winding up of the Canadian Wheat Board.

The Parliamentary Secretary pointed out that contrary to the assertion of the Member for Malpeque, the very fact that no legislation had yet been introduced concerning the future of the Canadian Wheat Board, and that there had not been any public advertising stating when such legislation would be introduced or passed was proof enough that the Government was not presuming that Parliament would take a particular decision in relation to the future of the Canadian Wheat Board.

Rather, he explained, the Government had simply issued a notice of procurement asking interested and qualified suppliers to provide the

Government with audit information regarding the financial impact of the repeal of the *Canadian Wheat Board Act*, if that were to occur based on certain assumptions.

In his submission, the Member for Malpeque quoted from a number of rulings by my predecessors, Speakers Fraser, Parent and Milliken, pertaining to the issuance of Government advertisements containing language that was seen to presume on decisions that Parliament had yet to make. The Chair has reviewed those rulings and understands why the Member for Malpeque has used them in his arguments before the House. There is no doubt that they deal with the principle the Member feels has been offended in this case. A close reading of the circumstances in each of the cases cited shows, however, that this particular case is not quite as analogous as the Member has suggested. For example, in the case of the decision by Mr. Speaker Fraser, much of the controversy surrounded Government advertisements that clearly stated a date when the then proposed new GST would come into effect. In addition, it should be noted that the MERX document now at issue was not publicized widely in the same manner as the 1989 GST advertisements.

In this case, the Chair has closely examined the wording of the notice of proposed procurement and has found no reference at all to a date by which the *Canadian Wheat Board Act* will be repealed. Instead, as the Parliamentary Secretary has pointed out, the notice requests specific audit information regarding the financial impact of the repeal of the *Canadian Wheat Board Act*, if such a repeal occurs, and proposes certain assumptions on which to base the calculation of that impact. One of these assumptions is that the final pool period is expected to be July 31, 2012. In the opinion of the Chair, the language is not absolute. The Member for Malpeque has also quoted from the terms of reference of a task force the Minister of Agriculture and Agri-Food has established. Although the Chair has not seen this document, the parts quoted by the Member for Malpeque appear to use similar language.

The notice itself presents a hypothetical scenario. It does not foresee a specific timetable for legislative action, let alone presume the outcome of such action. As I see it, the notice and task force terms of reference form part of a planning process that might be expected in contemplating the possibility of the repeal of the *Canadian Wheat Board Act*. I know the Member for Malpeque

does not expect the Chair to monitor all internal processes undertaken by the Government as part of its preparatory work in advance of proposing legislative measures to the House. Accordingly, I cannot agree with the hon. Member for Malpeque's statement that "The Government presumes that the act has been repealed, which in fact it has not". I see no evidence of such a presumption.

In the present instance, I do not believe that the wording of the text of the notice of procurement posted on the MERX site is ambiguous: rather, in my view, it presents a hypothetical case and seeks information on the impact of such a scenario. The Chair cannot find therein a challenge to the authority or dignity of the House or its Members, or the primacy of Parliament.

Therefore, I must conclude that the case does not constitute a contempt of the House and there is no prima facie case of privilege.

I thank all Members for their attention.

PARLIAMENTARY PRIVILEGE

RIGHTS OF THE HOUSE

Contempt of the House: tabling of Government bill in contravention of an existing statute

October 24, 2011
Debates, **pp. 2404–5**

Context

On October 18, 2011, Wayne Easter (Malpeque) rose on a question of privilege in relation to Bill C-18, *An Act to reorganize the Canadian Wheat Board and to make consequential and related amendments to certain Acts*. Mr. Easter claimed that, as the Government had neglected to fulfill the obligations set out in section 47.1 of the *Canadian Wheat Board Act*, it had violated the law and infringed the privileges of all Members in tabling Bill C-18. Peter Van Loan (Leader of the Government in the House of Commons) contended that legal or constitutional questions were beyond the jurisdiction of the Speaker and that the power of Parliament to pass statutes, as well as to amend existing ones, is indisputable. Other Members made comments, and the Speaker took the matter under advisement. On October 19, 2011, Mr. Easter and the Government House Leader made additional remarks, and the Speaker again took the question under advisement.[1]

Resolution

On October 24, 2011, the Speaker delivered his ruling. He upheld Parliament's continued right to legislate and confirmed that it is not the role of the Chair to interpret statutes. Finding no procedural impediment to the manner in which the Government proceeded, the Speaker ruled that there was no prima facie case of privilege.

1. *Debates*, October 18, 2011, pp. 2104–7, 2149–50, October 19, 2011, pp. 2221–3.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the question of privilege raised on October 18, 2011, by the Member for Malpeque concerning the admissibility of Bill C-18, *An Act to reorganize the Canadian Wheat Board and to make consequential and related amendments to certain Acts*.

I would like to thank the Member for having raised this matter, as well as the Leader of the Government in the House of Commons, the Minister of State and Chief Government Whip, the Parliamentary Secretary to the Leader of the Government in the House, and the Members for Guelph and Winnipeg North for their interventions.

In raising his question of privilege, the Member for Malpeque stated that the Government had violated a provision of an existing statute by having introduced Bill C-18 without having previously allowed grain producers to vote on any changes to the structure and mandate of the Canadian Wheat Board as is required in section 47.1 of the existing *Canadian Wheat Board Act*.

In doing so, he claimed:

> ...my privileges have been violated due to the expectation that I will be required to engage in and cast a vote upon legislation that begins from the premise of a deliberate and overt violation of statutes passed by the House with the expectation that those provisions would be respected most of all by Members of the House.

The Member for Malpeque explained that he was not asking the Speaker to rule on the legality of section 47.1 of the *Canadian Wheat Board Act* but rather whether his privileges were violated as a result of the Government introducing legislation he claimed contravened an existing statute passed by Parliament.

The Government House Leader countered that the Chair was in fact being asked to make a ruling on a matter of law by interpreting provisions of a statute, despite the well-established practice that it is not for the Chair to rule on legal or constitutional matters.

He also challenged the Member for Malpeque's contention that section 47.1 of the *Canadian Wheat Board Act* rendered the consideration of Bill C-18 unlawful, arguing that such an interpretation was tantamount to asserting that the enactment of a statute could fetter the House's consideration of future legislation.

He suggested it:

> ...would result in a delegation of the ability of this Parliament to make decisions to individuals outside of...Parliament, effectively giving them the power to legislate the law of this land rather than Parliament….

He emphasized that Parliament is free to consider whatever legislation it sees fit, including legislation to amend existing statutes.

In addressing this very point, Peter Hogg's *Constitutional Law of Canada*, Fifth Edition, Volume 1, on page 352, notes:

> Not only may the Parliament or a Legislature, acting within its allotted sphere of competence, make any law it chooses, it may repeal any of its earlier laws. Even if the Parliament or Legislature purported to provide that a particular law was not to be repealed or altered, this provision would not be effective to prevent a future Parliament or Legislature from repealing or amending the "protected" law.

This citation rightfully underscores Parliament's continued right to legislate.

The Government House Leader also spoke to the role of the Speaker in preparing rulings, and quoted from *House of Commons Procedure and Practice*, Second Edition, at page 261. For the benefit of the House, I would like to cite the full passage, which reads:

> Finally, while Speakers must take the Constitution and statutes into account when preparing a ruling, numerous

> Speakers have explained that it is not up to the Speaker to rule on the "constitutionality" or "legality" of measures before the House.

The footnote to this citation, footnote 75 on page 261, refers to an April 9, 1991, ruling by Speaker Fraser at pages 19233 and 19234 of *Debates*, in which the Speaker ruled that the Chair must avoid interpreting, even indirectly, the Constitution, or a statute. This is a well-entrenched practice that remains in force today and to which I alluded when this matter was first raised on October 18, 2011.

Accordingly, it is important to delineate clearly between interpreting legal provisions of statutes—which is not within the purview of the Chair—and ensuring the soundness of the procedures and practices of the House when considering legislation—which, of course, is the role of the Chair.

The hon. Member for Malpeque has offered the House his interpretation of a law, in this case section 47.1 of the *Canadian Wheat Board Act*. He has concluded that the Government has not respected its provisions and is therefore precluded from proceeding with Bill C-18. For my part, like my predecessors, when faced with similar situations, I must decline to follow the hon. Member's example. It is not for the Chair to interpret the meaning of section 47.1 of the *Canadian Wheat Board Act*. I have confined my review of the matter to its purely procedural aspects.

Having carefully reviewed the submissions on this matter, I must conclude that, while the Member for Malpeque may feel aggrieved by the Government's approach and by its introduction of Bill C-18, there has been no evidence offered that the Government's actions in this case have in any way undermined the ability of the Member to fulfill his parliamentary functions.

Therefore, the Chair cannot find that either the introduction of Bill C-18 or the fact that Members are being asked to consider the bill constitutes a prima facie question of privilege.

I thank all Members for their attention.

Postscript

On December 8, 2011, Frank Valeriote (Guelph) rose on a question of privilege to bring to the Speaker's attention a decision rendered the previous day by the Federal Court.[2] Arguing that the Court's findings on the actions of the Government confirmed his argument that the Government had violated Members' privileges in its management of the proceedings on Bill C-18, Mr. Valeriote asked that the Speaker reconsider his ruling of October 18, 2011. The Government House Leader argued that the Court's decision had no bearing on Parliament's ability to legislate and that, as the House was no longer seized with the Bill, it had no jurisdiction to amend it.[3] On January 31, 2012, the Speaker delivered his ruling indicating that the fundamental issue remained unaltered as the Speaker's powers are limited to ruling on matters of parliamentary procedure and not on matters of law, and he concluded that there was no prima facie question of privilege.[4]

2. *Friends of the Canadian Wheat Board v. Canada (Attorney General)* 2011 FC 1432.
3. *Debates*, December 8, 2011, pp. 4209–13.
4. *Debates*, January 31, 2012, pp. 4626–7.

RIGHTS OF THE HOUSE

Contempt of the House: Government alleged to have deliberately misled the House

May 7, 2012
Debates, **pp. 7649–51**

Context

On April 5, 2012, Bob Rae (Toronto Centre) rose on a question of privilege alleging that the government was deliberately misleading the House concerning the costs of a proposed acquisition of F-35 fighter jets by the Department of National Defence. Mr. Rae pointed to discrepancies between statements the Prime Minister and certain Ministers had made to the House about accepting the recommendations and conclusions in the Auditor General's report, and conflicting opinions attributed to two government departments in the report itself. Peter Van Loan (Leader of the Government in the House of Commons) explained that the departmental responses to the Auditor General's conclusions were those of the departmental officials, rather than the government itself, and that the government's position was to accept the recommendations of the report. After hearing from other Members, the Acting Speaker (Bruce Stanton) took the matter under advisement.[1] Further interventions were made by the Government House Leader on April 23 and on April 30, 2012, and by Mr. Rae on April 26, 2012.[2] Other Members made statements on April 23 and on April 24, 2012.[3]

On April 30, the Speaker took the opportunity to remind Members that allowances for further comment on a matter are usually made only in order to accommodate Members who were not present or who had not

1. *Debates*, April 5, 2012, pp. 6956–9.
2. *Debates*, April 23, 2012, pp. 7024–6, April 26, 2012, pp. 7226–8, April 30, 2012, pp. 7342–3.
3. *Debates*, April 23, 2012, p. 7026, April 24, 2012, pp. 7060–3, 7102–6.

had adequate time to prepare their interventions when a matter was first raised.[4]

Resolution

On May 7, 2012, the Speaker delivered his ruling. First, the Speaker set aside the issue of ministerial responsibility and accountability, as such constitutional matters are not within the range of matters upon which the Speaker can rule. He also explained that it was not the Speaker's role to adjudicate on the quality or accuracy of responses to questions, rather the Speaker was limited to determining whether the Ministers' responses in any way impeded Members in the performance of their parliamentary duties and whether the remarks had been intentionally misleading. The Speaker concluded that he could not find that the Ministers knew that the information they provided to the House was inaccurate or that it was intended to be misleading. Accordingly, he determined that there was no prima facie question of privilege.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the question of privilege raised on April 5, 2012, by the Member for Toronto Centre about statements made by the Prime Minister, the Minister of National Defence, the Minister of Public Works and Government Services and the Associate Minister of National Defence, regarding the proposed acquisition of F-35 fighter jets.

I would like to thank the hon. Member for having raised this matter, as well as the hon. Leader of the Government in the House of Commons, the House Leader of the Official Opposition, and the hon. Members for Richmond—Arthabaska, Scarborough—Guildwood, Malpeque, and Saanich—Gulf Islands for their comments.

In raising this question of privilege, the Member for Toronto Centre contended that an opinion attributed to two Government departments in Chapter 2 of the Auditor General's Spring 2012 Report to Parliament was at variance with statements the Prime Minister and certain Ministers have made

4. *Debates*, April 30, 2012, p. 7343.

to the House on the same matter, namely that the Government accepts all the recommendations and conclusions in the Auditor General's report. The part of the report that is in question reads as follows:

> ...National Defence and Public Works and Government Services Canada disagree with the conclusions set out in paragraphs 2.80 and 2.81.

Based on this, the Member for Toronto Centre claimed that the Prime Minister and the Minister of National Defence and the Minister of Public Works and Government Services, as well as the Associate Minister of National Defence, had presented "two completely different and contradictory versions of reality" to the House. Noting that it is a fundamental obligation of the Government to tell the House the truth, the Member stated that the Government seemed to be attempting to deliberately confuse the House.

With respect to the cost projections of the F-35 fighter jets, the hon. Member for Toronto Centre also claimed that, if the Government does indeed fully accept all of the Auditor General's conclusions and recommendations, then it is, in fact, agreeing with the Auditor General's assessment that "some costs were not fully provided to parliamentarians" and thus that Parliament had been misled. He went further, alleging that Ministers were aware of the facts and thus knew that what they were saying in the House was not true. In reply, the Government House Leader explained that the departmental responses to the Auditor General's conclusions were those of the departmental officials, rather than the Government itself. He said, "The position of the Government is not the position taken by the officials in those departments."

The charges being levelled against the Prime Minister and three Ministers are serious. They go to the very essence of the need for clarity in our proceedings and the need to ensure that information provided to the House by the Government is such that the ability of Members to carry out their duty of holding the Government to account is not diminished or impeded.

The issue of Ministerial responsibility and accountability has also been raised by several Members. The Chair would like to set aside this aspect of the matter immediately. As all Members know, constitutional issues of this nature

are not matters for parliamentary procedure, and they are well beyond the range of matters the Speaker can be asked to rule upon.

In reviewing the other arguments being advanced, it would seem that the Chair is being asked to ascertain whether what was said in the House was truthful. However, I must remind Members that in such circumstances the Chair's role is clear and indeed very limited.

In *House of Commons Procedure and Practice*, Second Edition, at page 510 it states:

> The Speaker, however, is not responsible for the quality or content of replies to questions. In most instances, when a point of order or a question of privilege has been raised in regard to a response to an oral question, the Speaker has ruled that the matter is a disagreement among Members over the facts surrounding the issue. As such, these matters are more a question of debate and do not constitute a breach of the rules or of privilege.

There are in addition many relevant rulings from my predecessor Speaker Milliken, and I will quote from several of them. The first, from January 31, 2008, is found at pages 2434 and 2435 of *Debates*. In it, he stated:

> Any dispute regarding the accuracy or appropriateness of a Minister's response to an oral question is a matter of debate; it is not a matter for the Speaker to judge. The same holds true with respect to the breadth of a Minister's answer to a question in the House: this is not for the Speaker to determine.

Again on February 26, 2004, at page 1076 of *Debates*, he confirmed:

> As hon. Members know, it is not the Speaker's role to adjudicate on matters of fact. This is something on which the House itself can form an opinion during debate.

The Member for Toronto Centre himself acknowledged this parliamentary convention when he said, "While it is not for the Speaker to determine what is fact".

So what then are the parameters of the Speaker's role when faced with such allegations?

Speaker Milliken summed it up quite succinctly on April 21, 2005, when he said at page 5412 of *Debates*:

> In the present case, I must determine whether the Minister's responses in any way impeded Members in the performance of their parliamentary duties and whether the remarks were intentionally misleading.

Then, on January 31, 2008, Speaker Milliken again had cause to state, at page 2435 of *Debates*:

> As hon. Members know, before finding a prima facie breach of privilege in situations such as these, the Speaker must be convinced that deliberately misleading statements were made to the House.

It has become accepted practice in this House that the following elements have to be established when it is alleged that a Member is in contempt for deliberately misleading the House: one, it must be proven that the statement was misleading; two, it must be established that the Member making the statement knew at the time that the statement was incorrect; and three, that in making the statement, the Member intended to mislead the House.

It is with this very high threshold in mind that I have carefully reviewed all the interventions on this matter, as well as statements made to the House and replies given during Oral Questions by the Prime Minister and the various Cabinet Ministers involved.

With regard to the first argument advanced by the Member for Toronto Centre, the Chair has difficulty accepting the view that because Ministers are stating that they accept the findings and agree with the conclusions of the Auditor General, which include, in part, a statement written by the Auditor General relating that two departments disagree with him, that this in and of itself is evidence that these same Ministers have deliberately misled the House and intended, in doing so, to impede Members in the performance of their duties.

What the Chair has before it is a statement by the Government House Leader that, having taken into account the findings of the Auditor General, the Government has decided that it rejects the position previously taken by officials as conveyed in the report. As I pointed out earlier, the Minister has stated rather starkly that "the position of the Government is not the position taken by the officials in those departments". Accordingly, with respect to this aspect of the question, the Chair cannot find grounds for a prima facie finding of privilege.

The second argument made by the Member for Toronto Centre was that because the Government agreed with the Auditor General's assessment that "Some costs were not fully provided to parliamentarians", this meant that the House was misled. He further claimed "...for a long time, the Members of the executive council knew that what they were saying in the House of Commons was not true".

In looking at this aspect of the question, the Chair must return to the words of the Auditor General himself, whose report states categorically in paragraph 2.80 that "Some costs were not fully provided to parliamentarians". However, let us not forget the very high threshold required before there can be a finding of prima facie privilege. As I said a moment ago, it must be clearly established that in making the statement complained of, the Member in question knew it was incorrect and intended to mislead the House in making it.

It is relevant to note, in reference to this latter point, that the Auditor General also says, in the very same paragraph of his report, and here I am repeating a passage the Member for Toronto Centre himself read to the House:

> Problems relating to development of the F-35 were not fully communicated to decision makers—meaning Ministers—and risks presented to decision makers did not reflect the problems the JSF Program was experiencing at the time. Full life-cycle costs were understated in the estimates provided to support the government's 2010 decision to buy the F-35.

Obviously, the Auditor General has raised concerns about the information provided. He is pointing out that in his opinion less than complete information was provided to Ministers and to Members.

On this point, drawing from a somewhat analogous case from 2004 found in *Debates* at page 1047 in reference to statements contained in a report of the Auditor General indicating that Parliament had been "misinformed" and "bypassed", Speaker Milliken pointed out that no evidence had been produced to show that "departmental officials deliberately intended to deceive their superiors and so obstruct hon. Members in the performance of their duties".

Not only has the Government House Leader stated that the Government agrees with the Auditor General in this respect, the Minister has gone even further stating:

> …as a Government, as Ministers, as a Cabinet, we have a right and an expectation that the advice we receive is something on which we can rely. This is something that, in this case, the Auditor General made some findings on. We happen to agree with those findings in the end.

So, ultimately, the Chair has before it two clear statements: the first contained in the report of the Auditor General that some costs were not fully provided to Ministers and Members; and the second, by the Leader of the

Government in the House of Commons accepting the conclusions of the Auditor General.

In my view, no clear evidence has been presented beyond this and, thus, the Chair has no choice but to conclude that it cannot find that Ministers knew or believed that what they were telling the House was not true or that it was intended to be misleading. In other words, the criteria of demonstrating that Ministers knew their statements to the House were incorrect and that they intended to mislead the House have not been met.

Accordingly, bound as I am by the very narrow parameters that apply in these situations, and without any evidence that the House was deliberately misled, I cannot arrive at a finding of prima facie privilege in this case.

The House will be aware, however, that the Standing Committee on Public Accounts has, as part of its ongoing mandate, the responsibility to review and report on all reports to the Auditor General. The House knows that the Committee is seized of the report that has given rise to this question of privilege and is at present proceeding with its examination of the report.

I remind the House that a determination that a breach of privilege is not prima facie at this time in no way interferes with the right of any hon. Member to raise a new question of privilege should the Committee arrive at findings that shed new light on this matter, or should other pertinent information become available.

I thank Members for their attention.

PARLIAMENTARY PRIVILEGE

RIGHTS OF THE HOUSE

Contempt of the House: Minister of Justice alleged to have not reviewed legislation for conformity with the *Canadian Charter of Rights and Freedoms* and the *Canadian Bill of Rights*

March 27, 2013
Debates, **pp. 15292–3**

Context

On March 6, 2013, Pat Martin (Winnipeg Centre) rose on a question of privilege regarding the Minister of Justice's statutory obligation to examine Government bills and regulations to determine whether they are inconsistent with the *Canadian Charter of Rights and Freedoms* and the *Canadian Bill of Rights*. Based on allegations made by a senior official of the Department of Justice in a claim before the courts, Mr. Martin stated that while he had no evidence the Minister had deliberately provided inaccurate information to the House, he argued that Members could not have confidence that legislation presented to them had been adequately reviewed by the Government for conformity with the *Charter* and *Bill of Rights*. If the allegations are found to be true, he argued, this effectively meant that the Minister was misleading the House and impeding Members in their consideration of Government bills, constituting a contempt of the House. Peter Van Loan (Leader of the Government in the House of Commons) responded that the issue was not raised in a timely fashion, that the *sub judice* convention should be considered, and that the question was actually a question of law and, therefore, not for the Speaker to decide. Several other Members made comments, and the Speaker took the matter under advisement.[1] On March 18, 2013, Rob Nicholson (Minister of Justice and Attorney General of Canada) added that there was no evidence that the House had been deliberately misled nor that he had ever introduced legislation counter to the *Canadian Charter of Rights and Freedoms* or the

1. *Debates*, March 6, 2013, pp. 14681–7.

Canadian Bill of Rights. Other Members participated in the discussion and the Speaker again took the matter under advisement.[2]

Resolution

On March 27, 2013, the Speaker delivered his ruling. He stated that he was satisfied that the Member had raised the question at the earliest opportunity and that, while the *sub judice* convention did not prevent debate on the matter, he believed that the House should be cautious in taking steps that might result in a process that would run parallel to court proceedings. On the central issue of whether the government was meeting its statutory obligations with respect to the constitutional compliance of legislation, he indicated that it is not within the Speaker's purview to interpret matters of a constitutional or legal nature. Therefore, he could not find a prima facie case of privilege.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the question of privilege raised on March 6, 2013 by the Member for Winnipeg Centre regarding the Minister of Justice's statutory obligation to examine Government bills and regulations to determine whether they are inconsistent with the *Canadian Charter of Rights and Freedoms* and the *Canadian Bill of Rights*.

I would like to thank the hon. Member for Winnipeg Centre for having raised this matter, as well as the Minister of Justice and Attorney General of Canada, the hon. Leader of the Government in the House of Commons, the hon. House Leader of the Official Opposition and the Members for Saanich—Gulf Islands, Winnipeg Centre, Mount Royal and Gatineau for their comments.

In raising this question of privilege, the Member for Winnipeg Centre explained that, pursuant to certain statutory requirements, the Minister of Justice is required to examine all Government bills and regulations in order to determine whether they are actually inconsistent with the *Charter of Rights*

2. *Debates*, March 18, 2013, pp. 14854–62.

and Freedoms and the *Bill of Rights*. He cited section 3 of the *Canadian Bill of Rights*, which states:

> ...the Minister of Justice shall…examine every regulation… and every Bill introduced in or presented to the House of Commons by a Minister of the Crown, in order to ascertain whether any of the provisions thereof are inconsistent with the purposes and provisions of this Part and he shall report any such inconsistency to the House of Commons.

The hon. Member then claimed that if the allegations contained in an action filed in the Federal Court by Mr. Edgar Schmidt, a Department of Justice official, are proven to be true, the Minister has flouted these statutory requirements. He contends that the Minister manages the risk of inconsistency in a cavalier fashion, and he argues that by allowing legislation to be introduced in the House that has a possibility of being inconsistent with the *Charter of Rights and Freedoms* or the *Bill of Rights*, the Minister misleads Parliament, thus leaving Members with no reliable assurance that proposed legislation is not in violation of the charter and the *Bill of Rights*.

The Member asked that the Chair find that the Minister's approach had thus effectively impeded Members in performing their duty to exercise due diligence in considering Government bills. I note that to do so, the Chair would first need to establish whether the Minister of Justice had acted in accordance with his statutory obligations.

That said, while the Member for Winnipeg Centre went on to admit that there exists no evidence that the Minister of Justice deliberately, or even implicitly, gave the House inaccurate information, he claimed that there are serious deficiencies in the examination and vetting of draft Government legislation by the Minister of Justice as evidenced by a number of legal challenges to legislation believed to be inconsistent with the *Charter* and the *Bill of Rights*.

The Member contended that even though the matter is before the courts, the *sub judice* convention does not prevent the House from considering this question of privilege, as it is in no way dependent on the findings of the court,

nor will the debate on the question of privilege interfere with the court in carrying out its duties. Acknowledging that questions of privilege must be raised at the earliest opportunity, the Member for Winnipeg Centre assured the House that he brought this matter to the attention of the House as quickly as he could bring the research together, given the complexity of this question of privilege.

In response, the Minister of Justice insisted that the matter was not raised at the first opportunity since the court action in question was filed on December 14, 2012, leaving the Member many opportunities to have raised this matter in the intervening months—as many other Members had done in both committees and in the House. Second, the Minister argued that the Chair has no jurisdiction over questions of law, which are for the courts alone to decide. Third, the Minister suggested that the *sub judice* convention dictates that since the matter is before the courts, the House should allow the courts to resolve the matter before undertaking any debate on the matter.

The Minister of Justice noted that the Member for Winnipeg Centre had failed to provide any evidence that the House and its Members were in any way impeded in carrying out their duties. The Minister stated categorically that "this Government has never introduced any legislation that I believe was inconsistent with the *Canadian Charter of Rights and Freedoms* or the *Canadian Bill of Rights*."

He went on to remind the House that the Member for Winnipeg Centre had acknowledged that he had "no evidence" to suggest that the Minister provided deliberately inaccurate information to the House about Government bills.

The Chair has listened attentively to Members' interventions on this matter and it seems to me that this question of privilege involves three key points: namely, the timeliness of the question of privilege; the *sub judice* convention; and the Speaker's role in determining matters of law.

Regarding timeliness, both the Member for Winnipeg Centre and the Opposition House Leader explained that it was only after some time-

consuming initial research that the Member felt compelled to raise the matter in the form of a question of privilege.

Furthermore, I was interested in the statement of the Member for Gatineau, who noted that this question of privilege was raised only after efforts to consider the matter in committee had failed.

While I might come to a different conclusion if the question at issue related directly to a specific incident in the House with regard to this particular question of privilege, I am satisfied with the explanations offered and will not rule this question out of order purely on the basis of timeliness.

The suggestion has also been made that the *sub judice* convention, in and of itself, prevents the consideration of this question of privilege at this time.

House of Commons Procedure and Practice, Second Edition, at page 627 states:

> The interpretation of this convention is left to the Speaker since no "rule" exists to prevent Parliament from discussing a matter which is *sub judice*.

As Speaker, I must endeavour to find a balance between the right of the House to debate a matter and the effect that this debate might have. This is particularly important given that the purpose of the *sub judice* convention is to ensure that judicial decisions can be made free of undue influence. While O'Brien and Bosc states on page 628, in reference to a March 22, 1983, ruling by Speaker Sauvé,

> …the *sub judice* convention has never stood in the way of the House considering a prima facie matter of privilege vital to the public interest or to the effective operation of the House and its Members.

it also speaks of another aspect of this convention that is too critical to ignore when at page 100 it states:

> The *sub judice* convention is important in the conduct of business in the House. It protects the rights of interested parties before the courts, and preserves and maintains the separation and mutual respect between the legislature and the judiciary. The convention ensures that a balance is created between the need for a separate, impartial judiciary and free speech.

Strictly speaking, in the case before us, while the *sub judice* convention does not prevent debate on the matter, the fact remains that the heart of this question of privilege is still before the courts, which have yet to make a finding. I believe that it would be prudent for the House to use caution in taking steps that could result in an investigatory process that would, in many ways, run parallel to the court proceedings, particularly given that the Minister of Justice and Attorney General of Canada is already a party to the court proceedings and would be a central figure in any consideration the House might give this matter.

Arguments over the timeliness of the intervention of the Member for Winnipeg Centre and the extent of the restraints we might choose to impose on ourselves because of the *sub judice* convention are ancillary matters. It seems to me that the central element of this question of privilege asks the Speaker to determine if the Government is meeting its obligations under the law, as set out in section 3 of the *Canadian Bill of Rights* and section 4.1 of the *Department of Justice Act* and their relevant regulations. The Member for Mount Royal distilled this issue down to its fundamental element in stating:

> What is rightly before this House, raised as a question of privilege, is whether [the] Minister has satisfied himself of the constitutional compliance of legislation.

This is the very matter the Member for Winnipeg Centre has placed before me for my consideration in raising this question of privilege.

Numerous previous Speakers' decisions point to a very clear practice for the Chair to follow in instances such as this. In a ruling given by Speaker Fraser, on April 9, 1991, which can be found at pages 19233 and 19234 of the *House of Commons Debates*, he said:

> The Speaker has no role in interpreting matters of either a constitutional or legal nature.

In a ruling given by Speaker Jerome, on June 19, 1978, which can be found at page 6525 of the *House of Commons Debates*, he addressed a complaint that the Government of the day may have acted illegally. He stated:

> The hon. Member also alleges the Government acted illegally in the manner in which postal rates have been increased. Hon. Members will be aware that I have a duty to decide questions of order, not of law, and furthermore, I understand that this issue is now before the courts. In my opinion, therefore, it is an issue to be settled by the courts, and the Chair should not intervene.

House of Commons Procedure and Practice, Second Edition, at page 261, also provides valuable insight. It states:

> ...while Speakers must take the Constitution and statutes into account when preparing a ruling, numerous Speakers have explained that it is not up to the Speaker to rule on the "constitutionality" or "legality" of measures before the House.

In a ruling on a similar matter, Speaker Milliken, on April 12, 2005, at page 4953 of the *Debates*, did articulate the limited kinds of legal or constitutional matters the Chair could rule on.

He stated at that time:

> What they may decide is whether the terms of a bill are in compliance with a prior resolution of this House, a ways and means motion, for example, or a royal recommendation in respect of a money bill, but beyond that, Speakers do not intervene in respect of the constitutionality or otherwise of provisions in the bills introduced in this House.

More recently, I have also been called upon to make rulings which effectively asked me to interpret the law. On October 24, 2011, at page 2405 of the *Debates*, I stated:

> …it is important to delineate clearly between interpreting legal provisions of statutes—which is not within the purview of the Chair—and ensuring the soundness of the procedures and practices of the House when considering legislation—which, of course, is the role of the Chair.

Given the Chair's limited scope to consider legal matters, and based solely on what is within my purview to consider, I cannot comment on the adequacy of the approach taken by the Government to fulfill its statutory obligations. I can therefore find no evidence that the Member for Winnipeg Centre's privileges have been breached and cannot see how this rises to a matter of contempt. Accordingly, I cannot find a prima facie question of privilege.

I thank all Members for their attention.

PARLIAMENTARY PRIVILEGE

RIGHTS OF THE HOUSE

Contempt of the House: alleged disclosure of the text of a bill prior to its introduction in the House

April 18, 2013
Debates, **p. 15610**

Context

On April 17, 2013, Mauril Bélanger (Ottawa—Vanier) rose on a question of privilege concerning the possible disclosure of the text of a government bill on the *Notice Paper*.[1] Mr. Bélanger stated that a news report published by *The Globe and Mail* that day suggested that Members of the Conservative caucus may have been provided the text of electoral reform legislation that had yet to be introduced in the House of Commons. Craig Scott (Toronto—Danforth) added that the premature disclosure of the text of a bill was a contempt of the House and a breach of privilege, stating that the House has the right of first access to the text of bills. Peter Van Loan (Leader of the Government in the House of Commons) stated that no draft copies had been provided to the Conservative caucus and that the allegations were hearsay and not supported by facts. The Speaker took the matter under advisement.[2]

Resolution

On April 18, 2013, the Speaker delivered his ruling. He stated that the concerns expressed by Mr. Bélanger and Mr. Scott seemed to be based more on conjecture and supposition. Furthermore, in light of the assurances of the Government House Leader that no copies, sections, or excerpts of the bill had been made available at the caucus meeting, the Speaker did not find that a prima facie case of privilege existed.

1. *An Act to enact the Canada Political Financing Act and to amend the Canada Elections Act and other Acts*, *Order paper and Notice Paper*, April 17, 2013, p. III.
2. *Debates*, April 17, 2013, pp. 15539–41.

DECISION OF THE CHAIR

The Speaker: Yesterday, the Members for Ottawa—Vanier and Toronto—Danforth both rose on a question of privilege regarding the possible premature disclosure of the contents of a Government bill prior to its introduction in the House.

Both Members referenced an article that appeared in *The Globe and Mail* newspaper that suggested that during the weekly Conservative Party caucus meeting, some Conservative Members had expressed concerns about how specific sections of the bill were drafted and had asked that they be rewritten. The Members for Ottawa—Vanier and Toronto—Danforth suggested that this demonstrated that the Conservative Members may have been provided with the actual text of the draft bill in question. Both Members emphasized the seriousness of the premature disclosure of bills and asked the Chair to investigate this matter.

In response, the Leader of the Government in the House assured the House that at the caucus meeting held by the Conservative Party that day, no draft copies of the bill or sections of it were circulated or displayed, nor were excerpts provided.

As Members know, it is a well-established practice that the contents of a bill are kept confidential until introduced in Parliament, thus making their premature disclosure a serious matter. However, in this case, a careful reading of the arguments presented to the Chair about what transpired reveals that the concerns expressed appear to be based more on conjecture and supposition than on actual evidence.

Furthermore, the Government House Leader has stated categorically to the House that no copies, sections or excerpts of said bill were in any way made available to those who were in attendance at the caucus meeting. In other words, he challenges the supposition being made, and he insists that there was no breach of confidentiality regarding the bill.

In light of the lack of evidence and the Minister's categorical assurances, the Chair considers the matter closed.

I thank Members for their attention.

Postscript

The bill in question, Bill C-23, *An Act to amend the Canada Elections Act and other Acts and to make consequential amendments to certain Acts*, was introduced in the House on February 4, 2014.

RIGHTS OF THE HOUSE

Contempt of the House: right of Members with disputed electoral campaign returns to sit and vote in the House; prima facie

June 18, 2013
Debates, **pp. 18550–3**

Context

On June 5, 2013, Scott Andrews (Avalon) rose on a question of privilege regarding the right of James Bezan (Selkirk—Interlake) and Shelly Glover (Saint Boniface) to sit and vote in the House. He referred to a letter sent to the Speaker indicating that these two Members had failed to correct their electoral campaign returns by a specified date as required by the Chief Electoral Officer, pursuant to subsection 457(2) of the *Canada Elections Act*. Mr. Andrews argued that, pursuant to subsection 463(2) of the same Act, the Members no longer had the right to sit or vote in the House. He also added that only the House had the authority to determine these rights. After hearing from several other Members, the Speaker took the matter under advisement.[1] On June 7, 2013, Mr. Bezan and Ms. Glover both stated that the issue was a disagreement with Elections Canada about the interpretation of accounting practices regarding certain expenses, that they had filed applications with the courts to examine the issue which effectively stayed the suspension mechanism in the Act, and that the *sub judice* convention should apply.[2] Several additional Members made statements on that day and in the ensuing days, and the Speaker again took the matter under advisement.[3]

On June 6, 2013, Massimo Paccetti (Saint-Léonard—Saint-Michel) and Wayne Easter (Malpeque) both rose on a point of order to request that

1. *Debates*, June 5, 2013, pp. 17720–2.
2. *Debates*, June 7, 2013, pp. 17925–7.
3. *Debates*, June 7, 2013, pp. 17927–8, June 10, 2013, pp. 17994–01, June 11, 2013, p. 18055, June 13, 2013, p. 18305.

the Speaker table the letter he had received from the Chief Electoral Officer regarding the election expenses of Mr. Bezan and Ms. Glover.[4] On June 7, 2013, the Speaker stated that in the absence of any statutory or Standing Order authority for the tabling of letters to the Speaker, even from an officer of Parliament, the Chief Electoral Officer remained responsible for making such correspondence public.[5]

Resolution

On June 18, 2013, the Speaker delivered his ruling. He stated that the matter was a question of how a statute might apply to proceedings in the House and of the need to maintain equilibrium between the rights of the House as a whole and the rights of individual Members. The Speaker confirmed that ultimately, it is the House that decides if a Member can sit and vote in the House. He added that in the current case, no statutory direction or precedents existed to guide the Chair. The Speaker therefore asked the Standing Committee on Procedure and House Affairs to examine the issue with a view to incorporating necessary provisions in the *Standing Orders*, adding that focusing on the processes only, the *sub judice* convention would not be breached. Affirming that it is customary that questions affecting the seat of a Member and involving matters of doubt, either in law or fact, be referred to a committee, the Speaker stated that he would make available to the House the relevant letters from the Chief Electoral Officer in this case and similar cases in future. The Speaker concluded that there was a prima facie case of privilege. He then invited Dominic LeBlanc (Beauséjour), in the absence of Mr. Andrews, to move the appropriate motion.[6]

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the question of privilege raised on June 5 by the hon. Member for Avalon, and again today by the hon. Member for Beauséjour, regarding the right of the Members for Saint Boniface and Selkirk—Interlake to continue to sit and vote in the House.

4. *Debates*, June 6, 2013, pp. 17828, 17833.
5. *Debates*, June 7, 2013, p. 17922.
6. *Debates*, June 18, 2013, p. 18553.

I would like to thank the hon. Member for Avalon for having raised this matter, as well as the hon. Leader of the Government in the House of Commons, and the Members for Toronto—Danforth, Winnipeg North, Selkirk—Interlake and Saint Boniface for their comments.

In raising his question of privilege, the Member for Avalon focused on the situation of the Members for Saint Boniface and Selkirk—Interlake who had failed to correct their electoral campaign returns by a specified date, as required by the Chief Electoral Officer, pursuant to subsection 457(2) of the *Canada Elections Act*. Accordingly, he argued, pursuant to subsection 463(2) of the same Act, the Members no longer had the right to continue to sit or vote in the House. While acknowledging that both Members had made applications to the courts on this matter, he claimed that a review by the courts does not provide relief from section 463 of the Act, arguing that the Members: "...should not sit or vote in the House until the matter is rectified, either by Elections Canada or by the Federal Court".

Furthermore, the Member for Avalon argued that only the House and neither the courts nor the Speaker, possessed the authority to determine the right of any Member to sit and vote in the House. In response, the Leader of the Government in the House of Commons described the situation in each case as a dispute about the interpretation of accounting practices, one which did not justify the suspension of duly elected Members from participating in the proceedings of the House. It was also one that he found to have been raised prematurely, and he saw no merit in asking the Chair to intervene prior to the conclusion of relevant court proceedings.

The Government House Leader held that the Members currently have two options—either to submit returns that comply or to file an application with the courts—with suspension from the House being the consequence only if a Member failed to choose one of the available options. Thus, he claimed that to accept the interpretation that these Members could not continue to sit or vote would effectively remove the Members' right to seek redress through the courts and grant Elections Canada an inordinate, albeit unintended, power.

On June 7, the Members for Selkirk—Interlake and Saint Boniface intervened. Each agreed that the matter was a disagreement with Elections

Canada as to accounting interpretations applicable to certain expenditures, and each stated that pursuant to section 459 of the *Canada Elections Act* they had filed applications with the Manitoba Court of Queen's Bench. Each Member argued that this put into abeyance the provisions of subsection 463(2) of the Act, regarding what would amount to suspensions from the House.

Given that the matter is currently before the courts, and that they are both party to court proceedings, both Members invoked the *sub judice* convention, arguing that any debate or decision on the matter outside the court would prejudice their interests in the court proceedings.

Before I begin to outline the complex issues with which we are all grappling, allow me to review for the House the sequence of events that have led us to where we are today.

While the election expense review processes undergone by the Members for Saint Boniface and Selkirk—Interlake began some time ago, for our purposes this issue arose on May 23 and 24, when I received letters from the Chief Electoral Officer informing me of the status of the respective cases involving the two Members. The letters both contain a reference to the relevant section of the *Canada Elections Act* and close with the following sentence: "In the event that the corrected returns or an application to a court is subsequently filed, I will advise accordingly".

On May 24, the Chair learned that both Members had filed applications to the Manitoba Court of Queen's Bench in relation to these matters.

Perhaps I should explain that immediately on receipt of the first letter from the Chief Electoral Officer, I sought the advice of the Clerk and the Law Clerk. Neither was aware of any precedent and both undertook further research, after which they confirmed that the situation is indeed unprecedented.

However, it was only on June 4, having by then been informed as well that the two applications in question had been filed, that the Chief Electoral Officer could himself notify me officially, by letter, of the two applications.

Thus, it was only after these events, and following media reports regarding the existence of these letters, that on June 5, the hon. Member for Avalon rose in the House on a question of privilege to argue the case. Other Members have intervened in the matter and that has led us to this ruling today.

After the intervention by the Member for Avalon, the Member for Saint-Léonard—Saint-Michel raised a related issue on June 6, arguing that the Speaker ought to table the letters from the Chief Electoral Officer in the House.

The Chair then returned on Friday, June 7, to address the matter of the House being notified on the situation. I stated that I was not prepared to table the letters at that time. Since there was no provision to deal with letters of that nature and since I was currently considering the entire matter, I believed it would be appropriate to wait and address all aspects of this situation in a comprehensive ruling.

It seems evident to the Chair that the lack of a clear process, either for me or for the House, in matters of this nature leaves us all in a complicated situation. As Speaker, I must be mindful of my duty to protect the rights of individual Members while, at the same time, balancing that responsibility with the responsibility to ensure, as the servant of the House, that I protect its exclusive right to deal with matters affecting the collective privileges of the House. In the present circumstances, this is no small challenge.

The right—in fact, the absolute need—for Members to be able to sit and vote in the House is so integral to their ability to fulfill their parliamentary duties that it would be difficult for the Chair to overstate the importance of this issue to Members individually and to the House as a whole. Page 245 of *House of Commons Procedure and Practice*, Second Edition, states that, "…the determination of whether a Member is ineligible to sit and vote is a matter affecting the collective privileges of the House…".

At the same time, as the Member for Selkirk—Interlake reminded the House, *House of Commons Procedure and Practice*, [Second Edition], at page 307 states, "It is the responsibility of the Speaker to act as the guardian of the rights and privileges of Members and of the House as an institution". In my view, this is especially important in the case before us today because of the

potential infringement on the rights of certain Members individually and on the rights of the House collectively.

In fulfilling this responsibility, it is incumbent upon the Chair to remind the House of the limited role assigned to the Speaker in matters with legal implications. Simply put, the Speaker's role is to determine procedural issues, not matters of law, which are for the courts to decide.

Where a statute lays down a specific course of action, for example to table a document or to hold off on taking action while an appeal to the courts is ongoing, the Chair governs itself accordingly. However, where—to a lay reader—related provisions of a statute are categoric in stating, as subsection 463(2) does in this case, that a particular consequence applies and is silent as to any mitigating effect of an application to the court for relief from that consequence, then the Chair must heed this reality.

That being said, O'Brien and Bosc states at page 259 that:

> In the case of statutory provisions, the House of Commons endeavours to ensure that its *Standing Orders* and practices are consistent with statutes while retaining the exclusive jurisdiction to determine whether the provisions of a statute apply to its proceedings.

Further, at page 265 it also states:

> ...since the House has the exclusive jurisdiction to determine whether and how a statute applies to its proceedings, there may be extraordinary situations when the House determines that a statutory provision ought not to apply.

To answer this question of how a statute might apply to the House proceedings, the Member for Avalon looked to a ruling given by Speaker Lamoureux on March 1, 1966, for guidance. In it, he found evidence that it is indeed the House, and the House alone, that retains the sole authority to determine when Members of Parliament may sit and vote in the House.

On page 1940 of the *Debates*, Speaker Lamoureux stated:

> ...the House is still the sole judge of its own proceedings, and for the purpose of determining on a right to be exercised within the House itself which, in this particular case, is the right of one hon. Member to sit and to vote, the house alone can interpret the relevant statute.

However, does this mean that the House should therefore be seized with this matter immediately in order to pronounce itself on the substantive issue, as several Members have seemed to suggest? Let us consider that question.

House of Commons Procedure and Practice, Second Edition, at pages 244 and 245 states:

> Once a person is elected to the House of Commons, there are no constitutional provisions and few statutory provisions for removal of that Member from office. The statutory provisions rendering a Member ineligible to sit or vote do not automatically cause the seat of that Member to become vacant. By virtue of parliamentary privilege, only the House has the inherent right to decide matters affecting its own Membership. Indeed, the House decides for itself if a Member should be permitted to sit on committees, receive a salary or even be allowed to keep his or her seat.

Bourinot's *Parliamentary Procedure and Practice*, Fourth Edition, at page 64, reads as follows:

> The right of a legislative body to suspend or expel a Member for what is sufficient cause in its own judgment is undoubted. Such a power is absolutely necessary to the conservation of the dignity and usefulness of a body.

Thus, I believe there is no dispute that it is up to the House as a whole, and not for the Speaker, ultimately to decide if one of its Members should continue to sit and vote.

While there may admittedly be some lessons to be drawn from the 1966 case, I must point out that the circumstances facing Speaker Lamoureux in 1966 were markedly different than those at play in the present case.

Some days before ruling as he did, Speaker Lamoureux had informed the House of a judgment on the case at issue. This reference may be found in the *Debates* for February 28, 1966, at page 1843. As Members who visit that reference will find, it appears that in the 1966 case, the legal process was at an end and the Member whose right to sit and vote had been questioned had been cleared to sit and vote. By contrast, in the case before us today, applications have been filed, as all hon. Members know, although court hearings have yet to begin.

With these considerations in mind, the Chair must determine a way forward for the House that respects and safeguards its rights and privileges. To be sure, the arguments presented have revealed just how rare it is that the Chair is asked to pronounce itself on an issue of such deep significance and with such potential consequences, yet with so few precedents to guide it. The question of the processes that ought to be followed in cases of this kind is of critical importance and is one that the Chair believes the House ought to clarify.

The current situation—and the various interventions on the matter—points to a serious gap in our procedures here in the House in cases where an impasse is reached in a dispute between a Member and Elections Canada. The *Canada Elections Act* provides that the Chief Electoral Officer inform the Speaker when key milestones have been reached in the course of a dispute. Thus, as I explained earlier, I received a letter from the Chief Electoral Officer informing me that a Member had not complied with his request for corrections and informing me of the suspension provision of the act applicable in the circumstances. Also, while elsewhere in the act there are provisions for a Member in those circumstances to apply to the courts for relief, the act is silent on the effect of such an appeal on the suspension provision.

I am not the only one left with questions about how to respond to this situation. Some argue that the provisions in subsection 463(2) demand immediate action—namely, the suspension of a Member who has not complied

with the Chief Electoral Officer in his application of subsection 457(2) of the *Canada Elections Act*—even as they acknowledge that there is no procedure for operationalizing such a suspension. Others hold that since the *Canada Elections Act* provides for an application for relief from the provision in subsection 457(2), any suspension is held in abeyance until the court makes its decision.

We can all agree, however, that this silence is in sharp contrast to the statutory processes contained in part 20 of the *Canada Elections Act* with regard to contested elections, described in O'Brien and Bosc at pages 193 to 195.

In those cases, subsection 531(3) of the statute provides that the clerk of the court shall inform the Speaker of the decision of the court and whether or not an appeal has been filed. The statute is very clear about the Speaker's duties. It states:

> Except when an appeal is filed under subsection 532(1), the Speaker of the House of Commons shall communicate the decision to the House of Commons without delay.

If there is an appeal to the Supreme Court, then the Speaker awaits the decision of that court, which its registrar must communicate to him. Here again, the *Canada Elections Act* is very clear. Once in possession of that decision, "the Speaker of the House of Commons shall communicate the decision to the House of Commons without delay".

However, in the case before us, the Speaker is given no such direction and there are no precedents to be guided by. I will therefore respond to the situation as fairly as I can, trying to maintain an equilibrium between the rights of the House as a whole and the rights of the individual Member.

Make no mistake: any Member—any one of us—could potentially be in such a predicament; this highlights all the more vividly the importance of my duty to safeguard the rights of each and every Member and of my potential inability to do so without the proper mechanisms in place.

Therefore, in the absence of statutory guidance, should a Standing Order mechanism be developed to guide the Chair in such cases?

To answer that question, I believe it would be helpful to the whole House, and to me as Speaker, if the Standing Committee on Procedure and House Affairs were to examine the issue with a view to incorporating in our *Standing Orders* provisions on how the Chair and the House ought to deal with such matters in the future. The Committee might begin by looking at the lack of a clearly defined process for communications on these matters between the Chief Electoral Officer and the Speaker and between the Speaker and the House. This would fall squarely within the mandate of this committee, which is charged, pursuant to Standing Order 108(3),[7] with "the review of and report on all matters relating to the election of Members to the House of Commons".

If the Committee were to proceed in this manner, the Chair believes the *sub judice* convention would not be breached as the deliberations would not reach into the substance of the disputes themselves. Rather, they would focus on the processes that the Speaker could follow in these cases while remaining true to his fundamental duty as Speaker to act as the guardian of the individual rights and privileges of each Member while safeguarding the rights and privileges of the House as an institution.

This would be in keeping with the ruling made by Speaker Sauvé on March 22, 1983, in which she stated that:

> ...the *sub judice* convention has never stood in the way of the House considering a prima facie matter of privilege vital to the public interest or to the effective operation of the House and its Members.

For his part, in remarking that he had a certain appreciation of the Speaker's position in the absence of any guidance at all, either from the statute or from the *Standing Orders*, as to how to execute the provisions of subsection 463(2)

7. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 533.

of the Act, the Member for Toronto—Danforth came to a conclusion with which I can entirely agree, namely:

> …this honourable House cannot function without the Speaker and the House as a whole working in concert....

It seems evident to me that the lack of a clear process is not satisfying the needs of the House nor indeed of the individual Members concerned.

As always, in deciding on questions of privilege, the Speaker's role is well defined—some might even say constrained—as it is limited to determining if, at a first glance, the matter appears to be of such significance as to warrant priority consideration over all other House business.

In the present case, circumstances are significantly different from those of the 1966 case relied upon by the hon. Member for Avalon. However, the Chair is faced with the fact that some have argued that it is just and prudent to continue to await the conclusion of legal proceedings, while others have maintained that the two Members ought, even now, not to be sitting in the House.

I believe that the House must have an opportunity to consider these complex issues. This approach is founded on an ancient practice summarized in a section of *Bourinot's*, Fourth Edition, found at pages 161 and 162 of that work, where it states:

> In the Canadian as in the English House of Commons, "whenever any question is raised affecting the seat of a Member, and involving matters of doubt, either in law or fact, it is customary to refer it to the consideration of a committee".

Accordingly, the Chair has concluded that there is a prima facie case of privilege here.

I would now like to return to the issue of the letters I have received from Elections Canada on these cases. As I said before, the Speaker generally

tables documents in accordance with statutory requirements or the *Standing Orders*. Outside of the sorts of documents enumerated in O'Brien and Bosc, at pages 435 and 436, the Chair is not aware of any precedent or practice that would suggest that letters to the Speaker, even letters from an officer of Parliament, are de facto letters to the House, as has been suggested.

However, I cannot logically come to the conclusion that this situation warrants immediate consideration by the House, without also ensuring that the House has access to the letters from the Chief Electoral Officer to me on the situation. The Chair would welcome recommendations from the Standing Committee on Procedure and House Affairs and the House's clear directions on how these issues must be handled in the future.

Meanwhile, I will make available the letters I received from the Chief Electoral Officer informing me of the application of the provisions of subsection 436(2) of the *Canada Elections Act* and the letters I received informing me that applications to the courts had been made for relief from these provisions. I am also prepared to make available correspondence that I might receive from the Chief Electoral Officer in future cases that may arise in like circumstances. I also wish to advise the House that, just today, I have received a letter from the Chief Electoral Officer informing me that the Member for Saint Boniface has since provided a corrected return as required by the *Canada Elections Act*.

In summary, then, to bring clarity to the situation at hand and to give the House a voice on the matter and to seek its guidance, the Chair has concluded that immediate consideration of the matter by the House is warranted.

In view of the circumstances brought to the attention of the House regarding the situation of the Member for Avalon, I now invite the Member for Beauséjour, who has raised an identical question of privilege, to move the appropriate motion.

Postscript

On June 18, 2013, Mr. LeBlanc moved the appropriate motion, as Mr. Andrews was absent from the House, that the question of privilege be referred to the Standing Committee on Procedure and House Affairs.

The debate began on the motion, but was adjourned.[8] The House then adjourned for the summer and on September 13, 2013, the First Session of the Forty-First Parliament was prorogued.

On October 17, 2013, at the beginning of the Second Session of the Forty-First Parliament, Craig Scott (Toronto—Danforth) raised the same question of privilege. The Speaker immediately ruled that this was still a prima facie question of privilege and, accordingly, Mr. Scott moved that the matter be referred to the Standing Committee on Procedure and House Affairs. The motion was agreed to without debate.[9]

On October 2, 2014, the Committee presented its Nineteenth Report to the House.[10] The Committee stated that it was satisfied that the amendments made to the *Canada Elections Act* by the adoption of Bill C-23, *An Act to amend the Canada Elections Act and other Acts and to make consequential amendments to certain Acts (Fair Elections Act)*, given Royal Assent on June 19, 2014, would provide a greater opportunity for a resolution to occur between Elections Canada and an elected candidate concerning a disputed electoral campaign expense or campaign return. In addition, the Committee recommended a mechanism by which a letter received by the Speaker of the House, relating to subsections 477.72(2) and (4) in Bill C-23, should be communicated to Members of the House of Commons. In the Report, the Committee also agreed to further study the possible need of an amendment or amendments to the *Standing Orders* in respect of the process for communications on such matters between the Chief Electoral Officer and the Speaker and between the Speaker and the House. The Report was not concurred in.

8. *Journals*, June 18, 2013, pp. 3437–8, *Debates*, pp. 18553–8.
9. *Journals*, October 17, 2013, p. 24, *Debates*, pp. 65–6.
10. *Journals*, October 2, 2014, p. 1571.

PARLIAMENTARY PRIVILEGE

RIGHTS OF THE HOUSE

Contempt of the House: Prime Minister alleged to have deliberately misled the House

October 30, 2013
Debates, **pp. 595–7**

Context

On October 17, 2013, Charlie Angus (Timmins—James Bay) rose on a question of privilege to accuse Stephen Harper (Prime Minister) of providing misleading information to the House. He alleged that information revealed by an ongoing Royal Canadian Mounted Police (RCMP) investigation on the arrangement made regarding the payment of expenses between Senator Mike Duffy and Nigel Wright, the Prime Minister's chief of staff, was in apparent contradiction with the Prime Minister's statements in the House. Mr. Angus argued that this new information proved that either the staff of the Prime Minister withheld information from him or that he knowingly misled the House. Citing the three conditions that must be met to find that a Member deliberately misled the House, namely that it must be proven that the statement was misleading; that it must be established that the Member making the statement knew at the time that the statement was incorrect; and that in making the statement, the Member intended to mislead the House, he asserted that only one criterion was established for the moment, specifically that it was proven by court documents that statements made by the Prime Minister were misleading. Peter Van Loan (Leader of the Government in the House of Commons) stated that the Prime Minister answered questions based on the information he had at the time and that there was no intention to mislead the House. The Speaker also heard from other Members throughout the week of October 17 to 23, 2013, and took the matter under advisement.[1]

1. *Debates*, October 17, 2013, pp. 21–6, October 21, pp. 174–5, October 22, pp. 272–5, October 23, pp. 299–302.

Resolution

On October 30, 2013, the Speaker delivered his ruling. He stated that the accuracy or appropriateness of responses to questions in the House is not for the Speaker to judge but is rather a matter of debate, and he reminded the House of the time-honoured tradition of taking Members at their word. Considering the high threshold to prove that a Member misled the House, the Speaker concluded that there was no evidence that the Prime Minister's statements were deliberately misleading, that he deliberately provided incorrect information, that he believed his statements to be misleading or that he intended them to be misleading. Accordingly, he ruled that there was no prima facie question of privilege.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the question of privilege raised on October 17, 2013 by the hon. Member for Timmins—James Bay regarding alleged misleading statements made by the Prime Minister during Oral Questions on June 5, 2013.

I would like to thank the Member for Timmins—James Bay for raising this matter, as well as the Leader of the Government in the House of Commons, the House Leader of the Official Opposition, the Member for Gaspésie—Îles-de-la-Madeleine, the Member for Winnipeg North, the Member for Richmond—Arthabaska and the Member for Avalon for their comments.

In raising this question of privilege, the Member for Timmins—James Bay claimed that answers given by the Prime Minister during Question Period on June 5 with respect to a financial transaction between his former chief of staff, Nigel Wright, and Senator Mike Duffy completely contradicted information later revealed in July through a Royal Canadian Mounted Police investigation.

The hon. Member focused on the Prime Minister's June 5 assertion to this House that decisions regarding the transaction

> ....were not communicated to me or to members of my office.

He concluded that the discrepancy meant either that staff in the Prime Minister's Office withheld information from him and knowingly allowed him to respond to questions in the House with false information, even perhaps without his knowledge, or that the Prime Minister chose to ignore the truth.

This, he said, was evidence enough for a finding by the Speaker that a prima facie breach of privilege had occurred. He likened the present situation to one faced by Speaker Jerome on December 6, 1978 after it had been ascertained that a former RCMP commissioner had deliberately misled a minister, who then provided the incorrect information to a Member, thus impeding him in the performance of his duties.

The Member for Timmins—James Bay then referred to my ruling of May 7, 2012 (**Editor's Note**: The ruling can be found on page 27.), in which I reiterated the three conditions that need to be established when alleging that a Member is in contempt for deliberately misleading the House. In doing so, he acknowledged that only one of the three conditions had been met, namely that the statement in question was known to be misleading. He then stated that further study was required in order to determine whether the other two conditions had been met, namely whether the Prime Minister knew at the time that what he told the House was incorrect, and that in making the remarks the Prime Minister intended to mislead the House.

The Leader of the Government in the House of Commons countered that the Prime Minister had, in fact, indicated both inside and outside the House that he had answered questions based on the information he had at the time. The Government House Leader then recalled the long-standing practice in this House of accepting the word of a Member.

Furthermore, the Leader of the Government in the House of Commons argued that the ruling of Speaker Jerome, as cited by the Member for Timmins—James Bay was not instructive in the present case as that finding of prima facie privilege was firmly based on an admission by an official that he had deliberately misled a minister. He concluded that, since no answers provided in the House were known at the time to be incorrect, there was no intention on the part of the Prime Minister to mislead the House.

The importance of this issue for Members individually and collectively cannot be overstated, as it speaks to the very privileges upon which our parliamentary system is founded. Members frequently have risen in this House to defend their need, and indeed their right, to be provided with accurate and truthful information in order to fulfill their parliamentary obligations, and Speakers have frequently underscored the need for clarity and accuracy as well.

That said, many of my predecessors in the Chair have reminded the House that in most instances, claims related to disputed facts are not grounds for prima facie findings of privilege.

As Speaker Fraser indicated on December 4, 1986, at page 1792 of *Debates*:

> Differences of opinion with respect to fact and details are not infrequent in the House and do not necessarily constitute a breach of privilege.

As stated in *House of Commons Procedure and Practice*, Second Edition, at page 510:

> In most instances, when a point of order or a question of privilege has been raised in regard to a response to an oral question, the Speaker has ruled that the matter is a disagreement among Members over the facts surrounding the issue. As such, these matters are more a question of debate and do not constitute a breach of the rules or of privilege.

More recently, Speaker Milliken expanded on this and the role of the Chair in such instances when on January 31, 2008, at page 2435 of *House of Commons Debates*, he stated:

> …any dispute regarding the accuracy or appropriateness of a minister's response to an oral question is a matter of debate; it is not a matter for the Speaker to judge. The same holds true with respect to the breadth of a minister's answer

> to a question in the House: this is not for the Speaker to determine.

While the Speaker might not be tasked with assessing the content of replies with respect [to their] accuracy or appropriateness, the Chair does, however, have an important if strictly limited role when it is alleged that the House has been misled. In this particular instance, the matter centres on allegations of the House being deliberately misled, so certain precedents and practices are germane to the case. As the Member for Timmins—James Bay and the Government House Leader have both indicated, my ruling of May 7, 2012, is of particular relevance. At that time, at page 7650 of the *Debates*, I stated:

> It has become accepted practice in this House that the following elements have to be established when it is alleged that a Member is in contempt for deliberately misleading the House: one, it must be proven that the statement was misleading; two, it must be established that the Member making the statement knew at the time that the statement was incorrect; and three, that in making the statement, the Member intended to mislead the House.

Maingot's second edition of *Parliamentary Privilege in Canada*, at page 234, lends further support to this assertion, indicating that:

> …before the House will be permitted by the Speaker to embark on a debate in such circumstances [it must be demonstrated] that a Member of the House of Commons was intentionally misled or an admission of facts that leads naturally to the conclusion that a Member was intentionally misled, and a direct relationship between the misleading information and a proceeding in Parliament, is necessary.

Coupled with this is the time-honoured tradition of accepting a Member's word in the House. Many of my predecessors have reiterated that principle over the years, just as Speaker Sauvé did on May 27, 1982, when she explained, at page 17823 of *Debates*, that:

> I cannot attach greater credibility to the word of one hon. Member over another. The Speaker cannot interpret statements made by hon. Members which must be accepted at face value. The hon. Member [...] claims he had been misled. I accept that. He claims he has been deliberately misled. I accept that too, but as an assertion, not as a fact upon which I could find privilege; because the minister, who has the same right to have his word accepted in this House, says there is no attempt to mislead, deliberately or otherwise, and I accept that, too.

To uphold these conditions and practices, as the Chair must do, the threshold of proof is high. It should be no surprise then that in the rare instances when prima facie has been found, little or no doubt was left as to the validity of the claim made. The ruling of December 6, 1978, in which Speaker Jerome found that a prima facie contempt of the House existed, rested on the official's own admission that the minister had been deliberately misled, and it was on that basis that Speaker Jerome stated in the [*Debates*] of December 6, 1978, at page 1857:

> I can interpret that testimony in no other way than meaning that a deliberate attempt was made to obstruct the Member in the performance of his duties and, consequently, to obstruct the House itself.

This precedent stands in contrast to most others. Among them, and perhaps more analogous to the issue now before the House, is Speaker Milliken's ruling of February 25, 2004, where he concluded at page 1047 of *House of Commons Debates* that there was no prima facie breach of privilege since:

> ...no evidence has been brought forth to show that… department officials deliberately intended to deceive their superiors and so obstruct hon. Members in the performance of their duties.

The Chair has carefully reviewed the evidence brought forward, as well as what was said in the House, searching for evidence that the conditions laid out

in my ruling of May 2012, and in Speaker Milliken's ruling of February 2011 that informed it, have been met. The Chair has not found that evidence. The Member for Timmins—James Bay himself doubted that all enumerated conditions for finding a prima facie privilege [had] materialized when he conceded:

> The other two elements, however, do need to be clarified, and this is the reason I am asking you, Mr. Speaker, to find that there is a prima facie case so that the issue could be studied at greater depth by the Standing Committee on Procedure and House Affairs.

He cast further doubt when he asked, "Did the Prime Minister know at the time that the statements he gave to the House were misleading?" and "Did the Prime Minister intend to mislead the House?"

By his own admission, neither question can be answered with certainty.

These same doubts were echoed by the House Leader of the Official Opposition and the Member for Winnipeg North. That the Prime Minister has acknowledged that he did not himself have full information when he provided an answer during Question Period last June 5 does not lead the Chair to conclude that the two missing conditions have been met. Nor is it appropriate for the Chair to speculate on whether the Prime Minister ought to have known of Mr. Wright's actions or been told of them by the individuals in his office who are now said to have known about them.

The Chair understands that Members have strong views on both sides of this very public and evolving issue, but I must remind the House that the Chair is bound by very narrow parameters in situations such as this one.

Based on accepted practices, precedents and usages, as well as a thorough scouring of the evidence presented and statements made in the House, the Chair cannot, in the current circumstances, find evidence that the Prime Minister's statements to the House were deliberately misleading, that

he deliberately provided incorrect information, that he believed his statements to be misleading or that he intended them to be misleading.

Accordingly, the Chair can find no valid procedural grounds for finding a prima facie case of privilege at this time.

I thank honourable Members for their attention.

RIGHTS OF THE HOUSE

Contempt of the House: Member alleged to have deliberately misled the House; prima facie

March 3, 2014
Debates, **pp. 3430–1**

Context

On February 25, 2014, Nathan Cullen (Skeena—Bulkley Valley) rose on a question of privilege regarding statements made in the House by Brad Butt (Mississauga—Streetsville). He alleged that, on February 6, Mr. Butt knowingly made misleading statements in the House, when during debate on Bill C-23, *An Act to amend the Canada Elections Act and other Acts and to make consequential amendments to certain Acts*, he stated that he witnessed people picking up discarded voter cards from community mailboxes and distributing them to other people. On February 24 and 25, Mr. Butt had risen on points of order to correct and withdraw his statements, stating that he had, in fact, not witnessed evidence of voter fraud first-hand. He also apologized for his inaccurate statements and added that he had not intented to mislead the House.[1] These statements, contended Mr. Cullen, proved that the conditions required to find that the House had been misled were met. After other Members made comments, Peter Van Loan (Leader of the Government in the House of Commons) argued that although Mr. Butt had misspoken on February 6, his coming forward to correct the record should close the matter and not be seen as a contempt of the House. The Speaker took the matter under advisement.[2]

Resolution

On March 3, 2014, the Speaker delivered his ruling. He stated that, while he was willing to accept that it had not been the intention of Mr. Butt to mislead the House, Members bear a responsibility to ensure

1. *Debates*, February 24, 2014, p. 3080, February 25, 2014, p. 3173.
2. *Debates*, February 25, 2014, pp. 3147–52, 3191.

their statements contain no inaccuracies. Highlighting that Members must be able to depend on the integrity of the information with which they are provided to perform their parliamentary duties, the Speaker noted that the House was seized of two contradictory statements and, thus, the situation merited further consideration by a committee to clarify the matter. Accordingly, he invited Mr. Cullen to move his motion.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the question of privilege raised on February 25, 2014, by the House Leader of the Official Opposition regarding statements made in the House by the Member for Mississauga—Streetsville.

I would like to thank the hon. House Leader of the Official Opposition for having raised this matter, as well as the hon. Leader of the Government in the House and the hon. Members for Winnipeg North and Kingston and the Islands for their comments.

I also want to acknowledge the statements made by the Member for Mississauga—Streetsville.

In raising this matter, the hon. House Leader of the Official Opposition claimed that the hon. Member for Mississauga—Streetsville had deliberately misled the House on February 6, 2014, during debate on Bill C-23, the *Fair Elections Act*, when he stated that he had witnessed evidence of voter fraud first-hand. He further argued that the matter was not resolved by the statements made by the Member for Mississauga—Streetsville on February 24 and 25, where he admitted that, contrary to his original claim, he had not actually witnessed what he had originally claimed to have witnessed. In his view, this was not a simple case of someone misspeaking; he argued rather that it was a case where the Member deliberately chose to take something he knew not to be true and present it as eyewitness evidence—something so egregious, it constituted contempt.

The hon. Leader of the Government in the House noted that the Member for Mississauga—Streetsville had fulfilled his obligation to correct the record

so that no inaccuracies persisted. He suggested that in and of itself this should be sufficient to "...rebut any concern that there has been a contempt".

This incident highlights the primordial importance of accuracy and truthfulness in our deliberations. All Members bear a responsibility, individually and collectively, to select the words they use very carefully and to be ever mindful of the serious consequences that can result when this responsibility is forgotten.

In calling on the Chair to arrive at a finding of prima facie in this case, the hon. House Leader of the Official Opposition cited my ruling of May 7, 2012 (**Editor's Note**: The ruling can be found on page 27.), where at page 7650 of the *Debates*, I reminded the House that, before finding that a Member had deliberately misled the House, three conditions had to be met:

> ...one, it must be proven that the statement was misleading; two, it must be established that the Member making the statement knew at the time that the statement was incorrect; and three, that in making the statement, the Member intended to mislead the house.

Arguing all three of these conditions had been met, he concluded that a breach of privilege had occurred.

It was with these criteria in mind that I undertook a thorough review of all relevant statements made in the House on this matter, focusing particularly, of course, on the statements made by the hon. [Member] for Mississauga—Streetsville.

Originally, on February 6, he stated:

> I have actually witnessed other people picking up the voter cards, going to the campaign office of whatever candidate they support and handing out these voter cards to other individuals, who then walk into voting stations with friends who vouch for them with no ID.

Later that day, he added, "I will relate...something I have actually seen."

It was only on February 24 that he rose to state:

> ...on February 6...I made a statement...that is not accurate. I just want to reflect the fact that I have not personally witnessed...[fraudulent activity]...and want the record to properly show that.

On February 25, he returned to the House, characterized his February 6 statement as "an error on my part" and apologized "to all Canadians and to all Members of the House", adding that, "It was never my intention, in any way, to mislead the House". The Chair takes due note that the Member for Mississauga—Streetsville has admitted that his February 6 statement was not true and that he has apologized for his mistake.

As was noted by the hon. Leader of the Government in the House of Commons, we all recognize that there is an enduring practice here of giving Members the benefit of the doubt when the accuracy of their statements is challenged. It is often the case that questions of privilege raised on such matters are found to be disputes as to facts rather than prima facie questions of privilege, primarily due to the high threshold of evidence that the House expects.

Speaker Parent stated on page 9247 of *Debates* on October 9, 2000:

> Only on the strongest and clearest evidence can the House or the Speaker take steps to deal with cases of attempts to mislead Members.

From what the Member for Mississauga—Streetsville and other Members have revealed, it is quite clear that the House has been provided with two narratives that are contradictory statements. At the same time, the Member for Mississauga—Streetsville stated that he had no intention of misleading the House.

Speaker Milliken was faced with a similar set of circumstances in February 2002 when the then Minister of National Defence, Art Eggleton, provided contradictory information to the House. In ruling on a question of privilege raised about the contradiction, Speaker Milliken stated on February 1, at page 8581 of *Debates*:

> I am prepared, as I must be, to accept the Minister's assertion that he had no intention to mislead the House.

In keeping with that precedent, I am prepared to accord the same courtesy to the Member for Mississauga—Streetsville.

At the same time, the fact remains that the House continues to be seized of completely contradictory statements. This is a difficult position in which to leave Members, who must be able to depend on the integrity of the information with which they are provided to perform their parliamentary duties.

Accordingly, in keeping with the precedent cited earlier in which Speaker Milliken indicated that the matter merited "...further consideration by an appropriate committee, if only to clear the air", I am prepared in this case for the same reason to allow the matter to be put to the House.

I therefore invite the hon. House Leader of the Official Opposition to move the traditional motion at this time.

Postscript

Mr. Cullen moved that the matter be referred to the Standing Committee on Procedure and House Affairs. On March 4, 2014, The Government House Leader moved that the debate be not further adjourned. The closure motion was adopted and, after debate, the privilege motion was defeated.[3]

3. *Journals*, March 3, 2014, p. 611, March 4, 2014, pp. 616, 618–22.

PARLIAMENTARY PRIVILEGE

RIGHTS OF THE HOUSE

Contempt of the House: conviction on charges of election fraud; statutory disqualification on sitting and voting; right of the House to expel a Member; prima facie

November 4, 2014
Debates, **p. 9183**

Context

On November 3, 2014, Peter Julian (Burnaby—New Westminster) rose on a question of privilege concerning the conviction of Dean Del Mastro (Peterborough) on several counts of violating the *Canada Elections Act*. While the Act stipulates that the Member should not continue to sit in the House, Mr. Julian maintained that it was the right of the House to manage its own membership and therefore asked the Speaker to find a prima facie question of privilege so that the House could determine whether to expel Mr. Del Mastro. Peter Van Loan (Leader of the Government in the House of Commons) subsequently rose on a similar question of privilege affirming the right of the House to determine its membership, but stated that the matter of suspending the Member should be dealt with by the Standing Committee on Procedure and House Affairs. After hearing from other Members, the Speaker took the matter under advisement.[1]

Resolution

The Speaker delivered his ruling on November 4, 2014. He confirmed the fundamental importance of the right of every Member to sit and vote in the House, as well as the authority of the House to determine matters concerning its membership. Accordingly, he concluded that there was a prima facie question of privilege. Since two Members had raised the same question of privilege, he invited the Member who raised it first, Mr. Julian, to move his motion.

1. *Debates*, November 3, 2014, pp. 9099–106.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the question of privilege raised yesterday by the House Leader of the Official Opposition as well as the hon. Leader of the Government in the House of Commons, regarding the right of the Member for Peterborough to sit and vote in the House.

I would like to thank the Leader of the Opposition and the hon. Leader of the Government in the House of Commons for having raised this, and the member for Winnipeg North for his intervention.

In raising this question of privilege, the Opposition House Leader explained that, on October 31, 2014, the Ontario Court of Justice found the Member for Peterborough guilty on four charges under the *Canada Elections Act* in connection with the 2008 federal election. Though the *Act* provides that the Member should therefore no longer sit in the House, the Opposition House Leader maintained that it was solely for the House to determine the composition of its membership, and as such, it should be seized of this important matter.

For his part, the hon. Government House Leader further affirmed the authority of the House in determining whether a Member may continue to sit and vote, and proposed an approach whereby the Standing Committee on Procedure and House Affairs would study the matter.

As with any question of privilege, the Speaker's role is to determine procedural matters, not matters of law, and is ultimately limited to determining whether, at first glance, the matter raised is of such significance as to warrant priority consideration over other House business.

The right of a Member to sit and vote in the House is of fundamental importance, as it is at the very core of the collective privileges of Members. As I stated in my ruling of June 18, 2013 (**Editor's Note**: The ruling can be found on page 46.):

> The right—in fact, the absolute need—for Members to be able to sit and vote in the House is so integral to their

> ability to fulfill their parliamentary duties that it would be difficult for the Chair to overstate the importance of this issue to Members individually and to the House as a whole.

Further, *House of Commons Procedure and Practice*, Second Edition, clearly states that it is only the House that can determine matters affecting its own membership. On pages 244 and 245, it states:

> Once a person is elected to the House of Commons, there are no constitutional provisions and few statutory provisions for removal of that Member from office. The statutory provisions rendering a Member ineligible to sit or vote do not automatically cause the seat of that Member to become vacant. By virtue of parliamentary privilege, only the House has the inherent right to decide matters affecting its own membership. Indeed, the House decides for itself if a Member should be permitted to sit on committees, receive a salary or even be allowed to keep his or her seat.

As can be seen in this citation, the House reserves for itself a range of remedies it may wish to impose in a given situation.

In the present case, both Members who have raised what is essentially the same question of privilege have chosen to read into the record the motion they propose to move should I arrive at a finding of prima facie.

As always in matters of this kind, the Chair's focus is on process, and my role is limited to making a determination of whether the matter is of sufficient gravity and importance to warrant being debated immediately.

In this light, it is evident to me that this is a prima facie case of privilege, and, as such, I have concluded that it merits immediate consideration by the House.

Given the rare and exceptional nature of the circumstances, I will leave it to the House to determine the nature of the remedies it wishes to explore.

Accordingly, as is the practice where two Members have raised the same question of privilege, I will now invite the hon. Opposition House Leader, who was the first to raise it, to move his motion.

Postscript

Mr. Julian moved that the House of Commons immediately suspend the rights of Mr. Del Mastro to sit and vote in the House, to sit on any committee, and to collect his sessional allowance as a Member of Parliament and that the matter of his status as a Member of Parliament be referred to the Standing Committee on Procedure and House Affairs.[2]

On November 5, 2014, Mr. Del Mastro rose in the House of Commons and made a statement pursuant to Standing Order 20,[3] during which he resigned as a Member of Parliament. The Speaker declared that further proceedings on the privilege motion were no longer necessary and it was dropped from the *Order Paper*.[4]

2. *Debates*, November 4, 2014, p. 9183.
3. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 494.
4. *Debates*, November 5, 2014, pp. 9219–21.

PARLIAMENTARY PRIVILEGE

RIGHTS OF THE HOUSE

Contempt of the House: fiscal update presented outside the House of Commons

December 4, 2014
Debates, **pp. 10167–8**

Context

On November 17, 2014, Nathan Cullen (Skeena—Bulkley Valley) rose on a question of privilege concerning a financial update given by Jim Flaherty (Minister of Finance) to a private audience of financial professionals rather than in the House. Allowing representatives of banking and financial institutions preferential access to this information, Mr. Cullen argued, impeded Members from accessing critical information needed to fulfill their parliamentary duties, thus constituting a contempt of the House and its Members. In response, Peter Van Loan (Leader of the Government in the House of Commons) contended that economic or fiscal updates have often been made outside the Chamber and as these updates are not governed by the *Standing Orders*, it is the Minister's decision as to whether to make policy statements inside or outside of the House. After another Member spoke, the Speaker took the matter under advisement.[1]

Resolution

The Speaker delivered his ruling on December 4, 2014. He stated that, although the release of and accessibility to information is vitally important to all Members given their role as legislators, not every proceeding or activity with respect to the delivery of or access to information by Members implicitly involves their parliamentary duties. As the Speaker did not find that Members were obstructed in the performance of their parliamentary functions, he could not conclude that a prima facie breach of privilege had occurred.

1. *Debates*, November 17, 2014, pp. 9365–7, November 18, 2014, pp. 9471–2.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the question of privilege raised by the hon. Member for Skeena—Bulkley Valley concerning the Economic and Fiscal Update by the Minister of Finance on November 12, 2014.

I would like to thank the hon. member for Skeena—Bulkley Valley for raising this matter, as well as the hon. Leader of the Government in the House of Commons and the hon. House leader of the official opposition for their interventions.

The hon. Member for Skeena—Bulkley Valley explained that on November 12, 2014, the Minister of Finance delivered the Government's official Economic and Fiscal Update to a private audience of financial professionals rather than in the House. This, he argued, obstructed Members' access to that critical information, which is required to fulfill their parliamentary functions, thereby constituting contempt of Parliament if not a breach of Members' privileges.

The hon. Government House Leader responded that since the Economic and Fiscal Update is not the Budget, it is not governed by the *Standing Orders*. Consequently, the Minister was not obligated to deliver that statement in the House and, in fact, there is a long-standing practice of the Government making announcements outside the House on a range of policy issues.

The release of and accessibility to information is, of course, a matter of importance to all Members since it touches the role of Members as legislators. The Chair shares Speaker Parent's views when he indicated on November 6, 1997 at page 1618 of *Debates* that this role should not be trivialized. In fact, we should take every opportunity to underline its significance in our system of responsible Government.

That is not to say, however, that every proceeding or activity related to delivering or accessing information by Members implicitly involves their parliamentary duties.

For instance, in 2009, Speaker Milliken was asked to determine whether the public release of the Government's Third Report on the Economic Action Plan made in Saint John, New Brunswick, was a breach of privilege.

In a ruling on October 5, 2009, Speaker Milliken stated:

> Matters of press conferences or release of documents, the policy initiatives of the government, are not ones that fall within the jurisdiction of the Speaker of the House unless they happen to be made in the House itself.
>
> It is very difficult for the Chair to intervene in a situation where a minister has chosen to have a press conference, or a briefing or a meeting and release material when the Speaker has nothing to do with the organization of that [event].

In fact, a review of economic and fiscal updates delivered by the Minister of Finance has revealed that, since 2009, the minister has provided this update to a business audience in various provinces, with last year's being delivered to the Edmonton Chamber of Commerce on November 12, 2013. Furthermore, the Chair can find no cases of questions of privilege or points of order in relation to these updates.

In addition, Speakers have consistently ruled that there are certain fundamental conditions that must exist in order for it to constitute a matter of contempt or privilege. As O'Brien and Bosc states at page 109:

> In order to find a prima facie breach of privilege, the Speaker must be satisfied that there is evidence to support the Member's claim that he or she has been impeded in the performance of his or her parliamentary functions and that the matter is directly related to a proceeding in Parliament.

Based on the precedents established by previous Speakers, I cannot find evidence that Members were obstructed in the performance of their parliamentary functions. Accordingly, I must conclude that there are not sufficient grounds to arrive at a finding of a prima facie breach of privilege in this case.

I thank the House for its attention.

RIGHTS OF THE HOUSE

Contempt of the House: Prime Minister alleged to have deliberately misled the House

February 26, 2015
Debates, **p. 11707**

Context

On January 28, 2015, Jack Harris (St. John's East) rose on a question of privilege with regard to statements made by Stephen Harper (Prime Minister) during Question Period a few months earlier. He accused the Prime Minister of purposely making misleading statements regarding the level of involvement of the Canadian military in Iraq prior to an important vote concerning the contribution of Canadian military assets in the fight against the Islamic State of Iraq and the Levant (ISIL). After other Members made comments, the Speaker took the matter under advisement.[1]

Resolution

On February 26, 2015, the Speaker delivered his ruling. He explained that disagreements over facts are rarely found to be breaches of privileges, but rather form the basis of debate in the House. The Speaker added that for the Chair to rule that a Member misled the House, certain clear conditions must be met, among them, that there was a deliberate intent to mislead the House. Finding no solid evidence to that effect, he concluded that there was no prima facie case of privilege.

1. *Debates*, January 28, 2015, pp. 10742–6.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the question of privilege raised on January 28, 2015, by the hon. Member for St. John's East about alleged misleading statements made by the Prime Minister during Oral Questions with respect to Canadian military engagement in Iraq.

I would like to thank the hon. Member for St. John's East for having raised this matter, as well as the hon. Leader of the Government in the House of Commons, the House Leader of the Official Opposition, and the Member for Winnipeg North for their comments.

In presenting his case, the Member for St. John's East explained that, during Question Period on September 30, 2014, in the week leading up to the vote on October 7 with respect to Canada's role in the mission in Iraq to combat ISIL, the Prime Minister had answered that, "It is to advise and to assist. It is not to accompany" and "Canadian soldiers are not accompanying the Iraqi forces into combat". However, the Member for St. John's East contended that recent reports that Canadian ground troops have accompanied Iraqi forces and exchanged fire with ISIL forces were proof that the Prime Minister misled the House and Canadians in a deliberate attempt to downplay Canada's level of engagement.

Arguing that there is no possible way to interpret the current contradiction as a difference of opinion, the Member for St. John's East went on to explain how the three criteria had been met for determining that a prima facie [question] of privilege exists; that is, that the statement was misleading, the Member knew the statement was incorrect when it was made, and the Member intended to mislead the House by making the statement.

The Leader of the Government in the House of Commons responded that the mission is, in fact, to advise and assist and that Canadian Forces should have the right to defend themselves in doing this dangerous work. In support of this, he cited General Tom Lawson's recent testimony in committee regarding the nature of the intervention in Iraq. More specifically, he noted that General Lawson specified that their mandate is a non-combat operation to advise and assist, and involves the use of weaponry only for the purposes

of self-defence. With no evidence to suggest that Canadian Forces have undertaken any offensive combat measures, the Government House Leader argued that, at its core, this matter amounts to nothing more than a question of debate and not a question of the House having been misled.

The integrity of parliamentary proceedings rests very much on the ability of Members to give and receive accurate and truthful information. This explains, in part, why Members look to the Chair for guidance and judgment when they feel that this integrity is being challenged or cast aside. This is not done lightly given that, as Members know, the House is a forum that gives voice to different viewpoints and opinions. Speaker Milliken recognized this when he stated on December 6, 2004, at page 2319 of *Debates*: "Disagreements about facts and how the facts should be interpreted form the basis of debate in this place."

As a result, such grievances are rarely found to be breaches of privilege. The Member for St. John's East stated as much when he cited page 510 of *House of Commons Procedure and Practice*, Second Edition, which states:

> In most instances, when a point of order or a question of privilege has been raised in regard to a response to an oral question, the Speaker has ruled that the matter is a disagreement among Members over the facts surrounding the issue. As such, these matters are more a question of debate and do not constitute a breach of the rules or of privilege.

Members are well aware of the Speaker's clearly defined yet limited role in regulating such matters. As Speaker Milliken reminded the House in a ruling on January 31, 2008, at pages 2434 and 2435 of *Debates*:

> ...any dispute regarding the accuracy or appropriateness of a Minister's response to an oral question is a matter of debate; it is not a matter for the Speaker to judge. The same holds true with respect to the breadth of a Minister's answer to a question in the House: this is not for the Speaker to determine.

Yet while it is not for the Chair to interpret the meaning of Members' interventions, it has a solemn responsibility to ensure that certain conditions are met in disputes of the nature brought forward by the Member for St. John's East. As Speaker, I must assess whether there exist the three conditions that would establish unequivocally that the House has been misled.

The conditions are admittedly and deliberately not easily met. This is because, as Speaker, I must take all Members at their word. This underscores the way we function every day in our proceedings; all Members rely on this and draw advantage from it.

This places an onerous burden on all Members to ensure that their words are selected for their clarity as well as for their accuracy, so as to leave no room or cause for misinterpretation.

In order to find that the three conditions have been met, the Chair must be presented with undeniable evidence that there was a deliberate intent to mislead. Accordingly, having carefully examined the evidence presented, the Chair is unable to conclude that the House is confronted with a prima facie case of privilege in this case.

I thank honourable Members for their attention.

RIGHTS OF THE HOUSE

Contempt of the House: Minister alleged to have deliberately misled the House

April 29, 2015
Debates, **pp. 13197–8**

Context

On April 2, 2015, Jack Harris (St. John's East) rose on a question of privilege to allege that Jason Kenney (Minister of National Defence and Minister for Multiculturalism) had provided misleading information to the House regarding the Canadian military engagement in Iraq and Syria, which may have had an impact on how Members voted on extending the contribution of Canadian military assets in the fight against the Islamic State of Iraq and the Levant (ISIL). The Minister responded that the information he provided to the House regarding the military engagement in Iraq had been provided by the department and that he believed his statements to be accurate at the time. After he received new information from officials, he explained that he had risen in the House to correct the record and to table a letter from the Chief of the Defence Staff containing the new information. He confirmed that at no time had he intended to deliberately mislead the House. After other Members made comments, the Acting Speaker (Barry Devolin) took the matter under advisement. [1]

Resolution

On April 29, 2015, the Speaker delivered his ruling. He explained that, while inaccurate information was provided, neither the Minister nor officials purposely misled the House nor was there any intent to falsify information. He also confirmed that the conventions of the House dictate that the Chair must take all Members at their word. The Speaker stated that, as there was no clear evidence that would lead him to conclude that the necessary conditions concerning misleading statements had been met, nor could he conclude that the Member was somehow impeded in the performance

1. *Debates*, April 2, 2015, pp. 12712–8.

of his parliamentary duties, he could not find that there was a prima facie question of privilege.

DECISION OF THE CHAIR

The Speaker: Before we continue with routine proceedings, I am now prepared to rule on the question of privilege raised on April 2, by the hon. Member for St. John's East about alleged misleading information provided to the House by the Minister of National Defence prior to the House's decision regarding the expansion and extension of the Canadian military engagement in Iraq and now in Syria.

I would like to thank the hon. Member for St. John's East for having raised this matter, as well as the hon. Minister of National Defence, the hon. Leader of the Government in the House of Commons, the House Leader of the Official Opposition and the Members for Winnipeg North and Vancouver Quadra for their comments.

In raising this question of privilege, the Member for St. John's East explained that on Monday, March 30, 2015, the Minister of National Defence told the House that Canada was the only coalition partner, other than the United States, currently engaged in Syria using precision-guided munitions to strike targets dynamically. He acknowledged that the Minister later admitted that that information was erroneous, that in fact every state currently engaged in air strikes in Syria is using precision-guided munitions. The Member for St. John's East spoke to the Minister's sacred duty to ensure the accuracy of statements, particularly when it informs Members' decisions on such critical issues as whether or not to send Canadians off to war. He contended that the Minister's misleading statements constituted a serious breach of privilege.

The Minister of National Defence confirmed that he had indeed provided the House with information from military officials that, at the time, he believed to be true, but that ultimately proved to be inaccurate. Accepting ministerial responsibility, he expressed his regret for conveying false information, even though he did not know it to be so at the time. He also stressed that when new information became available to the military, steps were taken to correct the record by the military and by him as soon as

was possible. Together, he claimed, this proved that there was no deliberate attempt to falsify or withhold information or mislead the House.

The Leader of the Government in the House of Commons argued that the Minister established beyond any doubt that he did not intend to mislead the House. Thus, he believed that from the outset, the requisite conditions for a finding of breach of privilege had not been satisfied. Finally, he concluded his remarks by challenging the validity of the hon. Member for St. John's East's contention that Members needed to rely on that information. He argued that it was already clear how the Member would vote.

At the core of this matter is the fundamental need for Members to offer and receive correct and truthful information at all times, regardless of the topic or proceeding. Members rely on accurate information to fulfill their parliamentary duties and represent the interests of all Canadians to the very best of their ability. There can be no second-guessing or predetermination or ranking of the need for or use of particular pieces of information. Members individually judge the importance of information as they receive it.

In his ruling of February 1, 2002, at page 8581 of the *Debates*, Speaker Milliken reiterated the importance of the need for accurate and truthful information in Parliament:

> The authorities are consistent about the need for clarity in our proceedings and about the need to ensure the integrity of the information provided by the Government to the House. Furthermore, in this case, as hon. Members have pointed out, integrity of information is of paramount importance since it directly concerns the rules of engagement for Canadian troops involved in the conflict in Afghanistan, a principle that goes to the very heart of Canada's participation in the war against terrorism.

In this instance, the Minister has acknowledged that he relayed inaccurate information to the House; on that there is no argument. The Minister rose in this House on April 1 to correct the record and subsequently tabled a later from the Chief of the Defence Staff in this regard. But is this, in and of itself,

a sufficient basis for a finding of a breach of privilege? Has it met the three conditions defined by parliamentary practice?

For the benefit of all Members, the Chair would like to remind the House that first, the statement needs to be misleading. Second, the Member making the statement has to know that the statement was incorrect when it was made. Finally, it needs to be proven that the Member intended to mislead the House by making the statement.

Perhaps the most useful precedent in this case is that of Speaker Jerome from 1978. A careful reading of his ruling of December 6, 1978, tells us that, in that case, while a Minister also relayed erroneous information from officials to the House, the finding of prima facie was based squarely on the testimony of a former RCMP commissioner, which led the Speaker to conclude that a deliberate attempt was made to obstruct the Member and the House. Without such an admission of deliberate wrongdoing by military officials in this instance, the same conclusion cannot be drawn today.

In fact, the Minister made it very clear on April 2, 2015, page 12714 of the *Debates*, that officials had not, in his view, purposely misinformed the Minister when he stated:

> I can absolutely assure the hon. Member that neither I nor the military, I believe, at any point purposefully or deliberately misled this place or the media. I have absolutely no doubt that the military believed the veracity of the information I was given, and I accepted the source credibility of those briefing me in conveying that to this place and to the public.

The Minister also stated:

> It is regrettable that inaccurate information was provided, but that was not done with any mala fides, with any deliberation, or with any intent to falsify information.

With no evidence presented to the contrary, the conventions of this House dictate that, as your Speaker, I must take all Members at their word. To do otherwise, to take it upon myself to assess the truthfulness or accuracy of Members' statements is not a role which has been conferred on me, nor that the House has indicated that it would somehow wish the Chair to assume, with all of its implications.

Furthermore, as Speaker Milliken stated in his ruling of April 16, 2002, on page 10462 of the *Debates*:

> If we do not preserve the tradition of accepting the word of a fellow Member, which is a fundamental principle of our parliamentary system, then freedom of speech, both inside and outside the House, is imperilled.

Based on a thorough assessment of the information brought forward, in my view there is no clear evidence that would lead me to conclude that the necessary conditions concerning misleading statements have been met, nor can I conclude that the Member for St. John's East was somehow impeded in the performance of his parliamentary duties. Therefore, I cannot find that there is a prima facie question of privilege.

That being said, the Minister did indicate that the Chief of the Defence Staff will soon be appearing before the Standing Committee on National Defence and, in addition, that he and other officials would also be willing to appear. It is my sincere hope that Members will be able to use that opportunity to find answers to any outstanding questions that they may have about this important matter.

I thank hon. Members for their attention.

PARLIAMENTARY PRIVILEGE

RIGHTS OF THE HOUSE

The right to regulate its internal affairs: access to information requests concerning the appearance of a witness in committee

September 17, 2012
Debates, **pp. 10004–6.**

Context

On September 17, 2012, the House of Commons adopted a motion stating that, having considered the nature of a request of the Auditor General under the *Access to Information Act*, it agreed not to insist on its privileges relating to all emails pertaining to the Auditor General appearing before a parliamentary committee from January 17 to April 17, 2012.[1] The information in question consisted of email exchanges between the clerks or officials of five standing committees and officials of the Office of Auditor General.

Following the adoption of the motion, the Speaker made a statement to explain the situation that gave rise to it. He explained that in June, the House of Commons was advised by the Office of the Auditor General of Canada that they had received a request under the *Access to Information Act*. The House was given third party notice of the request and provided twenty days to make any written representations to provide sufficient reasons as to why the information should not be disclosed. Since the House was adjourned when these discussions took place, House Counsel requested that the Office of the Auditor General delay the decision to release the documents until the House was scheduled to resume sitting. Notwithstanding this request, the Office of the Auditor General proceeded with its decision to release the documents. The Speaker, as guardian of the rights and privileges of the House, filed an application within the deadline for a judicial review of the Auditor General's decision in order to prevent the release of the documents and to reserve for the House the

1. *Journals*, September 17, 2012, p. 1918, *Debates*, p. 10004.

final decision in the matter.

Resolution

The Speaker explained that the House's rights and privileges had not been jeopardized by the House's resolution, nor had the House ceded any of its traditional rights or privileges, particularly as they relate to parliamentary committees. He also reminded Members that this matter was not precedent-setting noting that similar situations may arise in the future. The Speaker encouraged the Standing Committee on Procedure and House Affairs to complete a thorough review of the matter.

STATEMENT OF THE CHAIR

The Speaker: The House has just adopted an important motion in reference to the rights, privileges and immunities upon which the proceedings of the House and its committees are founded and I would like to make a statement at this time to clarify the situation that has given rise to this decision, particularly in view of some comments that have appeared in recent days.

In June of this year, the House of Commons was advised by the Office of the Auditor General of Canada that they had received a request under the *Access to Information Act* for all emails pertaining to the appearances of the Auditor General before parliamentary committees between January 17 and April 17, 2012. The information in question consisted of email exchanges between the clerks or officials of five standing committees and officials of the Office of Auditor General.

The House was given third party notice of the request under section 27 of the *Access to Information Act* and provided 20 days to make any written representations to provide sufficient reasons as to why the information should be disclosed.

There followed several exchanges of correspondence between the Office of the Law Clerk and Parliamentary Counsel and the Office of the Auditor General in which House officials questioned the release of the documents, given their concern that these documents related to committee hearings, which are protected by parliamentary privilege. This view was consistent with

past practice which considered material that forms part of a parliamentary proceeding, whether that proceeding is in the Chamber or in committee, to be protected by parliamentary privilege.

In the case at hand, the documents requested were directly linked to a parliamentary proceeding and the actions taken were fully in keeping with a long-established practice.

The privileges, powers and immunities of the House of Commons, as provided by section 18 of the *Constitution Act, 1867* and section 4 of the *Parliament of Canada Act*, include freedom of speech and debate as set out, among other places, in article 9 of the *Bill of Rights, 1689*, which provides:

> ...that the freedom of speech and debates or proceedings in Parliament…ought not to be impeached or questioned in any court or place out of Parliament.

As Erskine May's 24th Edition, at page 227, states:

> ...underlying the *Bill of Rights* is the privilege of both Houses to the exclusive cognizance of their own proceedings. Both Houses retain the right to be sole judge of the lawfulness of their own proceedings and to settle—or depart from—their own codes of procedure.

House of Commons Procedure and Practice, [Second Edition], at pages 91 and 92, explains that proceedings in Parliament include the giving of evidence before the House of Commons or its committees; the presentation of a document to either the House of Commons or its committees; the preparation of a document for purposes of or incidental to the transacting of any such business; and the formulation, making or publication of a document, including a report, by or pursuant to an order of the House. This has been seen to extend to all evidence, submissions and preparation for the participation by all persons participating in the proceedings of the House of Commons or its committees, all of which are protected by all the privileges and immunities of the House.

Since the House was adjourned when these discussions took place, House Counsel requested that the Office of the Auditor General delay the decision to release the documents until September when the House was scheduled to resume sitting.

Notwithstanding this request, the Office of the Auditor General proceeded with its decision to release the documents in question, arguing that it had not identified parliamentary privilege among the exemptions or exclusions in the Act that would allow a refusal to do so. This decision started the clock on the timetable provided by the Act. Specifically, this meant that the House had the right to apply for a review of this decision pursuant to section 44 of the Act, which imposes a strict deadline of 20 days from the day notice is given to file a notice of application in the Federal Court. In short, because attempts to have the Office of the Auditor General postpone this decision were unsuccessful, the House of Commons faced a deadline that had to be respected and so filed not an injunction but an application for a judicial review of the Auditor General's decision to release the documents. Had this filing not been made on or before September 10, 2012, the documents would have been released without the express consent of the House. This would clearly have been unacceptable so we acted to reserve for the House its long-standing primacy in decisions of this nature.

I want to stress that the steps taken in this case were undertaken for the sole purpose of safeguarding the rights and privileges of this House and to reserve for the House the final decision in the matter.

As noted at page 307 of *House of Commons Procedure and Practice*, Second Edition:

> It is the responsibility of the Speaker to act as the guardian of the rights and privileges of Members and of the House as an institution.

Whatever the circumstances, as your Speaker, I believe that my primary responsibility is to safeguard the rights and privileges of the House and its committees and to ensure that they are not inadvertently eroded.

Of course, while I am duty-bound to protect all of the House's privileges, I am also the servant of the House and thus entirely at its service in putting into effect its decisions.

As noted on page 307 of O'Brien and Bosc:

> The Speaker is the servant, neither of any part of the House nor of any majority in the House, but of the entire institution and serves the best interests of the House as distilled over many generations in its practices.

The Speaker must ensure that the best interests of the House are upheld and that the House remains the master of its own proceedings.

This is the principle that informed the decision to file an application for judicial review, respecting the strict deadline imposed by the Act and allowing the House the opportunity to make its own determination in this matter.

The House has now made its decision on this matter. We are all aware that this decision applies only to this case at hand and it is not precedent-setting. The House's rights and privileges have not been jeopardized by the House's resolution, nor has the House ceded any of its traditional rights or privileges, particularly as they relate to parliamentary committees.

However, it is likely that today's issue will not be the last of its kind. The Chair would therefore welcome a prompt and thorough review of the question by the Standing Committee on Procedure and House Affairs, as House committees and their officials will most likely continue to be confronted with more requests of a similar nature. It would not be the first time the Standing Committee on Procedure and House Affairs considered and reported to the House on a matter related to the nature and extent of parliamentary privilege, indeed it did so in November 2004 in presenting its Fourteenth Report. There are also other instances, notably in 2007 and 2009, where committees have seen fit to report to the House on aspects of parliamentary privilege in relation to issues with which they were confronted.

I trust this clarifies the context of the situation for the House. I would like to thank all honourable Members for their attention in this important matter.

Postscript

On December 2, 2013, the House concurred in the Forty-Second Report of the Standing Committee on Procedure and House Affairs, originally presented to the House in the First Session of the Forty-First Parliament. The House agreed to the Committee's guidelines for the House to follow in order to determine its response to access to information requests in which the House is a third party. In its Report, the Committee emphasized that, by agreeing to disclose or not to disclose documents, the House would in no way be surrendering its privileges, and that the usual protections afforded to its Members, its staff and its witnesses would remain.[2]

2. Forty-Second Report of the Standing Committee on Procedure and House Affaires, initially presented to the House on March 7, 2013 (*Journals*, p. 2836) and deemed presented and concurred in on December 2, 2013 (*Journals*, p. 259).

PARLIAMENTARY PRIVILEGE

RIGHTS OF MEMBERS

Freedom from obstruction: allegation of Minister altering committee evidence

November 29, 2011
Debates, **pp. 3743–4**

Context

On November 23, 2011, Tony Clement (President of the Treasury Board and Minister for the Federal Economic Development Initiative for Northern Ontario) rose on a question of privilege regarding allegations made by Members of the Official Opposition stating that he had modified the *Evidence* of a meeting of the Standing Committee on Public Accounts held on November 2, 2011. Mr. Clement denied his involvement and characterized the allegations as a serious breach of his privileges.[1] On November 24, 2011, Joe Comartin (Windsor—Tecumseh) stated that the Official Opposition was interested in knowing why the transcripts had been modified. The Speaker took the matter under advisement.[2]

Resolution

On November 29, 2011, the Speaker delivered his ruling. He informed Members of the usual editing process for the production of committee evidence. He then assured that the changes made to the *Evidence* of the Standing Committee on Public Accounts had followed the normal editing protocol and had not been requested by Members or their staff. He then reminded the House that the Speaker does not generally rule on matters relating to proceedings in committees and that, in the absence of a report from the Committee on the matter, he could not find sufficient grounds to establish that the Minister had been impeded in his parliamentary duties. Therefore, he ruled that there was no prima facie case of privilege.

1. *Debates*, November 23, 2011, pp. 3465–6.
2. *Debates*, November 24, 2011, pp. 3558–9.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the question of privilege raised on November 23 by the hon. President of the Treasury Board concerning modifications made to the transcript of the November 2 meeting of the Standing Committee on Public Accounts and the impacts these changes have had on his ability to perform his duties.

I would like to thank the Minister for having raised this issue, as well as the hon. House Leader of the Official Opposition for his intervention.

The Minister explained that allegations that he and his staff had caused changes to be made to the published Committee *Evidence* of his testimony to the Committee were false, as his office had made no such requests for the Committee transcript to be altered. He claimed that these allegations were a breach of his privileges, and impeded his work as a Member and a Minister.

For the benefit of Members, I will begin by making a few comments about the production of the *Debates* and Committee *Evidence*. First, it is important to note that *Debates* and Committee *Evidence* are not, in fact, verbatim transcriptions of what is said, but rather a report of the proceedings that House of Commons editors have edited for clarity, grammar and syntax. There is, however, a distinction between the processes followed for the production of the *Debates* as opposed to Committee *Evidence*. In the case of the *Debates*, there is a formal process in place for individual Members to consider corrections and minor alterations to their interventions as transcribed in the unedited version of the *Debates*, commonly referred to as the "blues". There is, however, no exactly comparable process in place for individual Members to review the transcripts of Committee *Evidence*. This does not mean that Members do not have an opportunity to propose changes to the unedited transcript.

House of Commons Procedure and Practice, Second Edition, at page 1219, clearly sets out how corrections and alterations are made to committee transcripts:

> Unedited transcripts of committee proceedings, known (as with the *Debates*) as "blues", are made available to users of Intraparl, Parliament's internal Web site, usually within 24 hours after a committee meets. Traditionally, minor corrections can be effected by submitting the proposed change to the editors; corrections of a more significant nature are made by the committee itself as a corrigendum. Should this happen, the electronic version is expeditiously updated.

When this question of privilege was raised, the Chair asked for a report on the editing process followed on the particular transcript now at issue. I can assure the House categorically that no Members or Members' staff submitted proposed changes to the transcript. The changes made were the result of normal editing protocols being followed. I would like to explain.

Due to stringent timelines and voluminous amounts of text, the technical task of editing is frequently parcelled out to multiple editors whose collective work for a given meeting is then reviewed by a senior editor. These senior editors look at the full context of the preliminary verbatim transcript, including the intonation of the person speaking, in order to accurately convey the intended meaning in the final transcript. Thus, they routinely authorize the removal of redundant words, false starts, hesitations, words that might lead to confusion as to the true intent of the statement, and so on. Sometimes entire sentences are restructured for clarity. Even within the testimony of a single witness or Member speaking, it is not unusual for words to be removed in one place and retained in another if the editors judge that, in the latter case, the words do not lead to confusion or convey an unintended meaning.

Needless to say, the editing of the transcripts of proceedings, whether in the House or in committee, is a difficult and demanding task that our editors and senior editors take very seriously. Ultimately, however, authority for the

final version, as I have just indicated, rests with the committee, and it is of course free to issue a corrigendum if it so wishes.

The question remains whether the rendering of the transcript in the manner shown has, in and of itself, impeded the President of the Treasury Board in the performance of his duties to the point of warranting a finding of prima facie privilege. The Chair must remind the House that the Speaker generally does not rule on matters relating to proceedings in committees. As this matter deals with the Committee *Evidence* of a meeting of the Standing Committee on Public Accounts, and in the absence of a report from the Committee on the matter, it would be premature for the Chair to make a determination on the matter at this time. The Chair will leave it to the Committee to determine how to address any issues arising out of the manner in which the testimony of the Minister has been transcribed.

There can be no doubt that the Minister feels aggrieved by the interpretation being given to these events. However, as presented to the Chair, and again, in the absence of a report from the Committee on the matter, I cannot find that this is sufficient grounds to establish that the Minister has been impeded in the performance of his parliamentary duties. Therefore, I cannot find that a prima facie question of privilege exists.

I thank hon. Members for their attention.

PARLIAMENTARY PRIVILEGE

RIGHTS OF MEMBERS

Freedom from obstruction: Members denied access to the Parliamentary Precinct during a state visit; prima facie

March 15, 2012
Debates, **pp. 6333–4**

Context

On March 2, 2012, Pat Martin (Winnipeg Centre) rose on a question of privilege regarding the difficulties experienced by certain Members in gaining access to the Parliamentary Precinct during the visit of the Prime Minister of Israel, Benjamin Netanyahu. Mr. Martin stated that Members were denied access to the precinct by the Royal Canadian Mounted Police (RCMP) and asked to provide further identification. Mr. Martin alleged that the heightened security measures in place for the state visit were obstructing Members from fulfilling their duties. Several other Members made comments, and the Acting Speaker (Barry Devolin) took the matter under advisement.[1]

Resolution

On March 15, 2012, the Speaker delivered his ruling. Having acknowledged the need to balance security and access, he stated that the implementation of security measures cannot override the right of Members to unfettered access to the Parliamentary Precinct as Members must be able to carry out their parliamentary duties even when other activities take place. Accordingly, he found that there were sufficient grounds for a prima facie question of privilege, and he invited Mr. Martin to move the appropriate motion.

1. *Debates*, March 2, 2012, pp. 5759–60.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the question of privilege raised on March 2, 2012, by the Member for Winnipeg Centre regarding the difficulties experienced by certain Members in gaining access to the parliamentary precinct that day during the visit of the Prime Minister of Israel, Benjamin Netanyahu.

I would like to thank the Member for having raised this matter, as well as the Minister of State for Science and Technology and the Federal Economic Development Agency for Southern Ontario, the Chief Government Whip, and the Members for Western Arctic and Winnipeg North for their comments.

In raising his question of privilege, the Member for Winnipeg Centre claimed that, due to heightened security during the visit by the Prime Minister of Israel, certain Members faced impediments when attempting to gain access to the parliamentary precinct. Some Members were even sent back to their offices by RCMP officers to retrieve identification proving they were Members of Parliament. While acknowledging the need to keep Parliament secure, he insisted that Members' right to access had been interfered with to an extent that was unjustified, thereby impeding them in the performance of their parliamentary duties.

The Member for Winnipeg Centre also raised questions regarding the broader issue of jurisdiction and control of the parliamentary buildings and precinct and suggested that these sorts of situations might not occur if the House and its Members had greater control over the management of the buildings and the surrounding precinct.

On this point, in a ruling delivered on May 10, 2006, on page 1189 of the *Debates*, Speaker Milliken stated that it was the role of the Speaker "...to protect the House's control over its premises and to protect the access of Members to these premises...". These premises are defined in page 163 in the second edition of Maingot's *Parliamentary Privilege in Canada* as including:

> ...those premises where each House, through its Speaker, exercises physical control to enable Members to perform their parliamentary work without obstruction or interference.

As we all know, the parliamentary precinct and its buildings exist primarily to support the functions of the legislative branch. The Centre Block in particular, housing as it does the House of Commons and Senate Chambers, is a working building where parliamentary proceedings are carried out and where Members must be free to perform their duties without interference even when other activities are taking place. Needless to say, these heritage buildings, especially Centre Block, are also ideal venues for all sorts of events and we are all proud to showcase them for our distinguished visitors. However, when activities, such as the visit of the Prime Minister of Israel on March 2 take place, extra care is needed to ensure that competing requirements regarding the use of the buildings and precinct are understood, with due accommodations and with the proper balance.

The Chief Government Whip spoke of this need to balance security and access. However, the implementation of security measures cannot override the right of Members to unfettered access to the parliamentary precinct, free from obstruction or interference.

The case before us today bears a striking resemblance to the one raised on December 1, 2004, in which, due to increased security surrounding a visit by the then President of the United States, George W. Bush, some Members were denied access to the parliamentary precinct by security officers. Stemming from that prima facie question of privilege, the Standing Committee on Procedure and House Affairs presented to the House on December 15, 2004, its Twenty-First Report, which was eventually concurred in by the House and stated, in part:

> The denial of access to Members of the House—even if temporary—is unacceptable, and constitutes a contempt of the House. Members must not be impeded or interfered with while on their way to the Chamber, or when going about their parliamentary business. To permit this would interfere with the operation of the House of Commons, and undermine the pre-eminent right of the House to the service of its Members.

House of Commons Procedure and Practice, Second Edition, at pages 110 and 111, lists several other relevant precedents and states, at page 110, that:

> Incidents involving physical obstruction—such as traffic barriers, security cordons and union picket lines either impeding Members' access to the Parliamentary Precinct or blocking their free movement within the precinct—[...] have been found to be prima facie cases of privilege.

In view of the strong body of precedence in cases of this kind and given the information provided to the House by the Member for Winnipeg Centre, I find that there are sufficient grounds for finding a prima facie question of privilege in this case. I, therefore, invite the hon. Member to move the appropriate motion.

Postscript

Mr. Martin moved that the matter be referred to the Standing Committee on Procedure and House Affairs, and the motion was agreed to.[2] On May 31, 2012, the Committee presented its Twenty-Sixth Report to the House.[3] Though the Committee did not conclude that a breach of parliamentary privilege had occurred, the Report clarified the obligations of and expectations with regard to the RCMP and Members when security is heightened and access on Parliament Hill is limited. The Report outlined that Members of the House of Commons should not, in any case, be denied or delayed access to the Precinct. The Report was not concurred in.

2. *Journals*, March 15, 2012, p. 991, *Debates*, pp. 6334–5.
3. *Journals*, May 31, 2012, p. 1353.

PARLIAMENTARY PRIVILEGE

RIGHTS OF MEMBERS

Freedom from obstruction: alleged insufficient response to a written question

April 3, 2012
Debates, **pp. 6856–8**

Context

On March 14, 2012, Hélène Laverdière (Laurier–Sainte-Marie) rose on a point of order concerning the government's response to written question Q-410. Ms. Laverdière stated that her questions had not been answered and that the government response indicating that more information would be coming shortly was inadequate. She asked the Parliamentary Secretary to indicate whether the Government would provide an answer to the question before the expiry of the 45-day period. Tom Lukiwski (Parliamentary Secretary to the Leader of the Government in the House of Commons) indicated that the government had replied within the 45-day period and confirmed that further information would be forthcoming.[1] On March 28, 2012, Ms. Laverdière rose on a question of privilege on the same matter, reiterating that the government response did not answer the questions nor the 21 sub-questions despite the information requested being available. Peter Van Loan (Leader of the Government in the House of Commons) responded that the Government had stated orally in the House that much of what was asked was premature and that such information did not exist. Furthermore, he responded that it was not a matter for the Speaker to decide as the Chair has no role in reviewing the content of government responses to questions. The Speaker took the matter under advisement.[2]

1. *Debates*, March 14, 2012, pp. 6286–7.
2. *Debates*, March 28, 2012, pp. 6631–2.

Resolution

On April 3, 2012, the Speaker delivered his ruling. He stated that the role of the Chair in such matters was extremely limited as there are no provisions in the rules for the Speaker to pass judgement on the accuracy or completeness of government responses to questions. Moreover, disputes regarding the accuracy or appropriateness of a response to a question have traditionally been deemed a matter of debate. In addition, he confirmed that it is acceptable for the Government to indicate that it cannot provide an answer or supplementary replies to questions already answered. As the Government had complied with the requirements of Standing Order 39(5),[3] the Speaker concluded that it was not a prima facie question of privilege. The Speaker invited the Member to raise her concerns about the process of written questions with the Standing Committee on Procedure and House Affairs.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the question of privilege raised on March 28, 2012, by the Member for Laurier—Sainte-Marie concerning the Government's response to written question Q-410.

I would like to thank the hon. Member for having raised this matter and the hon. Leader of the Government in the House of Commons for his intervention.

For the benefit of Members, the Chair would like to review the events that led to this question of privilege.

On March 14, 2012, the Member for Laurier—Sainte-Marie rose on a point of order to argue that the Government's reply to her written question Q-410, which had been tabled in the House by the Parliamentary Secretary to the Leader of the Government in the House of Commons on March 12, 2012, and can be found at page 6088 in *Debates*, was insufficient. She stated that the reply did not fully answer all the questions and did not contain the detailed information she had requested.

3. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 500.

Noting that the response stated more information would be forthcoming and that there were only two days remaining before the expiry of the 45-day limit for a response to her question, the hon. Member asked if the Government would be providing a more complete response before the expiry of the time limit. The Parliamentary Secretary replied that the Government had already responded within the appropriate time, that the answer was self-explanatory and that additional information would be forthcoming.

In raising a question of privilege on March 28, 2012, the hon. Member for Laurier—Sainte-Marie again argued that the answer provided by the Government was, by its own admission, incomplete. Noting that the response did not address the specific sub-questions she had submitted, she added that the Government had failed to provide any additional information by the expiry of the deadline on March 16, 2012. She also took exception to the March 14 statement of the Parliamentary Secretary that more information would be provided by the Government in the future, insisting that she was not interested in additional "talking points" but rather specific answers to her specific questions.

Stating that "written questions are one of the tools that Canadians, via their elected representatives, can use to force the Government to be accountable", the hon. Member claimed that the Government's refusal to answer the question constituted a violation of her rights as a Member and impeded her in her ability to perform her duties. She therefore requested that the Speaker find a prima facie question of privilege.

Before I address the specific points raised by the Member for Laurier—Sainte-Marie, it may be of some assistance for the Chair to provide a brief overview of our procedures with regard to written questions by looking at how they have evolved in the text of the rule governing them, current Standing Order 39.[4]

Since the time of Confederation, the *Standing Orders* have contained provisions allowing Members to pose written questions to the Government.

4. See Appendix A, p. 499.

Over the years, the rules and practices dealing with such things as the number, content, and time and methods of responding to questions have been reviewed and modified. For example, prior to 1986, there was no limit to the number of written questions that a Member could place on the *Order Paper and Notice Paper*: it was not unusual for some Members to submit tens, and in one case, hundreds of written questions.

In 1986 the House adopted changes to limit to four the number of questions a Member could have on the *Order Paper* at any one time, and to codify the right of Members to request that the ministry respond to their questions within 45 days.

In 2001, the House further amended the *Standing Orders* to provide that if a question was not responded to within the requested 45 days, the matter of the failure of the ministry to respond would be deemed referred to a standing committee for study.

It should also be noted that since the change limiting the number of questions a Member can have on the *Order Paper*, there has been a notable increase in the length of the questions submitted. As noted on various occasions by Government spokespersons, the length of questions can, in turn, have an impact on the ability to provide an answer within the 45-day limit and may require considerable resources.

I think all Members would agree that *Order Paper* questions are a very important tool for Members seeking detailed, lengthy or technical information that helps them carry out their duties. As is noted in *House of Commons Procedure and Practice*, Second Edition, at page 520:

> Given that the purpose of a written question is to seek and receive a precise, detailed answer, it is incumbent on a Member submitting a question for the *Notice Paper* "to ensure that it is formulated carefully enough to elicit the precise information sought".

And further, at page 522:

> The guidelines that apply to the form and content of written questions are also applicable to the answers provided by the government. As such, no argument or opinion is to be given and only the information needed to respond to the question is to be provided in an effort to maintain the process of written questions as an exchange of information rather than an opportunity for debate.

In the case before us, I can appreciate the Member's frustration with the reply provided. That said, the authorities are clear: the Speaker's role in such matters is extremely limited.

As pointed out by the Government House Leader, House procedure in these matters is clearly explained in O'Brien and Bosc, page 522 which states:

> There are no provisions in the rules for the Speaker to review Government responses to questions.

As my predecessor, Speaker Milliken declared in a ruling, delivered on February 8, 2005, page 3234 of *Debates*:

> Any dispute regarding the accuracy or appropriateness of this response is a matter of debate. It is not something upon which the Speaker is permitted to pass judgment.

O'Brien and Bosc, at page 522, states:

> As with oral questions, it is acceptable for the government, in responding to a written question, to indicate to the House that it cannot supply an answer.

Then at pages 522 and 523 it summarizes how the Chair is guided by precedent in these cases, stating:

> ...on several occasions, Members have raised questions of privilege in the House regarding the accuracy of information contained in responses to written questions; in none of these cases was the matter found to be a prima facie breach of privilege. The Speaker has ruled that it is not the role of the Chair to determine whether or not the contents of documents tabled in the House are accurate...

To that quote, I might add the word "complete".

The hon. Government House Leader and the hon. Parliamentary Secretary have both indicated that the Government intends to present further material with respect to the Member's question in the future. This is consistent with our practice as one can confirm on page 522 of O'Brien and Bosc, which states:

> On occasion, the government has supplied supplementary...replies to questions already answered.

The original response to question Q-410 tells us that this is how the Government intends to proceed in this case, just as we have recently seen the Government provide such supplementary responses to other questions.

Accordingly, I must conclude that the Government has complied with the requirements of the Standing Order and therefore I cannot find a prima facie question of privilege.

However, the hon. Member for Laurier—Sainte-Marie clearly feels aggrieved by the insufficiency of the response she received. I would therefore invite her to raise her concerns about our practice with regard to written questions with the Standing Committee [on] Procedure and House Affairs as that Committee continues with its study of the *Standing Orders*. Indeed, as your Speaker, in light of the various complaints that have been voiced in the Chamber with regard to written questions, from both sides of the House,

I would encourage the Committee to look closely at our current rules and to assess whether improvements can be made to our current practice to better serve the needs of the House and its Members.

RIGHTS OF MEMBERS

Freedom from obstruction: impugning reputation of a Member

January 28, 2014
Debates, **p. 2205**

Context

On December 6, 2013, Nathan Cullen (Skeena—Bulkley Valley) rose on a point of order to request the unanimous consent of the House to table a letter addressed to Charmaine Borg (Terrebonne—Blainville) by Senator Jean-Guy Dagenais, which had also been circulated to all Members of Parliament, Senators and their staff. Mr. Cullen characterized this letter as offensive and a personal attack on Ms. Borg. Unanimous consent to table the document was denied.[1] On December 9, 2013, Ms. Borg rose on a question of privilege stating that intimidation, obstruction and interference in the work of any Member of Parliament are considered to be a breach of privilege against that Member and to be a contempt of Parliament. She argued the damage that Senator Dagenais did to her reputation with this letter could undermine her work as a Member of Parliament and, therefore, hurt her constituents. The Acting Speaker (Barry Devolin) took the matter under advisement.[2] On December 10, 2013, Tom Lukiwski (Parliamentary Secretary to the Leader of the Government in the House of Commons) argued that the Senator was also a constituent of Ms. Borg and that the letter was sent in response to a householder she distributed. He added that Ms. Borg did not refer to any proceedings in Parliament for which she was obstructed or intimidated and that Members cannot claim privilege to protect them from external criticism. Mr. Cullen responded that the letter by the Senator was a coordinated effort that must be taken seriously.[3]

1. *Debates*, December 6, 2013, pp. 1896–7.
2. *Debates*, December 9, 2013, pp. 1907–8.
3. *Debates*, December 10, 2013, pp. 1981–2.

Resolution

The Speaker delivered his ruling on January 28, 2014. He stated that, while these kinds of statements have the potential to be damaging, in this case, there was no direct link between the statements and a proceeding of Parliament. Thus, unable to find that the Member had been impeded in fulfilling her parliamentary duties, the Speaker concluded that it was not a prima facie question of privilege.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the question of privilege raised by the Member for Terrebonne—Blainville on December 9.

I would like to thank the hon. Member for raising the question, as well as the hon. House Leader of the Official Opposition and the Parliamentary Secretary to the Government House Leader for their interventions on the matter.

The hon. Member for Terrebonne—Blainville has shared with the House her view that a letter widely distributed by Senator Dagenais has unjustly impugned her character and reputation. She also decried what she described as the belittling, sexist, misogynistic, personal, and hostile tone of the letter. Finally, citing *House of Commons Procedure and Practice*, [Second Edition], she called on me to find a prima facie question of privilege on the grounds that this attack on her reputation constituted an impediment to her ability to perform her parliamentary functions.

The Chair is of course cognizant that these sorts of communications, whatever their origin, always have the potential to be hurtful and damaging, but the Chair is also obliged to assess such situations in the light of parliamentary precedent.

O'Brien and Bosc, at page 109, contains a passage that illustrates that a direct link must exist between the situation giving rise to the complaint and the ability of Members to perform their parliamentary functions:

> In order to find a prima facie breach of privilege, the Speaker must be satisfied that there is evidence to support the Member's claim that he or she has been impeded in the performance of his or her parliamentary functions and that the matter is directly related to a proceeding in Parliament. In some cases where prima facie privilege has not been found, the rulings have focused on whether or not the parliamentary functions of the Member were directly involved.

In the current case, the Member herself cited a ruling by Speaker Fraser that stresses the importance of the link to the performance of parliamentary functions and distinguishes between statements made in the House and statements made outside. Clearly, the communication which has given rise to this situation did not occur on the floor of the House, and so the normal channels remain available to the Member.

Speaker Milliken, in a ruling given in February 2009, said as much. There are, in fact, many Speakers' rulings in a similar vein, as has been noted.

Without minimizing the seriousness of the complaint or dismissing the response by the hon. Member, it is difficult for the Chair to determine, given the nature of what has occurred, that the Member is unable to carry out her parliamentary duties as a result. Accordingly, the Chair must conclude that there is no prima facie question of privilege.

That being said, as the Member herself has pointed out, she has the same recourse as any other citizen faced with attacks on her reputation or attacks she considers defamatory. That is a decision she will have to make. In the meantime, the Chair is constrained by the many precedents that establish that a direct link with parliamentary functions is essential in such cases.

I thank the House for its attention.

PARLIAMENTARY PRIVILEGE

RIGHTS OF MEMBERS

Freedom from obstruction: lack of adequate interpretation services during a technical briefing on legislation

March 3, 2014
Debates, **pp. 3429–30**

Context

On February 6, 2014, Pierre-Luc Dusseault (Sherbrooke) rose on a question of privilege with respect to the lack of adequate interpretation provided during a technical briefing on Bill C-23, *An Act to amend the Canada Elections Act and other Acts and to make consequential amendments to certain Acts*, alleging that it prevented Members from fully participating in the debate on the Bill. Pierre Poilievre (Minister of State (Democratic Reform)) indicated that, although there were no professional interpreters, representatives of the Privy Council Office present were able to provide the presentation, as well as all information sheets, press releases and the Bill itself in English and French. After hearing from other Members on that day and on February 7, 2014, the Speaker took the matter under advisement.[1]

Resolution

On March 3, 2014, the Speaker delivered his ruling. He explained that activities related to the seeking of information to participate in debate on a bill do not fall within the strict definition of what constitutes a proceeding in Parliament and, therefore, are not protected by privilege. The Speaker also stated that it is beyond the purview of the Chair to intervene in departmental matters. While, acknowledging the legitimacy of the Member's grievance, the Speaker concluded however that the situation did not constitute a prima facie breach of privilege.

1. *Debates*, February 6, 2014, pp. 2675–8, February 7, 2014, pp. 2748–9.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the question of privilege raised on February 6, 2014, by the Member for Sherbrooke regarding a technical briefing offered by the Minister of State in relation to Bill C-23, *An Act to amend the Canada Elections Act and other Acts and to make consequential amendments to certain Acts*.

I would like to thank the hon. Member for Sherbrooke for having raised this matter, as well as the Minister of State for Democratic Reform, the hon. House Leader for the Official Opposition, and the Members for Ottawa—Vanier, Charlesbourg—Haute-Saint-Charles, and York South—Weston for their interventions.

The Member for Sherbrooke explained that, at the technical briefing he attended on Tuesday, February 4 on Bill C-23, the interpretation provided was often inadequate and, as he described it, "[a]t times, there was little or no interpretation or it was of poor quality." This, he felt, had the effect of preventing parliamentarians from participating fully in subsequent debate on the Bill.

The Member went on to note that the protection of official languages in the House is fundamental to ensuring equality among all Members.

For his part, the Minister of State for Democratic Reform recognized that no professional interpreters were present for the briefing, but claimed that parliamentarians had been provided all information in both official languages, including the presentation, information sheets, press releases, and the bill itself.

As has been pointed out by the Member for Sherbrooke, the guarantee of access to and use of both official languages in parliamentary proceedings, in the record-keeping of those proceedings and in legislation is no less than a constitutional requirement—a cornerstone of our parliamentary system. As your Speaker, it remains one of my principal responsibilities to ensure that Members are not impeded in their ability to carry out their parliamentary functions and that their rights and privileges are safeguarded.

In the case of official languages, the House has a long-standing practice of ensuring the availability of professional interpreters during House and committee proceedings. Indeed, this practice extends to many other activities, such as caucus meetings, briefings or any number of parliamentary activities and events. In such cases, if interpreters are not present, the activity is delayed until they arrive, or, if they are not available, the activity is rescheduled. Likewise, if a technical problem arises with the equipment, proceedings are suspended until the issue is resolved. Members will be familiar with this as it has sometimes happened here in the House.

To the Chair's knowledge, during Government-sponsored activities, similar norms are observed. This is illustrated in a case brought to the attention of the House on October 23, 2013, when a technical briefing on a budget implementation bill was organized but cancelled when it became apparent that no simultaneous interpretation was available. In the *Debates* for that date, at page 303, the Government House Leader apologized to the House, and stated that:

> …arrangements have been made to reschedule this meeting and to hold it properly in both official languages with that capacity available for everyone. It is certainly the expectation of this government that all business be properly conducted in both official languages.

Clearly, in that case, the Government viewed the absence of professional simultaneous interpreters as a serious matter.

When a situation is brought to the Chair's attention, it must be assessed within the somewhat narrow confines of parliamentary procedure and precedents. In this case, the Member for Sherbrooke is asking the Chair to find that problems with interpretation prevented Members from being able to access departmental information and that this constitutes a prima facie breach of privilege.

To arrive at such a conclusion, the Chair must assess whether the Member has been obstructed in the discharge of his responsibilities in direct relation to proceedings in Parliament.

House of Commons Procedure and Practice, Second Edition, at page 109, states:

> In order to find a prima facie breach of privilege, the Speaker must be satisfied that there is evidence to support the Member's claim that he or she has been impeded in the performance of his or her parliamentary functions and that the matter is directly related to a proceeding in Parliament.

In addition, at page 111, it indicates that:

> A Member may also be obstructed or interfered with in the performance of his or her parliamentary functions by non-physical means. In ruling on such matters, the Speaker examines the effect the incident or event had on the Member's ability to fulfill his or her parliamentary responsibilities.

The question before the Chair is simple: does attending a departmental briefing that was delivered without full interpretation meet that litmus test? Speaker Parent's ruling of October 9, 1997, is very instructive, when he states at page 688 of the *Debates*:

> ...activities related to the seeking of information in order to prepare a question do not fall within the strict definition of what constitutes a "proceeding in Parliament" and, therefore, they are not protected by privilege.

Today's case is analogous in that, whether a Member is seeking information in order to prepare a question or to participate in debate on a bill, the same fundamental definitions and principles apply. Whether a Member who is preparing to participate in proceedings—whether through a technical briefing or some other means—is not participating in the proceedings themselves. While such preparation is no doubt important, it remains ancillary to, rather than part of, Parliament's proceedings.

Furthermore, in this case a Government department is responsible for the situation which the Member decries. On this point, Speaker Bosley stated on May 15, 1985, at page 4769 of *Debates*:

> I think it has been recognized many times in the House that a complaint about the actions or inactions of government Departments cannot constitute a question of parliamentary privilege.

My own ruling of February 7, 2013 (**Editor's Note**: The ruling can be found on page 134.), reached the same conclusion, when at page 13869 of *Debates*, I stated:

> It is beyond the purview of the Chair to intervene in departmental matters or to get involved in government processes, no matter how frustrating they may appear to be to the Member.

The Chair must respect the strict confines of parliamentary privilege in reaching its decision. Therefore, while it appears that the hon. Member for Sherbrooke has a legitimate grievance, the Chair cannot conclude that this situation constitutes a prima facie breach of privilege.

That being said, this decision does not diminish Members' need for full and equal access to information about legislation nor does it discount the value placed on the provision of such information in both official languages.

While I cannot provide the Member for Sherbrooke a privilege-based parliamentary remedy to his grievance, he may wish to explore other means at his disposal by direct discussions with the Minister or raising the matter with the Commissioner of Official Languages.

I thank the House for its attention.

PARLIAMENTARY PRIVILEGE

RIGHTS OF MEMBERS

Freedom from obstruction: Member denied access to Parliamentary Precinct during the visit of a foreign dignitary; prima facie

September 25, 2014
Debates, **p. 7851**

Context

On September 25, 2014, Yvon Godin (Acadie—Bathurst) rose on a question of privilege alleging that his access to the Parliamentary Precinct had been obstructed earlier that day, while the bells were ringing for a vote, due to security measures for the visit of a foreign dignitary. After hearing from other Members, the Acting Speaker (Bruce Stanton) took the matter under advisement.[1]

Resolution

The Speaker delivered his ruling later in the sitting. He declared that the denial of access of Members to the Precinct is a critical issue and found that there were ample grounds on which to find a prima facie case of privilege. He invited Mr. Godin to move the appropriate motion.

DECISION OF THE CHAIR

The Speaker: I am now ready to rule on the question of privilege raised earlier today by the hon. Member for Acadie—Bathurst.

I also want to thank the hon. Members for Winnipeg North, Burnaby—New Westminster, Westmount—Ville-Marie, the Leader of the Government in the House of Commons, and the hon. Member for Saanich—Gulf Islands for their comments.

1. *Debates*, September 25, 2014, pp. 7836–8.

The denial of access by Members to the Precinct is a serious matter, particularly on a day when votes are taking place. There are many precedents to be found regarding incidents of this kind, including my own ruling of March 15, 2012 (**Editor's Note**: The ruling can be found on page 98.).

In view of that strong body of jurisprudence and given the information shared with the House by the numerous Members who have made interventions, I am satisfied that there are sufficient grounds for finding a prima facie matter of privilege in this case. I would like to invite the Member for Acadie—Bathurst to move his motion.

Postscript

Mr. Godin moved that the matter be referred to the Standing Committee on Procedure and House Affairs, and, after debate, the motion was adopted.[2] On March 26, 2015, in relation to the question of privilege, the Committee presented its Thirty-Fourth Report to the House.[3] The Committee recommended that, to mitigate against similar incidents occurring in the future, there should be improved planning, greater coordination between partners, and increased education and awareness on the part of both security services and Members. The Committee further recommended that the office of the Sergeant-at-Arms provide all Members with a phone number to call when there is an obstruction of their access to the Parliamentary Precinct. The Report was not concurred in.

2. *Debates*, September 25, 2014, pp. 7851–6.
3. *Journals*, March 26, 2015, p. 2289.

RIGHTS OF MEMBERS

Freedom from obstruction: Members denied access to the Parliamentary Precinct; prima facie

May 12, 2015
Debates, **pp. 13759–60**

Context

On April 30, 2015, Nathan Cullen (Skeena—Bulkley Valley) rose on a question of privilege, alleging that his privileges as a Member had been breached when he was denied access to the Parliamentary Precinct by an officer of the Royal Canadian Mounted Police (RCMP). He explained that he and several other Members were delayed in gaining access to the House for a vote when the shuttle bus they were on was denied timely access to the Parliamentary Precinct through the East Block entrance. In response, Peter Van Loan (Leader of the Government in the House of Commons) stated that the bus was delayed for only 74 seconds, which he characterized as a momentary delay that should not warrant the finding of a prima facie case of privilege. Other Members spoke to the matter and the Speaker took the matter under advisement.[1]

On May 8, 2015, Craig Scott (Toronto—Danforth) rose on a similar question, alleging that he had been prevented from accessing Centre Block by an RCMP officer that day due to the arrival of a visitor. After hearing from other Members, the Acting Speaker (Bruce Stanton) acknowledged that a similar issue was being considered and that this matter would also be taken under advisement.[2]

1. *Debates*, April 30, 2015, pp. 13290–5, May 1, 2015, pp. 13344–6, May 4, 2015, pp. 13392–6.
2. *Debates*, May 8, 2015, pp. 13672–4.

Resolution

On May 12, 2015, the Speaker delivered his ruling on both questions of privilege. He reiterated that Members not only require, but are entitled access to the Parliamentary Precinct at all times and that such matters should not be considered solely on basis of the length of the delay. Acknowledging the various changes to the security environment within the Precinct, he stated that heightened security measures cannot override Members' privileges. In view of the importance of this issue to all Members, he concluded that the broader subject matter of the right of access of Members did merit immediate consideration. Consequently, the Speaker found that there was a prima facie breach of privilege and he invited Mr. Scott to move his motion.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the questions of privilege raised on April 30, 2015, by the Member for Skeena—Bulkley Valley and on May 8, 2015, by the Member for Toronto—Danforth regarding the delays they and other Members experienced in gaining access to Parliament Hill.

I would like to thank the Members for having raised this matter, as well as the Leader of the Government in the House of Commons, the House Leader of the Official Opposition, the Parliamentary Secretary to the Leader of the Government in the House of Commons, and the Members for Saanich—Gulf Islands, London—Fanshawe, Winnipeg North, Hamilton Centre, Ottawa—Vanier, Charlesbourg—Haute-Saint-Charles, Saint-Lambert and Northumberland—Quinte West for their comments.

Before we start to look at the issues that were raised, the Chair would like to take a few seconds to deal with the comments on the timing of questions of privilege.

Some Members alluded to the fact that some interventions were made at a very specific moment in order to delay or prevent business. I am sure all Members would agree that it would be unfortunate for a subject as important as parliamentary privilege and the right of access of Members to be trivialized

in any way, either by raising what some might call "nuisance" questions of privilege or by quickly dismissing outright such claims of privilege simply because they are perceived to be impeding the normal course of business.

In raising his question of privilege, the Member for Skeena—Bulkley Valley explained that, on April 30, he and several other Members were attempting to access the Parliamentary Precinct through the East Block entrance in order to attend a vote in the House when the shuttle bus they were on was stopped temporarily by an RCMP officer. While acknowledging the need to keep Parliament secure, the Member insisted that this physical obstruction constituted a denial of reasonable, timely access to the Parliamentary Precinct, thereby impeding him from performing his parliamentary duties and constituting a breach of privilege.

The Leader of the Government in the House of Commons claimed that, since the RCMP had determined that the bus in question had been delayed for only 74 seconds, this case amounted to no more than a momentary delay, which does not qualify as a breach of the privileges of the House. He contended that, while denial of access to the Precinct is indeed a breach of Members' privileges, a delay should not be considered as such unless it is a significant one. Calling for a measured, reasonable perspective, the Government House Leader explained that the privilege of access to the Parliamentary Precinct is not an unqualified right, and that issues of safety and security may temper this right of access in certain situations.

Then on May 8, 2015, the Member for Toronto—Danforth complained of delayed access to Centre Block that day by an RCMP officer. He noted that the officer had received orders to stop all individuals from entering while a delegation of VIPs accessed the building, orders which made no distinction between the rights of Members of Parliament and those of the general public. Maintaining the length of the delay was irrelevant, the Member for Toronto—Danforth contended that this incident also constituted a breach of privilege.

To begin, I will remind the House of the well-defined, albeit limited, role of the Chair in determining matters of privilege. [O'Brien and Bosc], at page 141, states:

> Great importance is attached to matters involving privilege. ...The function of the Speaker is limited to deciding whether the matter is of such a character as to entitle the Member who has raised the question to move a motion which will have priority over Orders of the Day; that is, in the Speaker's opinion, there is a prima facie question of privilege. If there is, the House must take the matter into immediate consideration. Ultimately, it is the House which decides whether a breach of privilege or a contempt has been committed.

The two incidents now before the House have served as a clear reminder that Members not only require but are entitled to access to the Parliamentary Precinct at all times, without interference. This is uncontested.

In 2004, the Standing Committee on Procedure and House Affairs, having considered a question of privilege related to the physical obstruction of Members, stated in its Twenty-First Report:

> The denial of access to Members of the House—even if temporary—is unacceptable, and constitutes a contempt of the House. Members must not be impeded or interfered with while on their way to the Chamber, or when going about their parliamentary business. To permit this would interfere with the operation of the House of Commons, and undermine the pre-eminent right of the House to the service of its Members.

In listening to the submissions of Members on this issue, it is clear to the Chair that the larger issue of security in the Parliamentary Precinct is a major preoccupation for Members, one that informs their perspective on individual incidents and that now looms large given the changing security environment on Parliament Hill as a result of the events of October 22, 2014.

Following those events, Members will recall that I ordered a comprehensive review of our security systems and procedures. Parliamentary security operations have since been tightened and have continued to evolve, leading up to the Senate and House's decision to unify the protective services in November 2014. Then on February 16, 2015, the House adopted a motion calling on the Speaker of the House, in coordination with the Speaker of the Senate:

> ...to invite, without delay, the Royal Canadian Mounted Police to lead operational security throughout the Parliamentary Precinct and the grounds of Parliament Hill, while respecting the privileges, immunities and powers of the respective Houses, and ensuring the continued employment of our existing and respected Parliamentary Security staff.

That the House chose to make this decision is not a matter for the Chair to comment on, other than to say that from a procedural standpoint the motion was taken up by the House in accordance with our rules and practices and remains a valid decision, which the Speaker is bound to implement.

Since then, considerable progress has been made toward arriving at an agreement to have the RCMP lead physical security services throughout the Parliamentary Precinct and Parliament Hill. Yet there is no denying that ensuring the security, in a changed world and in a changed arrangement, for all who enter the Parliamentary Precinct, is going to present some challenges as we transition to the new security regime. However, none of this obviates what I stated in my ruling of March 15, 2012, where I confirmed the importance of Members' right of access to the Precinct. I stated at page 6333 of *Debates* (**Editor's Note**: The ruling can be found on page 98.):

> ...the implementation of security measures cannot override the right of Members to unfettered access to the Parliamentary Precinct, free from obstruction or interference.

As Speaker, it is my role to support the House and its Members as we proceed with various changes to our security arrangements. This includes, but is not limited to, ensuring that any and all changes uphold the privileges, immunities, and powers of the House, as has always been the case.

Several Members have expressed concern that a heightened level of security could lead to more incidents where Members are unnecessarily impeded as they carry out or attempt to carry out their parliamentary duties. The incidents raised by the Members for Skeena—Bulkley Valley and Toronto—Danforth have certainly served to highlight those broader concerns.

I would like to assure all hon. Members that protecting the rights and privileges of the House and of its Members is a priority for me as our security forces continue to work in close partnership in order to provide a safe environment for all Members, parliamentary staff, and visitors to the Hill.

The Standing Committee on Procedure and House Affairs, in its Thirty-Fourth Report regarding the free movement of Members of Parliament within the Parliamentary Precinct, summed up the challenge when it stated:

> Cases of privilege in which Members have had their right to unimpeded access to the Parliamentary Precinct denied have occurred in the recent past with all too great a frequency. The Committee considers the best solution to this issue to be improved planning, greater coordination between partners, and increased education and awareness of security services and Members.

As your Speaker, I can only agree. In fact, I recently had occasion to discuss this challenge with Commissioner Paulson, who agrees that all protective personnel need to know the community they serve. They need to be sensitive and responsive to the community they serve, and they need to be familiar with the expectations of the community they serve. This includes having the primary function of this place top of mind as they go about performing their duties.

At the same time, we as Members need to be mindful that increased security does require adjustments. It may mean that Members will notice changes that will make the grounds and buildings safer while still ensuring that they can carry out their work.

This is consistent with the ruling I delivered on March 15, 2012, in which I stated:

> As we all know, the Parliamentary Precinct and its buildings exist primarily to support the functions of the legislative branch. The Centre Block in particular, housing as it does the House of Commons and Senate Chambers, is a working building where parliamentary proceedings are carried out and where Members must be free to perform their duties without interference even when other activities are taking place. Needless to say, these heritage buildings, especially Centre Block, are also ideal venues for all sorts of events and we are all proud to showcase them for our distinguished visitors. However...extra care is needed to ensure that competing requirements regarding the use of the buildings and Precinct are understood, with due accommodations and with the proper balance.

In this light, emphasizing the notion of balance, questions raised by the Leader of the Government in the House of Commons are pertinent with regard to defining what constitutes an impediment to unfettered access for Members to the Parliamentary Precinct and buildings. It would indeed be unfortunate for Members to carry the concept of physical obstruction to illogical and unreasonable lengths. However, I would caution that the House ought not either to fall into the trap of assessing these matters on the sole basis of the duration of a delay or impediment. One can easily imagine a situation where even a very brief obstruction, depending on its severity or nature, could lead a Speaker to arrive at a prima facie finding of privilege and to allow a debate in the House.

Therefore, for these reasons and given the arguments presented by hon. Members and in view of the vital importance of this issue to all Members, particularly in this current context, I have concluded that the broader subject matter of the rights of access of Members merits immediate consideration. I have come to this conclusion so that the House has the opportunity to hear the views of Members on the balance that must be struck between the need for reasonable and timely access to the House for Members and the support and guidance this House can provide to its security partners. This contribution will be important as we continue to navigate the transition with which we will be faced in the coming months.

Accordingly, I will now invite the Member for Toronto—Danforth to move his motion.

Postscript

Mr. Scott moved that both questions of privilege be referred to the Standing Committee on Procedure and House Affairs. After debate, the question was put on the motion and it was defeated.[3]

3. *Journals*, May 12, 2015, pp. 2519–20.

PARLIAMENTARY PRIVILEGE

RIGHTS OF MEMBERS

Freedom from obstruction and interference: alleged misleading calls from a political party to constituents

December 13, 2011
Debates, **pp. 4396–8**

Context

On November 16 and 22, 2011, Irwin Cotler (Mount Royal) rose on a question of privilege regarding telephone calls being made to constituents in his riding, as well as in the Westmount—Ville-Marie constituency asking if they would support the Conservative party in the impending, if not imminent, by-election. Mr. Cotler argued that the misleading calls left constituents with the impression that he was resigning, which undermined his relationship with constituents, overshadowed his work and ultimately interfered with his ability to discharge his functions as a Member of Parliament. Several other Members made statements, and the Speaker took the matter under advisement.[1] On November 29, 2011, John Williamson (New Brunswick Southwest) indicated that the calls were being used to identify potential voters and were part of routine political discourse and did not constitute a breach of Mr. Cotler's privileges. Mr. Williamson stated that no parliamentary resources were used and that the conduct of political parties should not be judged by the House or by its Members and that the best place for this to be judged is among Canadians.[2] Mr. Williamson and Mr. Cotler clarified their comments in the following days and other Members made comments. The Speaker again took the matter under advisement.[3]

1. *Debates*, November 16, 2011, pp. 3156–8, November 22, 2011, pp. 3413–5.
2. *Debates*, November 29, 2011, pp. 3698–704.
3. *Debates*, December 5, 2011, pp. 4002–3, December 7, 2011, pp. 4134–6.

Resolution

On December 13, 2011, the Speaker delivered his ruling, affirming the importance the Chair places on safeguarding the rights and privileges of Members. The Speaker reiterated that the rights and immunities of individual Members can be breached by a wide range of actions and that such actions are not limited to actions taken in the House or actions involving the use of House resources. He reminded Members that, while there is no limit as to the types of actions that can be viewed as a breach of a Member's rights, there are strict limits on the power of the Speaker in determining matters of privilege. Though he stated that Mr. Cotler had a legitimate grievance, the Speaker could not conclude that he had been unable to carry out his parliamentary duties as a result of the situation. Therefore, he ruled that there was no prima facie case of privilege.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the question of privilege raised on November 16, 2011, by the hon. Member for Mount Royal regarding the negative impact an organized telephone campaign survey conducted in his constituency has had on his work and reputation.

I would like to thank the hon. Member for Mount Royal for having raised this important matter, having responded to the comments of other Members and having provided the Chair with additional material in support of his allegations. The Chair would also like to thank the Government House Leader, the House Leader of the Official Opposition and the Members for Richmond—Arthabaska, Saanich—Gulf Islands and Humber—St. Barbe—Baie Verte for their comments as well as the Member for New Brunswick Southwest for his interventions.

In presenting his case, the hon. Member for Mount Royal states that several constituents had contacted him about survey calls they had received from a telephone number identified as Campaign Research Inc., asking if they would support the Conservative Party in the "impending, if not imminent, by-election".

He has also informed the House that similar calls were placed to citizens in the Westmount—Ville-Marie constituency. The hon. Member for Mount Royal stated that this telephone campaign led his constituents and other voters to think that he had deserted his post, and overshadowed his parliamentary work. Noting that the House has the right to the services of its Members free from intimidation, obstruction and interference, he claimed that the confusion created among his electors was damaging his reputation and his credibility.

In the case before us, no one disputes the fact that there is no pending by-election. Yet the hon. Member for Mount Royal explains that he has been put in an ambiguous situation through this telephone campaign. He says:

> Simply put, how am I, or any Member, to effectively represent a constituency if the constituents are led to believe that the Member is no longer their elected representative? How can one correct the confusion and prejudicial damage that has been done in the minds of those who may think I am no longer their representative in Parliament or no longer discharging my duties?

To support his argument, the Member cited a ruling of Speaker Bosley, as found on page 4439 of the *Debates* of May 6, 1985, which states:

> It should go without saying that a Member of Parliament needs to perform his functions effectively and that anything tending to cause confusion as to a Member's identity creates the possibility of an impediment to the fulfilment of that Member's functions. Any action which impedes or tends to impede a Member in the discharge of his duties is a breach of privilege.

The Chair finds striking the repeated emphasis that the Member has placed on the importance of this issue not only for himself but for all Members. This point has also been stressed by other Members who intervened. Because of the Chair's primordial concern for the preservation of the privileges of all Members, this is a matter worthy of serious consideration. As your Speaker,

one of my principal responsibilities is to ensure that the rights and privileges of Members are safeguarded, and this is a responsibility I take very seriously.

The Member for New Brunswick Southwest argues, on the contrary, that the House should not even be seized of this question because "...it lies outside its authority". He claims that:

> …the...conduct of political parties should not be judged by the House or by its Members....The best place for this to be judged is among Canadians, not in the House.

The Chair has no doubt that Canadians are indeed judging this matter, just as they are constantly judging this House by what happens here and what is said here and by the attitude that Members display toward one another.

It does not matter that the resources of the House of Commons itself were not used to carry on this particular campaign. On this point, let me point out that the rights and immunities of individual Members can be breached by a wide range of actions and that such actions are not limited, as has been suggested, to actions taken in the House or actions involving the use of House resources.

At the same time, in listening to the arguments on this question, I have seen that a certain confusion seems to exist with regard to the extent of the powers of the Speaker in dealing with questions of privilege. Several Members have ascribed to the Chair seemingly vast powers that neither I nor my predecessors have ever possessed. The role of the Chair is actually very limited, as the hon. Member for Mount Royal has himself pointed out, citing O'Brien and Bosc, at page 145:

> …the issue put before the Speaker is not a finding of fact, it is simply whether on first impression the issue that is before the House warrants priority consideration over all other matters, all other orders of the day that are before the House.

In cases where a Member alleges that he has experienced interference in the performance of his parliamentary duties, the Speaker's task is particularly difficult. As O'Brien and Bosc states at page 111:

> It is impossible to codify all incidents which might be interpreted as matters of obstruction, interference, molestation or intimidation and as such constitute prima facie cases of privilege.

Furthermore, in ruling on questions of privilege of this kind, the Chair is obliged to assess whether or not the Member's ability to fulfill his parliamentary functions has been undermined. *House of Commons Procedure and Practice*, Second Edition, at page 109, notes that my predecessors have stressed the importance of establishing a direct link to parliamentary duties in such cases, stating that:

> …rulings have focused on whether or not the parliamentary functions of the Member were directly involved. While frequently noting that Members raising such matters have legitimate grievances, Speakers have consistently concluded that Members have not been prevent from carrying out their parliamentary duties.

In the Bosley decision cited by the Member for Mount Royal, the Speaker was confronted with a situation where the former Member of Parliament was identified in a print advertisement as the sitting Member: the very identity of the sitting Member was at issue.

In the case at hand, the Chair is entirely sympathetic to the situation faced by the Member for Mount Royal. There is no doubt that he has been bombarded by telephone calls, emails and faxes from concerned and confused constituents. However, the Chair has great difficulty in concluding that the Member has been unable to carry out his parliamentary duties as a result of these tactics. The Member for Mount Royal has been extremely active in the House and in committee. By raising the matter in the House as he has done, the hon. Member has brought attention to a questionable form of voter identification practice and described in detail the negative impact it has

had. Indeed, his interventions here in the House on this very question have garnered, as he himself points out, extensive sympathetic coverage in media across the country.

In a ruling delivered on August 12, 1988, *Debates*, page 18272, Speaker Fraser stated that:

> Past precedents are highly restrictive...and generally require that clear evidence of obstruction [or] interference with [a] Member in the exercise of his or her duty be demonstrated in order to form the basis for a claim of a breach of privilege.

Speaker Milliken, in a ruling from February 12, 2009, also stressed this point:

> …adjudicating questions of privilege of this kind, the Speaker is bound to assess whether or not the Member's ability to fulfill his parliamentary functions effectively has been undermined.

As I considered the Member for Mount Royal's case, a second ruling by Speaker John Fraser has resonated particularly for me. On May 5, 1987, Speaker Fraser concluded:

> Given all the circumstances in this case, I am sure that the Minister's capacity to function as a Minister and Member of this House is in no way impaired. I point out to hon. Members that this is the real issue of privilege, although there are obviously other matters that surround the particular facts in this case....the Chair has to look very carefully at the exact point of privilege.

In today's case, too, the so-called surrounding matters have given me pause. I am sure that all reasonable people would agree that attempting to sow confusion in the minds of voters as to whether or not their Member is about

to resign is a reprehensible tactic and that the hon. Member for Mount Royal has a legitimate grievance.

I would hope that his airing of this grievance and the discussions this case has provoked—here in the House and in the media—will lead to two results. On the one hand, managers of legitimate exercises in voter identification should be more careful in the information they disseminate to the people they contact. On the other hand, Canadians contacted this way should be more wary and judge more critically any information presented to them by unsolicited callers.

I can understand how the Member for Mount Royal and others are seeking relief from the climate of cynicism, not to say contempt, about parliamentary institutions and practice that seem to prevail. But I fear that such relief is not within my gift: the Speaker's powers in these matters are limited, as my predecessors have repeatedly stated.

The words of Speaker Fraser in a ruling of December 11, 1991, seem particularly apt in these circumstances:

> The Chair can devise no strategy, however aggressive or interventionist, and can imagine no codification, however comprehensive or strict, that will as successfully protect the Canadian parliamentary traditions that we cherish as will each Member's sense of justice and fair play. Especially at this time of crisis of confidence in our parliamentary institutions, our constituents deserve and will tolerate no less.

Accordingly, after studying the precedents in these matters, I am not able on technical grounds to find that a prima facie case of privilege exists in this case.

I would like once again to thank the hon. Member for Mount Royal for bringing this serious and important matter to the attention of the House and of Canadians.

PARLIAMENTARY PRIVILEGE

RIGHTS OF MEMBERS

Freedom from obstruction and interference: Government alleged to have blocked access to information

February 7, 2013
Debates, **pp. 13868–9**

Context

On January 31, 2013, Mauril Bélanger (Ottawa—Vanier) rose on a question of privilege arising from his efforts to obtain information from Public Works and Government Services Canada. Mr. Bélanger charged that government procedures requiring elected officials to seek public information through the Minister's office, while ordinary citizens could obtain the same information directly from the department, created an inequality of access to information between government and opposition Members. He claimed that these procedures impeded him from carrying out his duties as a Member, particularly as he required the information in preparation for Oral Questions. Other Members made comments on that day and on February 1, 2013.[1] On February 4, 2013, Tom Lukiwski (Parliamentary Secretary to the Leader of the Government in the House of Commons) contended that matters of a constituency-related nature were not matters of privilege and suggested the best way for Members to obtain information from the government was by way of oral or written questions. The Speaker took the matter under advisement.[2]

Resolution

The Speaker delivered his ruling on February 7, 2013. He confirmed that parliamentary privilege applies only in instances where Members are participating in what is deemed to be proceedings in Parliament and that constituency work or preparing to ask an oral question is not considered

1. *Debates*, January 31, 2013, pp. 13526–7, February 1, 2013, pp. 13575–6.
2. *Debates*, February 4, 2013, pp. 13632–3.

to be a parliamentary proceding. He further stated that while the Member may have a legitimate grievance, it was beyond the purview of the Chair to intervene in departmental matters or government processes. Accordingly, the Chair could not conclude that Mr. Bélanger had been impeded in the performance of his parliamentary duties, and thus found that no prima facie breach of privilege had occurred.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the question of privilege raised on January 31, 2013, by the hon. Member for Ottawa—Vanier regarding the procedures of the Department of Public Works and Government Services Canada with respect to providing information to Members of Parliament.

I would like to thank the hon. Member for Ottawa—Vanier for having raised this matter, as well as the hon. Leader of the Government in the House of Commons, the hon. Opposition House Leader and the hon. Parliamentary Secretary to the Leader of the Government in the House for their comments.

The hon. Member for Ottawa—Vanier charged that Government procedures requiring elected officials to seek public information through the Minister's office, while ordinary citizens could obtain the very same information directly from the department, impeded him from carrying out his duties as a Member, particularly as this information was required for him to prepare to ask questions during question period. He worried that it was the Government's intention to make it difficult if not impossible for him to serve his constituents.

The Member further stated that he believed this disparity in procedures was being applied in such a manner so as to create an inequality of access to information between Government Members and opposition Members.

The Parliamentary Secretary expressed the view that constituency-related duties of a Member are not covered by parliamentary privilege and suggested that there are other ways for the Member to obtain the information that he is seeking, namely through written and oral questions.

Given that a Member's access to accurate and timely information is an essential cornerstone of our parliamentary system, it is perhaps not surprising that, in the past, other Members have raised very similar concerns about access to departmental information.

Simply put, the question of privilege raised by the hon. Member for Ottawa—Vanier raises the question of whether an alleged interference with a Member's ability to access departmental information in a timely and equitable manner constitutes a prima facie breach of privilege.

When the hon. Member first raised this matter, he spoke of the need to have a, "level playing field of access to information for the benefit of the constituents we have been elected to represent".

A careful review of various precedents on the issue of whether parliamentary privilege covers a Member's constituency responsibilities reveals that Speakers have been quite categorical in stating that parliamentary privilege applies only in instances where Members were participating in what is deemed to be a parliamentary proceeding. On October 9, 1997, at page 689 of *Debates*, Speaker Parent explained:

> The Chair is mindful of the multiple responsibilities, duties and constituency related activities of all Members and of the importance they play in the work of every Member of Parliament. However, my role as your Speaker is to consider only those matters that affect the parliamentary work of Members.

In the same ruling, Speaker Parent added, at page 688 of *Debates* that:

> In order for a Member to claim that his privileges have been breached or that a contempt has occurred, he or she must have been functioning as a Member at the time of the alleged offence, that is, actually participating in a proceeding of Parliament. The activities of Members in their constituencies do not appear to fall within the definition of a "proceeding in Parliament".

In a ruling on a similar matter on February 4, 2008, which can be found at page 2540 of the *Debates*, Speaker Milliken came to the same conclusion. Other Speakers have likewise had occasion to clearly define what constitutes parliamentary work or a proceeding in Parliament.

The hon. Member for Ottawa—Vanier did in fact attempt to make that very link to the proceedings in Parliament when he said that he needed the information in question as part of his work in preparing to ask a question during question period. It is the view of the Chair that this falls short of established definitions of parliamentary work. Again, Speaker Parent's October 9, 1997, ruling is very instructive in this regard. He stated at page 688 of the *Debates* that:

> After careful consideration of the precedents, I conclude that activities related to the seeking of information in order to prepare a question do not fall within the strict definition of what constitutes a "proceeding in Parliament" and, therefore, they are not protected by privilege.

For his part, the Opposition House Leader reminded the House of Speaker Bosley's ruling on May 15, 1985, at page 4769 of *Debates*, in which he declared:

> I think it has been recognized many times in the House that a complaint about the actions or inactions of Government Departments cannot constitute a question of parliamentary privilege.

This is not to say that the hon. Member does not have a legitimate grievance or that the departmental response and process that he encountered does not warrant review, if only for its apparent inefficiency. The Member may wish to approach the Minister to see if a satisfactory accommodation is possible. In addition, as Speaker Milliken once suggested in a similar case, the Member could also seek to have the appropriate standing committee inquire about the departmental procedures in place to assist Members of Parliament in seeking information with a view to making recommendations for improvement.

However, as Speaker, I am obliged to assess situations of this kind within the strict parameters that flow from our precedents and usages as they relate to parliamentary privilege. It is beyond the purview of the Chair to intervene in departmental matters or to get involved in Government processes, no matter how frustrating they may appear to be to the Member.

Accordingly, in keeping with the precedents cited, the Chair cannot conclude that the Member for Ottawa—Vanier has been impeded in the performance of his parliamentary duties and thus I cannot find that a prima facie breach of privilege has occurred.

I thank all Members for their attention on this matter.

PARLIAMENTARY PRIVILEGE

RIGHTS OF MEMBERS

Freedom from obstruction and interference: Member alleged to have misrepresented himself in an advertisement

March 27, 2014
Debates, **pp. 3961–2**

Context

On March 24, 2014, Isabelle Morin (Notre-Dame-de-Grâce—Lachine) rose on a question of privilege. She alleged that, by placing an advertisement in a local newspaper inviting constituents from several ridings to meet with him to discuss local issues, Marc Garneau (Westmount—Ville-Marie) was trying to falsely present himself as their Member of Parliament, which had an impact on her ability to represent her constituents. Other Members made comments and the Speaker reserved his decision.[1] On March 25, 2014, Mr. Garneau responded that he had clearly identified himself in the advertisement as the Member of Parliament for his riding and that, as a large number of his constituents live in the area where the local newspaper was distributed, his attempts to contact them were legitimate. Another Member also spoke to the matter.[2]

Resolution

On March 27, 2014, the Speaker delivered his ruling. He stated that he found no indication that Mr. Garneau had misrepresented himself in the advertisement, distorted the truth in any way, or created any confusion in the minds of the constituents, nor that the Member raising the issue was impeded in the performance of her functions. Accordingly, he concluded that the matter did not constitute a prima facie question of privilege.

1. *Debates*, March 24, 2014, pp. 3756–8.
2. *Debates*, March 25, 2014, pp. 3844–5.

DECISION OF THE CHAIR

The Speaker: I am now ready to rule on the question of privilege raised on March 24, 2014, by the hon. Member for Notre-Dame-de-Grâce—Lachine regarding recent advertisements issued by the hon. Member for Westmount—Ville-Marie.

I would like to thank the hon. Member for raising the question, as well as the hon. House Leader of the Official Opposition and the hon. Members for Beauséjour and for Westmount—Ville-Marie for their interventions on this matter.

On March 24, the hon. Member for Notre-Dame-de-Grâce—Lachine explained that, recently, advertisements were published in local newspapers by the hon. Member for Westmount—Ville-Marie inviting readers to meet with him at a public discussion of their concerns. She noted that the invitation covered not only his riding of Westmount—Ville-Marie but also her riding of Notre-Dame-de-Grâce—Lachine and the riding of Montreal West. The Member went on to contend that this invitation was an implicit attempt by the Member for Westmount—Ville-Marie to present himself as the Member of Parliament for Notre-Dame-de-Grâce and Montreal West, and that the advertisement interfered with her work as the Member of Parliament in her riding. Furthermore, she argued that she viewed the advertisement as a means to target future voters, which breaches House rules prohibiting the use of House resources for election purposes.

In response, the Member for Westmount—Ville-Marie questioned the Member's claim that he had misrepresented himself to others, noting that, in fact, the newspaper in question, the NDG *Free Press*, is distributed in both ridings and he had very clearly indicated in the advertisement which riding he represents. He also held [that since] their ridings are adjacent and therefore share common preoccupations, it was entirely acceptable to invite all citizens to discuss common priorities.

As all Members know, to declare a matter to be a prima facie case of privilege, it is essential to demonstrate precisely how a Member has been prevented from fulfilling his or her parliamentary duties.

O'Brien and Bosc states at page 109 that:

> In order to find a prima facie breach of privilege, the Speaker must be satisfied that there is evidence to support the Member's claim that he or she has been impeded in the performance of his or her parliamentary functions and that the matter is directly related to a proceeding in Parliament.

A Speaker Milliken ruling from 2004 has been touted as a relevant precedent in this case. On closer examination, however, Members will find that Speaker Milliken's decision in that case hinged on an issue of false misrepresentation.

In this case, however, I have carefully reviewed the advertisement in question and I see that the advertisement makes perfectly clear that the invitation is being issued by the Member for Westmount—Ville-Marie. Indeed, the Member for Notre-Dame-de-Grâce—Lachine herself acknowledged that the Member for Westmount—Ville-Marie did not actually misrepresent himself as the Member for Notre-Dame-de-Grâce—Lachine.

She also stated that:

> Working on community relations in one's own riding and outside of it is certainly part of a political representative's job.

Members and indeed all Canadians will recognize the truth and significance of that statement, as did the Member for Westmount—Ville-Marie when he stated that:

> ...the interests of our constituents should be our common priority.

The Member for Notre-Dame-de-Grâce—Lachine will know that it is not at all unusual for Members not only to communicate with but also to visit the constituents of their colleagues. For example, just a few weeks ago, her colleague, the Member for Welland, happened to visit the town of Raymore in my own constituency of Regina—Qu'Appelle, where he participated in a town hall meeting with local citizens.

This speaks to Members' attempts to work within, beyond, and across riding boundaries for the greater good.

It therefore does not seem reasonable to suggest that merely placing an advertisement inviting readers—some of whom happen to live in a different constituency—to meet a Member of Parliament is infringing the rules and somehow ought to constitute a matter of privilege.

The Chair could not find any evidence to suggest that any misrepresentations were made, any truths distorted or any potential confusion created in the minds of voters and absent such evidence, I cannot conclude that the ability of the Member for Notre-Dame-de-Grâce—Lachine has somehow been infringed upon.

For these reasons, I cannot conclude that this matter constitutes a prima facie question of privilege.

I thank the House for its attention.

RIGHTS OF MEMBERS

Freedom from obstruction and interference: Government interference alleged in response to written question

April 3, 2014
Debates, **pp. 4207–8**

Context

On March 27, 2014, Scott Andrews (Avalon) rose on a question of privilege with regard to the government's response to written question Q-176. Mr. Andrews alleged that Rob Moore (Minister of State (Atlantic Canada Opportunities Agency)) had interfered with the release of information pertinent to his riding, thereby impeding his ability to perform his duties as a Member of Parliament. He emphasized that he was questioning not the accuracy of the government response but rather the means by which the Minister had allegedly modified the internal departmental process as it relates to the gathering of information and the drafting of the response. Mr. Andrews further noted that, in the past, he had received detailed answers to similar questions. Peter Van Loan (Leader of the Government in the House of Commons) replied that the matter at hand was a debate over the adequacy of the response.[1] On April 1, 2014, the Minister of State contended that the matter had not been raised at the earliest opportunity and that it was not within the Speaker's purview to review the content of government responses to written questions. He disputed the claim that there was a significant difference between the manner in which Q-176 had been answered and the manner in which previous questions had been dealt with. The Acting Speaker (Bruce Stanton) indicated that the Speaker would take the matter under advisement.[2]

1. *Debates*, March 27, 2014, pp. 3918–9.
2. *Debates*, April 1, 2014, pp. 4156–8.

Resolution

On April 3, 2014, the Speaker delivered his ruling. He confirmed that it was not the Chair's role to judge the accuracy of government responses to questions or to delve into the internal departmental processes on written questions. Having concluded that he could not find that the Member had been prevented from carrying out his duties, the Speaker did not find the question to be a prima facie case of privilege.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the question of privilege raised on March 27, 2014, by the Member for Avalon, regarding the government's response to written question No. 176.

I would like to thank the hon. Member for Avalon for having raised this matter, as well as the hon. Leader of the Government in the House of Commons, the hon. House Leader of the Official Opposition and the hon. Minister of State for their interventions.

In raising the matter, the Member for Avalon explained that the government's response to written question No. 176, tabled on March 6, 2014, regarding projects approved in Avalon by the Atlantic Canada Opportunities Agency constituted a different answer than those previously supplied to similar questions.

The Member stated that the accuracy of the information provided was not the issue; rather, he contended that by changing the departmental process by which information was gathered and responses made, the Minister was obstructing the release of information and thereby infringing on the Member's ability to carry out his parliamentary functions.

In responding to the Member's claim, the hon. Leader of the Government in the House of Commons argued that, in fact, an answer had been provided, but without the amount of detail or exact information that the Member sought. Thus, he felt that the complaint was actually a debate over the adequacy of the response. For his part, the Minister of State for the Atlantic Canada

Opportunities Agency explained in greater detail the response preparation process followed by his department over the past several years in responding to questions from the Member for Avalon.

The Chair has been asked on many occasions to weigh in on issues with respect to written questions. Through these questions of privilege, the Chair has had the opportunity to confirm for all Members the role of the Chair in this regard, as well as the practices and principles that govern written questions. Some of these bear repeating today.

House of Commons Procedure and Practice, Second Edition, states at page 522:

> There are no provisions in the rules for the Speaker to review government responses to questions.

On February 8, 2005, Speaker Milliken, at page 3234 of *Debates*, made a similar point:

> Any dispute regarding the accuracy or appropriateness of this response is a matter of debate. It is not something upon which the Speaker is permitted to pass judgment.

On April 3, 2012, in my ruling on another question raised with respect to the government's response to a written question, I reaffirmed this practice (**Editor's Note**: The ruling can be found on page 102.).

The Chair understands that the Member is not asking for a judgment on the accuracy of the answer provided. However, he is asking the Chair to judge the actions of the Minister and the effect these have had on his ability to function as a Member of Parliament. To do so would require the Chair to judge not only the content of answers provided, but also to delve into internal departmental processes past and present. Regardless of whether the department's internal processes on written questions have changed or not, it remains beyond the role of the Chair to undertake an investigation into any such matter or to render any judgment on it.

The Chair's role is limited to assessing the evidence presented in order to determine whether there has been interference in a Member's ability to perform his or her parliamentary duties. In the present circumstances, the Chair can find no evidence to suggest that the Member has been unable to perform his duties.

I therefore cannot find grounds to rule this matter to be a prima facie question of privilege.

I thank the House for its attention.

RIGHTS OF MEMBERS

Freedom from obstruction and interference: impact of use of time allocation on non-recognized parties and independent Members

November 26, 2014
Debates, **pp. 9830–1**

Context

On September 15, 2014, Elizabeth May (Saanich—Gulf Islands) rose on a question of privilege concerning the impact of the Government's excessive use of time allocation on the ability of Members to debate issues adequately and, thus, fulfill their constitutional responsibility to hold the Government to account. Ms. May alleged that this use of time allocation disproportionately affected Members of non-recognized parties and independent Members. Peter Van Loan (Leader of the Government in the House of Commons) asserted that, as the rules of the House had been properly followed in the application of time allocation, the privileges of Members had not been offended and the Chair did not have the authority to intervene unilaterally. He also reiterated that the Government's use of time allocation was merely a tool for the orderly and predictable management of the legislative agenda. After hearing from another Member, the Speaker took the matter under advisement.[1]

Resolution

On November 26, 2014, the Speaker delivered his ruling. He stated that, as it was beyond the purview of the Chair to judge the adequacy of debate on an issue, he could not intervene with respect to the use of time allocation if all procedural exigencies were respected. Accordingly, he concluded that there was no prima facie question of privilege.

1. *Debates*, September 15, 2014, pp. 7316–21.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the question of privilege raised on September 15, 2014, by the Member for Saanich—Gulf Islands regarding the use of time allocation.

I would like to thank the hon. Member for having raised this matter, as well as the hon. Leader of the Government in the House of Commons and the House Leader of the Official Opposition for their interventions.

In raising this matter, the Member for Saanich—Gulf Islands contended that the limitation of debate occasioned by the Government's frequent use of time allocation deprived Members of the ability to debate issues adequately, thereby impairing their fundamental right and indisputable privilege, if not obligation, to hold the Government to account. She claimed that this undermined and obstructed Members' ability to perform their parliamentary duties and that this consequence was disproportionately felt by Members of smaller parties and independent Members.

The Government House Leader replied that, as the rules of the House had been properly followed in the application of time allocation, the privileges of Members had not been offended, nor did the Chair have the authority to intervene unilaterally with regard to the use of this procedure. Furthermore, he argued that the Government's use of time allocation was merely a "tool for the orderly and predictable management of the legislative agenda." He also referred to my ruling of April 23, 2013 (**Editor's Note**: The ruling can be found on page 161.), to point out that catching the Speaker's eye to be recognized to speak during any proceeding remained the ultimate and individual right of each Member.

For his part, the House Leader of the Official Opposition supported the views expressed by the Member for Saanich—Gulf Islands that the present

use of the time allocation procedure violated the rights of MPs to speak and represent their constituents.

As early as 1993, Speaker Fraser spoke of the limits of the Speaker's authority in relation to the use by the Government of Standing Order 78.[2] On page 17861 of the *Debates* of March 31, 1993, he said:

> I have to advise the House that the rule is clear. It is within the Government's discretion to use it. I cannot find any lawful way that I can exercise a discretion which would unilaterally break a very specific rule.

On March 1, 2001, Speaker Milliken confirmed that interpretation, stating at page 1415 of the *Debates*:

> The rules and practices of the House established by this House with respect to time allocation leave the Speaker with no alternative in this matter.

Members of the House are also aware that it is not for the Speaker to judge whether an issue has been sufficiently debated. As recently as June 12 of this year, on page 6717 of the *Debates* (**Editor's Note**: The ruling can be found on page 405.), I stated:

> With respect to the amount of debate a bill must receive before notice of a time allocation motion can be given, the Chair is being asked to render a decision on a matter over which there are no explicit procedural rules or practices and, thus, over which it has no authority. Rather, it is the House that retains that authority and, therefore, must continue to make that determination as to when and if a bill has received adequate consideration.

2. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 515.

The body of precedents available to me all point in the same direction. *House of Commons Procedure and Practice*, Second Edition, succinctly sums up the jurisprudence on the matter when it states, at page 648:

> When asked to determine the acceptability of a motion to limit debate, the Speaker does not judge the importance of the issue in question or whether a reasonable time has been allowed for debate, but strictly addresses the acceptability of the procedure followed. Speakers have therefore ruled that a procedurally acceptable motion to limit the ability of Members to speak on a given motion before the House does not constitute prima facie a breach of parliamentary privilege.

As the Chair can find no evidence that the ability of Members, even the independent Members, to perform their parliamentary functions has been compromised, I cannot find that this matter constitutes a prima facie case of privilege.

I thank the House for its attention.

PARLIAMENTARY PRIVILEGE

RIGHTS OF MEMBERS

Freedom from obstruction and interference: Government interference alleged in response to written question

February 17, 2015
Debates, **pp. 11264–5**

Context

On January 26, 2015, Lysane Blanchette-Lamothe (Pierrefonds—Dollard) rose on a question of privilege regarding the response to written question Q-393. She alleged that an access to information request proved that the office of the Minister of Citizenship and Immigration obstructed the work of government officials in preparing a response to the written question. Furthermore, she contended that the response was a non-answer that impeded her in the performance of her parliamentary duties. Chris Alexander (Minister of Citizenship and Immigration) argued that Ms. Blanchette-Lamothe was not raising this matter at the first opportunity and that, although public servants had made every attempt to provide the requested information, the question was too complex to be answered in the 45-day period prescribed by the *Standing Orders*. He added that it is acceptable for the Government to state that it cannot provide a response to a written question and that it is not in the Speaker's purview to review government responses to written questions. Another Member made comments and the Speaker took the matter under advisement.[1]

Resolution

On February 17, 2015, the Speaker delivered his ruling. He reiterated that the *Standing Orders* do not provide for the Chair to review government responses to questions, explaining that a dispute regarding the appropriateness of a response is a matter of debate. He also explained that it is acceptable for the government to state that it cannot provide a response. As he did not find that the Member was impeded in performing

1. *Debates*, January 26, 2015, pp. 10556–7, 10625–7.

her parliamentary duties, he ruled that a prima facie breach of privilege had not occurred. The Speaker concluded by stating that the Member had other avenues and that she could resubmit her question without requesting an answer within the 45-day deadline.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the question of privilege raised on January 26, 2015, by the Member for Pierrefonds—Dollard related to the Government's response to written question Q-393, which was given to the House on May 14, 2014.

I would like to thank the hon. Member for Pierrefonds—Dollard for having raised this matter, as well as the Minister of Citizenship and Immigration and the hon. Opposition House Leader for their comments.

In raising this matter, the Member for Pierrefonds—Dollard expressed concerns about the response she received to her question, Q-393. She argued that there was interference by the Minister of Citizenship and Immigration who, she claimed, ordered officials in the department to stop preparing a response and, instead, use the same answer that was given in response to written question Q-359 on May 12, 2014. She asserted that that answer constituted a non-answer to a question submitted by the Member for Markham—Unionville. Having received the same non-answer, she contended that this impeded her in the performance of her parliamentary duties since she was not provided with a satisfactory response to her question. From this she argued that a breach of privilege had occurred.

In response, the Minister of Citizenship and Immigration explained that it was the length and breadth of the Member's very extensive question that was preventing departmental officials from being able to comply with the 45-day response deadline. Once advised of this, he provided the response that the Member received.

Members will be familiar with the provisions of Standing Order 39(5)(*a*),[2] which states:

> A Member may request that the Ministry respond to a specific question within forty-five days by so indicating when filing his or her question.

In essence, the Member is seeking redress with respect to perceived ministerial interference, which in her view, prevented departmental officials from responding to her question.

On previous occasions, the Chair has been asked to rule on issues related to the Government's responses to written questions. In each instance, the Chair has sought to remind Members of the clear limitations of the role of the Speaker in this regard.

House of Commons Procedure and Practice, Second Edition, states, at page 522:

> There are no provisions in the rules for the Speaker to review government responses to questions.

Speaker Milliken also noted on February 8, 2005, on page 3234 of *Debates*:

> Any dispute regarding the accuracy or appropriateness of this response is a matter of debate. It is not something upon which the Speaker is permitted to pass judgment.

This applies as well when the Government indicates that it is unable to provide an answer. O'Brien and Bosc confirms this approach at page 522, where it states:

> As with oral questions, it is acceptable for the government, in responding to a written question, to indicate to the House that it cannot supply an answer.

2. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 500.

How or why the Government chooses to provide such a reply, or non-reply as some see it, is not something to be questioned by the Chair. Nor is it for the Chair to question the decision of Members to ask for a response to a written question within a 45-day limit, as per Standing Order 39(5)(*a*),[3] even when the question is lengthy and complex.

Specifically, as Speaker, I must assess the role the Government played in the preparation of responses within the limited scope that is granted to me by our practice and precedents. As I indicated in my ruling of April 3, 2014 (**Editor's Note**: The ruling can be found on page 143.):

> The Chair understands that the Member is not asking for judgment on the accuracy of the answer provided. However, he is asking the Chair to judge the actions of the minister and the effect these have had on his ability to function as a Member of Parliament. To do so would require the Chair to judge not only the content of answers provided, but also to delve into internal departmental processes past and present. Regardless of whether the department's internal processes on written questions have changed or not, it remains beyond the role of the Chair to undertake an investigation into any such matter or to render any judgment on it.

In view of the particular jurisprudence cited by the Chair with regard to written questions, I cannot conclude that the Member for Pierrefonds—Dollard has been impeded in the performance of her parliamentary duties. Therefore, I cannot find that a prima facie breach of privilege has occurred.

That being said, the Member for Pierrefonds—Dollard does have one other avenue she could pursue. She could consider resubmitting her question without requesting an answer within the forty-five day deadline, particularly in light of the Minister's comments regarding the question's length and complexity.

I thank honourable Members for their attention.

3. See Appendix A, p. 500.

RIGHTS OF MEMBERS

Freedom from obstruction and intimidation: threats against a Minister; prima facie

March 6, 2012
Debates, **pp. 5834–5**

Context

On February 27, 2012, Vic Toews (Minister of Public Safety) rose on a question of privilege concerning the cyber-campaigns that followed his introduction of Bill C-30, *An Act to enact the Investigating and Preventing Criminal Electronic Communications Act and to amend the Criminal Code and other Acts*. Mr. Toews raised three issues and contended that each constituted a contempt of the House. The first was the use of House resources for a Twitter account to attack him personally, which he claimed degraded his reputation and obstructed him from carrying out his duties as a Member of Parliament. Second, he argued that the online threats made against him and his family through videos posted on YouTube by the group "Anonymous" constituted a deliberate attempt to intimidate him with respect to proceedings in Parliament. Last, he alleged that a campaign to inundate his office with calls, emails and faxes hindered him and his staff from serving constituents with legitimate needs in a timely fashion. Bob Rae (Toronto Centre) confirmed that an employee of the Liberal Research Bureau was responsible for the Twitter account the Minister referred to and that the employee had resigned. He apologized personally and on behalf of the Liberal Party for the conduct of the staff member. After hearing from other Members, the Speaker took the matter under advisement.[1]

On February 28, 2012, Joe Comartin (Windsor-Tecumseh) rose to support the Minister's position regarding the YouTube videos. However, he disagreed that the intent of Canadians flooding the Minister's office with correspondence was to interfere with his parliamentary duties and

1. *Debates*, February 27, 2012, pp. 5508–13.

claimed that it was an expression of their democratic right to oppose legislation. With regard to the Twitter account, the Member identified the issue of anonymity as the area of concern rather than the use of House resources, which, in his opinion, would not automatically constitute a breach of privilege. Other Members made interventions that day and on February 29, 2012. The Speaker again took the matter under advisement.[2]

Resolution

On March 6, 2012, the Speaker delivered his ruling. Regarding the Twitter account used for personal attacks, the Speaker stated that, in light of the unconditional apology made by Mr. Rae, as well as past practice, he considered this aspect of the question of privilege closed. In relation to inundation of the Minister's office by correspondence, the Speaker ruled that although the Minister had a legitimate grievance, it did not constitute a prima facie case of privilege as he could not find that the Minister had been impeded in his ability to perform his parliamentary duties. Finally, with respect to the YouTube videos, the Speaker found them to be a subversive attack on the most fundamental privileges of the House, containing threats to both the Minister and other Members, and for that reason he believed there had been a prima facie breach of privilege of the House. Consequently, he invited the Minister to move the appropriate motion.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the question of privilege raised on February 27 by the Minister of Public Safety regarding cyber-campaigns following the introduction in the House by him of Bill C-30, *An Act to enact the Investigating and Preventing Criminal Electronic Communications Act and to amend the Criminal Code and other Acts.*

I would like to thank the Minister for having raised these matters, as well as the Leader of the Government in the House of Commons, the Minister of Foreign Affairs, the Parliamentary Secretary to the Leader of the Government in the

2. *Debates*, February 28, 2012, pp. 5585–6, February 29, 2012, pp. 5629–31.

House of Commons, the House Leader of the Official Opposition, the Member for Toronto Centre, the Member for Bas-Richelieu—Nicolet—Bécancour, the Member for Saanich—Gulf Islands, and the Member for Westmount—Ville-Marie for their interventions.

In raising his question of privilege, the Minister raised three issues, each of which he believed to be a contempt of the House.

The first concerned the use of House resources for the so-called Vikileaks30 account on Twitter, which he claimed was used to attack him personally, thereby degrading his reputation and obstructing him from carrying out his duties as a Member of Parliament.

The Interim Leader of the Liberal Party then rose to inform the House that he himself had intended to rise on a question of privilege, having been informed on February 26 that it was an employee of the Liberal Research Bureau who had been responsible for the Vikileaks30 site. The Interim Leader offered his unequivocal apology and that of the Liberal Party to the Minister.

In view of this unconditional apology made personally by the Member and on behalf of his party as a whole, and in keeping with what has been done in similar circumstances in the past, I am prepared to consider this particular aspect of the question of privilege closed.

I also wish to inform the House that the House of Commons' policy on acceptable use of information technology resources was applied in this case, given that an unacceptable use of House IT resources occurred.

The Minister also raised the matter of an apparent campaign to inundate his office with calls, emails and faxes. This, he contended, hindered him and his staff from serving his constituents, and prevented constituents with legitimate needs from contacting their Member of Parliament in a timely fashion.

As the Member for Windsor—Tecumseh reminded the House, my predecessor, Speaker Milliken, was faced with a similar situation in 2005 in a matter raised by the former Member for Glengarry—Prescott—Russell.

In his ruling on June 8, 2005, Speaker Milliken concluded that, while the Member had a legitimate grievance that the normal functioning of parliamentary offices had been affected, the Members involved and their constituents had still maintained the ability to communicate through several means. Thus, he could not find that it was a prima facie case of privilege, as the Members were not impeded in their ability to perform their parliamentary duties.

Having reviewed the facts in the current case, I must draw the same conclusion on the second aspect of the question of privilege.

This brings us to the third and what I consider to be the most troubling issue raised in the question of privilege, that of the videos posted on the website YouTube by the so-called Anonymous on February 18, 22 and 25. These videos contained various allegations about the Minister's private life and made specific and disturbing threats.

The Minister has stated that he accepts that coping with vigorous debate and sometimes overheated rhetoric are part of the job of a politician but argued that these online attacks directed to both him and his family had crossed the line into threatening behaviour that was unacceptable. He contended that the threatened actions contained in these videos constituted a deliberate attempt to intimidate him with respect to proceedings in Parliament.

In *House of Commons Procedure and Practice*, Second Edition, [page 111], it states:

> It is impossible to codify all incidents which might be interpreted as matters of obstruction, interference, molestation or intimidation and as such constitute prima facie cases of privilege. However, some matters found to be prima facie include the damaging of a Member's reputation, the usurpation of the title of Member of Parliament, the intimidation of Members and their staff and of witnesses before committees, and the provision of misleading information.

In spite of the able arguments advanced by the Member for Westmount—Ville-Marie, the Chair is in no doubt that the House has full jurisdiction to decide the matter.

As is noted at page 108 of O'Brien and Bosc:

> Speakers have consistently upheld the right of the House to the services of its Members free from intimidation, obstruction and interference. Speaker Lamoureux stated in a 1973 ruling that he had "no hesitation in reaffirming the principle that parliamentary privilege includes the right of a Member to discharge his responsibilities as a Member of the House free from threats or attempts at intimidation."

Those who enter political life fully expect to be able to be held accountable for their actions to their constituents and to those who are concerned with the issues and initiatives they may advocate.

In a healthy democracy, vigorous debate on issues is encouraged. In fact, the rules and procedures of this House are drafted to allow for proponents and opponents to discuss, in a respectful manner, even the most difficult and sensitive of matters.

However, when duly elected Members are personally threatened for their work in Parliament, whether introducing a bill, making a statement or casting a vote, this House must take the matter very seriously.

As noted by the Parliamentary Secretary to the Leader of the Government in the House of Commons, threats or attempts to influence a Member's actions are considered to be breaches of privilege.

I have carefully reviewed the online videos in which the language used does indeed constitute a direct threat to the Minister in particular, as well as other Members. These threats demonstrate a flagrant disregard of our traditions and a subversive attack on the most fundamental privileges of this House.

As your Speaker and the guardian of those privileges, I have concluded that this aspect, the videos posted on the Internet by Anonymous, therefore, constitutes a prima facie question of privilege and I invite the Minister to move his motion.

Postscript

Mr. Toews moved that the matter be referred to the Standing Committee on Procedure and House Affairs and the motion was agreed to.[3] On May 2, 2012, the Committee presented its Twenty-First Report to the House, which found that the YouTube videos in question posted by the group Anonymous violated the parliamentary privileges of Mr. Toews and all Members.[4] The Report was not concurred in.

3. *Journals*, March 6, 2012, pp. 900, 906–8, *Debates*, pp. 5835, 5893–4.
4. *Journals*, May 2, 2012, p. 1152.

PARLIAMENTARY PRIVILEGE

RIGHTS OF MEMBERS

Freedom of speech: equal right of a Member to make a statement under Standing Order 31

April 23, 2013
Debates, **pp. 15798–801**

Context

On March 26, 2013, Mark Warawa (Langley) rose on a question of privilege regarding freedom of speech and the right of a Member to make a statement pursuant to Standing Order 31.[1] Having been denied the opportunity to present a statement under this Standing Order by his party, he argued that he was impeded in his ability to represent his constituents. He stated that only the Speaker could remove a Member's opportunity to speak, and that the practice of parties submitting lists of speakers should not be used to deny a Member the equal right to speak. Gordon O'Connor (Minister of State and Chief Government Whip) argued that the Chair's use of the speaking lists provided by each party was an established practice, and that the Speaker was being asked to become involved in adjudicating the internal affairs of party caucuses, which was beyond his purview. After other Members intervened, the Speaker took the matter under advisement.[2] In the weeks that followed, 17 additional Members rose to address the question.[3]

Resolution

On April 23, 2013, the Speaker delivered his ruling. The Speaker explained that the biggest limitation to the privilege of freedom of speech is the availability of time. He confirmed that the Chair's authority to decide

1. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 497.
2. *Debates*, March 26, 2013, pp. 15189–91.
3. *Debates*, March 27, 2013, pp. 15294–5, March 28, 2013, pp. 15333–6, 15358–60, April 15, 2013, pp. 15423–6, April 16, 2013, pp. 15499–501, April 18, 2013, pp. 15610–1, April 19, 2013, pp. 15668–70, 15674–5, April 22, 2013, pp. 15721–2, 15727–9.

who is recognized to speak is indisputable and had not been trumped by the use of these lists. The need to catch the Speaker's eye continues to underpin this authority. It is the right of the Member to seek the floor at any time. He reminded Members that even if their names appear on speaking lists, those wishing to speak must nonetheless rise in the House to be recognized. Declaring that he could find no evidence that Mr. Warawa had been systematically prevented from seeking the floor, he could not agree that the Member's privileges had been breached and therefore could not find it to be a prima facie question of privilege. However, the Speaker concluded that, although the Chair would continue to be guided by the lists submitted by the parties, if faced with a situation of having to decide who to recognize, the Chair would exercise its discretion to ensure Members are recognized in a balanced way that respects both the will of the House and the rights of individual Members.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the question of privilege raised on March 26 by the Member for Langley regarding the presentation of a Member's statement pursuant to Standing Order 31.[4]

I would like to thank the hon. Member for Langley for having raised this matter, as well as the hon. Chief Government Whip, the hon. House Leader of the Official Opposition, the hon. House Leader of the Liberal Party, and the Members for Vegreville—Wainwright, Saanich—Gulf Islands, Lethbridge, Winnipeg South, Edmonton—St. Albert, Brampton West, Kitchener Centre, New Brunswick Southwest, Wellington—Halton Hills, Glengarry—Prescott—Russell, South Surrey—White Rock—Cloverdale, Medicine Hat, West Vancouver—Sunshine Coast—Sea to Sky Country, Halifax, and Thunder Bay—Superior North for their comments.

In raising his question of privilege, the Member for Langley explained that, shortly before he was to rise during Statements by Members on March 20, he was notified by his party that he could no longer make his statement because,

4. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 497.

as he put it, "the topic was not approved". In making his case, he argued that the privilege of freedom of speech is designed to allow Members to discharge their responsibility to ensure that their constituents are represented.

While the Member accepted the practice of parties submitting lists of Members to the Speaker, he objected to this being managed in such a way that the equal right to speak could be removed. He stated, "If at any time that right and privilege to make a [statement by a Member] on an equal basis in this House is removed, I believe I have lost my privilege of equal right that I have in this House". He further argued that, ultimately, it is only the Speaker who has the authority to remove a Member's opportunity to speak and that the equal opportunity of every Member to make statements pursuant to Standing Order 31[5] must be guaranteed.

In his intervention, the Chief Government Whip reminded the House that all recognized parties resort to the use of speaking lists and that, "The practice for many years in the House is for the Speaker to follow the guidance provided by the parties...". He added that since the preparation of lists is an internal affair of party caucuses, it is not something the Speaker ought to get involved in.

For his part, the House Leader of the Official Opposition suggested there exists a role for the Speaker in regulating the natural tension between Members and their parties, and the right to speak in Parliament. He went further, saying, "The issue is the need for Members of Parliament to speak freely on behalf of those whom we seek to represent" and in support of this view, he cited *House of Commons Procedure and Practice*, Second Edition, which states at page 89:

> By far, the most important right afforded to Members of the House is the exercise of freedom of speech in parliamentary proceedings.

However, he also noted that, with the entrenchment of the practice whereby Whips determine which of their Members will speak and the concurrent absence of a Standing Order explicitly allowing the Speaker to intervene in

5. See Appendix A, p. 497.

that process, he questioned whether the will and support of the House would be required before the Chair could do so.

Several other Members intervened in support of the Member for Langley, while another echoed the comments of the Chief Government Whip. For his part, the Member for New Brunswick Southwest suggested that I should expand my review of this matter to include lists not just for Statements by Members but also for Question Period.

I wish to begin by reminding the House of the role of the Chair in determining matters of privilege. O'Brien and Bosc, at page 141, states:

> Great importance is attached to matters involving privilege. …The function of the Speaker is limited to deciding whether the matter is of such a character as to entitle the Member who has raised the question to move a motion which will have priority over Orders of the Day; that is, in the Speaker's opinion, there is a prima facie question of privilege. If there is, the House must take the matter into immediate consideration. Ultimately, it is the House which decides whether a breach of privilege or a contempt has been committed.

I also wish to address what seems to be a widespread misconception about the role of the Speaker in matters of this kind. Several Members have used sports analogies to describe me as a referee or a league convener. Perhaps there are elements of a referee role for the Speaker, but with one important difference: there is no league that appoints the Speaker to enforce rules from on high in a vacuum. Instead, here in the House of Commons, the Members elect a Speaker from among the membership to apply rules they themselves have devised and can amend. Thus, it is only with the active participation of the Members themselves that the Speaker, who requires the support and goodwill of the House in order to carry out the duties of the office, can apply the rules.

As is stated in O'Brien and Bosc, at page 307:

> Despite the considerable authority of the office, the Speaker may exercise only those powers conferred upon him or her by the House, within the limits established by the House itself.

In making their arguments in this case, several Members have correctly pointed out the fundamental importance of freedom of speech for Members as they carry out their duties. *House of Commons Procedure and Practice*, Second Edition, at page 89 refers to the freedom of speech of Members as:

> ...a fundamental right without which they would be hampered in the performance of their duties. It permits them to speak in the House without inhibition, to refer to any matter or express any opinion as they see fit, to say what they feel needs to be said in the furtherance of the national interest and the aspirations of their constituents.

The Speaker's role in safeguarding this very privilege is set out in O'Brien and Bosc at page 308. "The duty of the Speaker is to ensure that the right of Members to free speech is protected and exercised to the fullest possible extent...".

This last citation is particularly important since it highlights a key reality, namely that there are inherent limits to the privilege of freedom of speech. Aside from the well-known prohibitions on unparliamentary language, the need to refer to other Members by title, the rules on repetition and relevance, the *sub judice* constraints and other limitations designed to ensure that discourse is conducted in a civil and courteous manner, the biggest limitation of all is the availability of time.

I need not remind the House that each and every sitting day, a vast majority of Members are not able to make a statement pursuant to Standing Order 31[6] as there simply is not enough time available. It is likely for this reason that the Standing Order states that Members "may", not shall, be recognized to make

6. See Appendix A, p. 497.

statements. Hence, while many Members in this instance have spoken of the right to speak, the Member for Langley acknowledged this inherent limitation and spoke more precisely of the equal right to speak. It is this qualifier of rights—equity—that carries great significance, and to which the Chair must play close attention.

Put another way, the Chair is being asked by the Member for Langley whether the practice of Whips providing the Speaker with the names of Members who are to be recognized to speak during Statements by Members represents an unjust limitation on his freedom to speak, to the extent that such opportunities are not afforded to him on an equitable basis.

There is no denying that close collaboration has developed over time between the Chair and party Whips to find ways to use the time of the House as efficiently as possible and to ensure that all parties are treated equitably in apportioning speaking time. In some cases—the timing of recorded divisions comes to mind—the *Standing Orders* enshrine a specific role for the Whips. In other cases, there is no Standing Order, but rather a body of practice that the House follows and that evolves over time.

A reading of the history of Members' statements at pages 420 to 422 in O'Brien and Bosc tells us that our practice in that regard has had to adjust and respond to changing circumstances on more than one occasion, with each practice enduring only so long as it matched its era and the will of the House.

By 1982, it had settled into what we know it to be today—that is, the order and number of slots to be allotted to Members of different political affiliations are agreed upon by the parties at the beginning of a Parliament and adjusted from time to time as necessary. Then, at each sitting, the names of Members who are to fill the designated speaking slots are provided to the Speaker by the Whips of the different recognized parties and by the independent Members. Even if not enshrined in the *Standing Orders*, generally the House has been well served by this collaboration, and the lists have helped the Chair to preside over this portion of each sitting day in an orderly fashion.

However, does this mean that the Chair has ceded its authority to decide which Members are to be recognized? To answer this question, it is perhaps useful to review the history of the lists, which were first used for Question Period in the 1970s.

At page 61 in his memoir, *Mr. Speaker*, in which he describes his time in the Chair, Speaker Jerome explains that he was comfortable using a party's suggested lists "...so long as it didn't unfairly squeeze out their backbench".

In a June 19, 1991, ruling found at page 2072 of the *Debates*, Speaker Fraser was even more categorical about the authority of the Chair. In response to a Member who asked if the Chair was bound to follow a set list in recognizing Members, he said:

> I appreciate the hon. Member's intervention and my answer is yes, there is a list. I am not bound by it. I can ignore that list and intervene to allow private Members, wherever they are, not only to ask questions but also to ask supplementals. That is a right which remains with the Chair and I do not think it has ever been seriously challenged. I would remind all hon. Members that it is a right which the Chair has had almost since: "The memory of man runneth not to the contrary".

The authority the Speaker has in this regard is likewise described in *House of Commons Procedure and Practice*, Second Edition, at page 318, which states:

> No Member may speak in the House until called upon or recognized by the Speaker; any Member so recognized may speak during debate, questions and comments periods, Question Period, and other proceedings of the House. Various conventions and informal arrangements exist to encourage the participation of all parties in debate; nevertheless, the decision as to who may speak is ultimately the Speaker's.

It further states on page 595:

> Although the Whips of the various parties each provide the Chair with a list of Members wishing to speak, the Chair is not bound by these.

Similarly, Beauchesne's *Parliamentary Rules and Forms*, Sixth Edition, on page 137, states that

> …the Speaker is the final authority on the order of speaking.

I myself have seen fit from time to time to deviate from the lists, usually in an effort to preserve order and decorum during Statements by Members and Question Period.

Accordingly, the Chair has to conclude, based on this review of our procedural authorities and other references, that its authority to decide who is recognized to speak is indisputable and has not been trumped by the use of lists, as some Members seemed to suggest.

I might add as an aside that the use of lists in general has inadvertently created an ongoing problem for the Chair. In some cases, Members do not stand to be recognized because they are on a list and thus think they will automatically be recognized when their turn comes around. As Acting Speaker Bob Kilger put in a statement found at page 3925 of the *Debates* on May 5, 1994:

> We speak about or refer to these unofficial lists that we have, which are somewhat helpful at times, but in the end Members seeking the floor of course are those who will be recognized by the Chair.

Thus, the need to "catch the Speaker's eye", as it is called, continues to underpin the Chair's authority in this respect.

Members are free, for instance, to seek the floor under questions and comments at any time to make their views known. They are also free at any time to seek the floor to intervene in debate itself on a bill or motion before the House. Ultimately, it is up to each individual Member to decide how frequently he or she wishes to seek the floor, knowing that being recognized by the Speaker is not always a guaranteed proposition.

The right to seek the floor at any time is the right of each individual Member of Parliament and is not dependent on any other Member of Parliament.

On the narrow question of the removal of the Member for Langley from his party's lineup for Statements by Members on March 20, the Chair cannot conclude that there is a prima facie finding of privilege. No evidence has been presented to me that the Member has been systematically prevented from seeking the floor. The Chair has found that the Member for Langley has been active under several rubrics since the beginning of this Parliament. He has made statements under Statements by Members on a variety of subjects, has presented petitions, has made speeches and risen on questions and comments under Government Orders, has made speeches under Private Members' Business and has risen in Question Period. As I said earlier, he has remained free to seek the floor at any time, like all other Members.

However, on the broader question of the equitable distribution of Statements by Members, a review of the statistics reveals that the Member may well have a legitimate concern. This goes to the unquestionable duty of the Speaker to act as the guardian of the rights and privileges of Members and of the House as an institution. This includes ensuring that, over time, no Member wishing to speak is unfairly prevented from doing so.

Even so, as Speaker I cannot exercise my discretion as to which Member to recognize during Statements by Members or at any other time of the sitting day if only one Member is rising to be recognized. As previously mentioned, due to an overreliance on lists, more often than should be the case, even those Members on the list do not always rise to be recognized.

Were the Chair to be faced with choices of which Member to recognize at any given time, then of course the Chair would exercise its discretion. However, that has not happened thus far during Statements by Members, nor, for that matter, during Question Period. Until it does, the Chair is not in a position to unilaterally announce or dictate a change in our practices. If Members want to be recognized, they will have to actively demonstrate that they wish to participate. They have to rise in their places and seek the floor.

In the meantime, I will continue to be guided by the lists that are provided to me and, when and if Members are competing for the floor, will exercise my authority to recognize Members, not in a cavalier or uninformed manner but rather in a balanced way that respects both the will of the House and the rights of individual Members.

I would like to thank all honourable Members for their attention during this rather lengthy ruling.

RIGHTS OF MEMBERS

Freedom of speech: *sub judice* convention; question on the *Order Paper* left unanswered because the matter was before the courts

May 26, 2015
Debates, **pp. 14137–8**

Context

On May 11, 2015, Charlie Angus (Timmins—James Bay) rose on a question of privilege with regard to written question Q-1129. By replying that it was unable to respond as the matters raised in the question were before the courts, Mr. Angus stated that the Government was withholding information necessary for him to perform his parliamentary duties. Peter Van Loan (Leader of the Government in the House of Commons) noted that it was beyond the Speaker's purview to review government responses and claimed that the answer was a simple restatement of the *sub judice* convention, as the matter was before the courts. After another Member spoke to the matter, the Deputy Speaker (Joe Comartin) took the matter under advisement.[1]

Resolution

On May 26, 2015, the Speaker delivered his ruling. He confirmed the limited role of the Speaker in adjudicating responses to written questions, including matters where Members invoke the *sub judice* convention. Accordingly, he could not find that a prima facie breach of privilege had occurred.

1. *Debates*, May 11, 2015, pp. 13724–7.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the question of privilege raised on May 11, 2015, by the Member for Timmins—James Bay, related to the Government's response to written question Q-1129, which was tabled in the House on May 8, 2015. I would like to thank the hon. Member for having raised this matter, as well as the hon. Leader of the Government in the House of Commons and the House Leader of the Official Opposition for their comments.

In raising this matter, the Member for Timmins—James Bay explained that the response he received to his written question, Question No. 1129, regarding the procedure used by the Government to verify that Senate appointees meet their constitutional residency requirements was that, "...the Government does not comment on matters before the court". He characterized this answer as both completely insufficient and completely incorrect since the matter does not fall within the purview of the courts at this time. Thus, he argued the misleading character of the answer provided constituted a prima facie breach of privilege.

In response, the Government House Leader claimed that the answer put forward was, in fact, a restatement of the *sub judice* convention. He argued that this was entirely appropriate as the question pertained to a matter rightfully before the courts in criminal proceedings at the present time. In addition, he noted that it is not within the purview of the Speaker to review Government responses to questions and that other avenues were available if the Member was not satisfied with the response.

Members place great importance on obtaining full and accurate information through answers to their written questions, a procedure that exists in part to allow Members to fulfill their obligations as parliamentarians. Thus, the frequency with which the Chair has been called upon to rule on questions of privilege of this kind is, in some respects, understandable.

Invariably, when Members deem that the content or quality of responses to written questions falls short, the Chair is asked to adjudicate. In each instance, the Chair has sought to remind Members of the clear and

longstanding limitations of the role of the Speaker in this regard. *House of Commons Procedure and Practice*, Second Edition, states at page 522, "There are no provisions in the rules for the Speaker to review government responses to questions", nor does parliamentary convention allow for this.

On February 8, 2005, Speaker Milliken, at page 3234 of *House of Commons Debates*, confirmed this, stating:

> Any dispute regarding the accuracy or appropriateness of this response is a matter of debate. It is not something upon which the Speaker is permitted to pass judgment.

O'Brien and Bosc, at pages 522 to 523 states:

> …on several occasions, Members have raised questions of privilege in the House regarding the accuracy of information contained in responses to written questions; in none of these cases was the matter found to be a prima facie breach of privilege.

That the answer that the Member received to his question invokes the *sub judice* convention in no way alters or bolsters the authority of the Chair to review and pronounce itself on the accuracy or validity of that answer, even when it is interpreted to be a refusal to answer.

House of Commons Procedure and Practice, Second Edition, states, at page 522:

> There are no provisions in the rules for the Speaker to review government responses to questions.

Based on these precedents and on the information presented, I cannot conclude that the Member has been impeded in the performance of his parliamentary duties. Therefore, I cannot find that a prima facie breach of privilege has occurred.

I thank hon. Members for their attention.

PROCEDURE

Procedure for dealing with matters of privilege: length of interventions regarding a question of privilege

June 13, 2012
Debates, **p. 9374**

Context

On June 13, 2012, Bob Zimmer (Prince George—Peace River) rose on a point of order[1] to question the relevance of statements being made by Kevin Lamoureux (Winnipeg North)[2] during his intervention on a question of privilege raised by Nathan Cullen (Skeena—Bulkley Valley) concerning Bill C-38, *An Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures*.[3]

Resolution

The Acting Speaker (Barry Devolin) ruled immediately. He specified that interventions related to points of order or questions of privilege are expected to be brief and concise, explaining the event and the reasons why its consideration should be given precedence over other House business. He reminded Members that the Speaker has the right to terminate the discussion if he or she feels no new relevant points are being made.

DECISION OF THE CHAIR

The Acting Speaker: Before I go to the hon. Member for Saint-Léonard—Saint-Michel, at the time the hon. Member for Prince George—Peace River rose, I was also rising to interrupt.

1. *Debates*, June 13, 2012, p. 9374.
2. *Debates*, June 13, 2012, p. 9372.
3. *Debates*, June 11, 2012, pp. 9152–4, June 12, 2012, pp. 9270–2, June 13, 2012, pp. 9387–8.

I would like to provide all hon. Members with some guidance in terms of the way in which a point of order or question of privilege ought to be raised. I will quote from *House of Commons Procedure and Practice*, by O'Brien and Bosc, page 143, related to the initial discussion of points raised. It states:

> A Member recognized on a question of privilege is expected to be brief and concise in explaining the event which has given rise to the question of privilege and the reasons why consideration of the event complained of should be given precedence over other House business.

It goes on to state on page 144:

> The Speaker will hear the Member and may permit others who are directly implicated in the matter to intervene. In instances where more than one Member is involved in a question of privilege, the Speaker may postpone discussion until all concerned Members can be present in the House. The Speaker also has the discretion to seek the advice of other Members to help him or her in determining whether there is prima facie a matter of privilege involved which would warrant giving the matter priority of consideration over other House business. When satisfied, the Speaker will terminate the discussion.

I bring this to the House's attention. Before I go to the Member for Saint-Léonard—Saint-Michel and back ultimately to the Member for Winnipeg-North, I will remind all hon. Members that in the case of a question of privilege, the floor is not the Members' until they choose to stop. The Speaker has the right to terminate that discussion if the Speaker feels that relevant points that have not been previously raised have not been brought forward. That is left to the judgment of the Speaker.

2 — THE HOUSE AND ITS MEMBERS

2

THE HOUSE AND ITS MEMBERS

INTRODUCTION

In addition to the more visible duties of representing the House and presiding over sittings, the position of Speaker includes a wide range of responsibilities. The Speaker may be called on to rule on various matters, including the behaviour and actions of Members, the administrative management of all services provided by the House of Commons Administration, and the physical aspects of the Chamber itself.

The purpose of this chapter is to illustrate the breadth of the Speaker's responsibilities and authority through several key decisions. Over the course of his mandate, Speaker Scheer had to face a number of challenges, particularly in his role as the person responsible for the security of Members and House staff.

On October 22, 2014, an armed man, who had just shot and killed a ceremonial sentry at the National War Memorial, opened fire in Centre Block while political parties were holding their caucus meetings. The man died in an exchange of gunfire that left one person injured. The House stood adjourned that day.

The following day, contrary to normal practice, the Speaker asked to have the galleries opened to parliamentary staff and accredited media before the reading of the prayer. After Oral Questions, he made a statement to reassure Members and others from the parliamentary community about the Parliamentary Precinct's security. In addition to announcing temporary

measures, the Speaker said that an in-depth analysis would be carried out with a view to preventing such events from occurring in the future.

A working group, of which the Speaker served as co-chair and whose membership included both Members and Senators, considered the issue and proposed unifying the security services of the Senate and the House of Commons. In February 2015, the House of Commons adopted a motion to that effect. In June 2015, legislation providing for the creation of the Parliamentary Protective Service received Royal Assent. The Service has been in place since the fall of 2015; it is overseen by the Royal Canadian Mounted Police under the direction of the Speaker of the Senate and the Speaker of the House of Commons.

RESPONSIBILITY AND CONDUCT OF MEMBERS

Report of the Office of the Conflict of Interest and Ethics Commissioner on the former Member for Simcoe—Grey: inability to make a statement; report concurred in after 30 sitting days

November 14, 2011
Debates, **p. 3033**

Context

On September 19, 2011, the Speaker presented to the House the report of the Conflict of Interest and Ethics Commissioner entitled *The Guergis Report*.[1] It was determined that Helena Guergis (Member for Simcoe—Grey at the time, defeated in the election of May 2011) had contravened sections 8 and 9 of the *Conflict of Interest Code for Members of the House of Commons*[2] by furthering her own private interests or those of a member of her family. On November 14, 2011, during Routine Proceedings, Charlie Angus (Timmins—James Bay) proposed that *The Guergis Report* be referred to the Standing Committee on Procedure and House Affairs for study so that it could investigate the Commissioner's findings in greater detail and report to the House.

The Speaker made a statement immediately to inform the House that while section 28(9) of the *Code*[3] gives a Member who is the subject of a Commissioner's report the right to make a statement in the House, Ms. Guergis was no longer a Member and thus was unable to speak. Given the circumstances, the Speaker invited the Standing Committee on Procedure and House Affairs to consider the matter, examine the *Code* and make recommendations. He then allowed the House to proceed with the debate on the motion moved by Mr. Angus.

1. *Debates*, September 19, 2011, p. 1152.
2. See Appendix 1, "Cited Provisions: *Conflict of Interest Code for Members of the House of Commons*", p. 538.
3. See Appendix 1, p. 538.

STATEMENT OF THE CHAIR

The Speaker: Before debate begins on the motion just moved, I would like to make a short statement.

As members well know, the *Conflict of Interest Code* for Members of the House of Commons provides for certain procedures that the House must follow should the Ethics Commissioner conclude that a Member has not complied with an obligation under the *Code*. These procedures differ depending on the nature of the contravention and can lead to a debate and a vote on a motion to concur in the report.

In the case of the particular report that has given rise to the motion now before the House and without anticipating what decision the House may make, the Chair believes that the House is now faced with a situation never envisaged when the *Code* was first drafted. One basic principle entrenched in many of our rules allows for individuals who are the subject of such reports to be heard—that is, to participate in debate and present arguments. Indeed, section 28, paragraph 9 of the *Code*[4] assumes this in stating that:

> Within 10 sitting days after the tabling of the report of the Commissioner in the House of Commons, the Member who is the subject of the report shall have a right to make a statement in the House immediately following Question Period, provided that he or she shall not speak for more than 20 minutes.

This opportunity is, of course, no longer afforded to the former Member for Simcoe—Grey, who was not returned after the last election. It would seem to the Chair that the House may wish to reflect on the circumstance, and accordingly I would invite the Standing Committee on Procedure and House Affairs to examine the *Code* in light of this unforeseen situation and to make any recommendation it deems appropriate.

4. See Appendix 1, p. 539.

I thank hon. Members for their attention.

Postscript

The Standing Committee on Procedure and House Affairs examined the *Code* during the Forty-First and Forty-Second Parliaments,[5] but no recommendations were made regarding section 28(9).[6]

5. The Twenty-Seventh Report of the Standing Committee on Procedure and House Affairs, presented to and concurred in by the House on June 6, 2012 (*Journals*, pp. 1429–30); the Thirty-Ninth Report of the Standing Committee on Procedure and House Affairs, presented to the House on June 11, 2015 (*Journals*, p. 2732), and concurred in by the House on June 18, 2015 (*Journals*, p. 2834); the Fourth Report of the Standing Committee on Procedure and House Affairs, presented to and concurred in by the House on March 7, 2016 (*Journals*, p. 222).
6. See Appendix 1, "Cited Provisions: *Conflict of Interest Code for Members of the House of Commons*", p. 539.

THE HOUSE AND ITS MEMBERS

SECURITY AND THE MAINTENANCE OF ORDER IN THE PARLIAMENTARY PRECINCT

Shooting in the Hall of Honour in Centre Block: reflecting on the events of October 22, 2014; access to the Hill

October 23, 2014
Debates, **p. 8726**

Context

On October 22, 2014, a man armed with a hunting rifle killed a ceremonial sentry at the Tomb of the Unknown Soldier in front of the National War Memorial near Parliament Hill. The man then made his way to Parliament Hill, where he entered Centre Block through the main doors. An exchange of gunfire followed in the Hall of Honour, and the man was shot and killed at the end of the Hall. This series of events occurred while the parties were holding their caucus meetings. The House stood adjourned for the day.

The following day, contrary to normal practice, the Speaker asked that the doors to the galleries be opened to members of the parliamentary community before the reading of the prayer, in light of the tragic events of the previous day.[1] The House observed a moment of silence. Party leaders and several independent Members then made statements recognizing the bravery of security staff and police services and asserting the determination of the House, collectively, not to be intimidated by external threats.

The Speaker also made a statement to reassure Members and the parliamentary community. He said that he had requested thorough reports on measures to ensure the continued safety of the Parliamentary Precinct. He informed the House that he had met with all the party Whips and that he would meet with independent Members to share all necessary information with them. He added that he had taken several additional

1. To reflect the exceptional nature of the situation, the text of the prayer was printed in the *Debates* of October 23, 2014, p. 8691.

steps to ensure the integrity of the ongoing investigation into the previous day's events. Those measures included restricting access to Parliament Hill and cancelling tours. However, he stressed that these would be temporary measures and that Parliament must remain an institution that is both open and secure. He concluded by thanking the security personnel and police services.

STATEMENT OF THE CHAIR

The Speaker: Before moving on to the Thursday question, I would like to provide a brief update to reassure all parliamentarians and everyone in our parliamentary community.

Yesterday, I had regular meetings with the Sergeant-at-Arms and the Director General of Security Services to receive reports as the situation unfolded. Today, I have asked for thorough reports, which I will share with the Board of Internal Economy, on measures to ensure the continued safety of the Parliamentary Precinct.

This morning I met with the party Whips to give them all the information, which they will share with their members. I will contact independent Members directly to keep them up to date as well.

I have also taken additional steps to ensure the integrity of the ongoing investigation into yesterday's events. Parliament is closed to visitors today and tours have been cancelled. However, I have stressed that these must be temporary measures. Parliament must remain an institution that is both open and secure.

Access to the grounds of Parliament Hill will be controlled and I do ask that all employees ensure that their IDs are visible at all times. I have also asked for a review of screening protocols and will report the results to the board as well.

I also asked my staff to ensure that the employee assistance program is available to anyone who needs a little more support in dealing with yesterday's terrible ordeal.

Finally, I will be ordering a comprehensive review of all actions that were taken yesterday, examining our security systems and procedures, identifying what worked, and making improvements where necessary.

Members will ask, indeed Canadians will ask, how this came to occur and what specifically will be done to prevent future occurrences. These are legitimate questions and they require comprehensive answers. I resolve to work with the leadership of all parties and indeed all Members to ensure that the House obtains answers to these vital and important questions.

I would like to briefly echo the sentiments that were expressed this morning, specifically thanking the brave men and women of our House of Commons security forces, the RCMP, and the Ottawa Police.

Our thoughts are also with Constable Son, who suffered a gunshot wound to the leg. Thankfully, I can report that he is in stable condition and expected to make a full recovery.

I would like to thank our own Kevin Vickers. On behalf of all Members, I add my voice of thanks for his bravery and courage.

Postscript

Significant changes were made to House of Commons and Parliament Hill security in response to the events of October 22, 2014.

The Joint Advisory Working Group on Security was created to study issues involving security and Parliament.[2] On November 25, 2014, the Working Group made the decision to unify the security services of the House of Commons and the Senate.

2. The Working Group had five Senators and four Members, with the Senator Vern White and the Speaker of the House of Commons serving as co-chairs.

On February 6, 2015, the government proposed a motion to invite, without delay, the Royal Canadian Mounted Police (RCMP) to lead operational security throughout the Parliamentary Precinct and on the grounds of Parliament Hill. The motion was adopted on February 16, 2015.[3]

On May 7, 2015, the government introduced Bill C-59, *An Act to implement certain provisions of the budget tabled in Parliament on April 21, 2015 and other measures*.[4] Division 10 amended the *Parliament of Canada Act* to add provisions addressing parliamentary security. The bill established a new office, the Parliamentary Protective Service, which was made responsible for all matters with respect to security throughout the Parliamentary Precinct and on Parliament Hill. The Service was put under the responsibility of the Speakers of both Houses. Pursuant to an arrangement between the Speakers of the Senate and the House of Commons, as well as the Minister of Public Safety and Emergency Preparedness, the RCMP was made responsible for the management of the new Service by means of a Director who reports to and acts under the direction of the Speakers. The Director is employed by the RCMP. The bill received Royal Assent on June 23, 2015.

3. *Journals*, February 6, 2015, pp. 2114–5, *Debates*, p. 11151–8, 11173–83; *Journals*, February 16, 2015, pp. 2122–8, *Debates*, pp. 11225–60.

4. *Journals*, May 7, 2015, p. 2502, *Debates*, May 7, 2015, p. 13582.

SECURITY AND THE MAINTENANCE OF ORDER IN THE PARLIAMENTARY PRECINCT

Tribute to security personnel: events of October 22, 2014

December 11, 2014
Debates, **p. 10500**

Context

On December 11, 2014, pursuant to a motion passed on December 9, 2014,[1] the House of Commons resolved itself into a Committee of the Whole at the conclusion of Oral Questions and invited security personnel onto the floor of the Chamber. On behalf of all Members, the Speaker thanked the security personnel for their courage, professionalism and dedication during the events of October 22, 2014, when a gunman entered Centre Block.

STATEMENT OF THE CHAIR

The Speaker: Today I would like to acknowledge, on behalf of all hon. Members, the courage, professionalism, and dedication of the personnel of the protective service of the House of Commons.

We are all, without question, in their debt. Under the leadership of the Sergeant-at-Arms Kevin Vickers and Director General Patrick McDonell, the House of Commons protective service is a reassuring presence in the Parliament buildings. Each and every day, this remarkable team demonstrates its commitment to ensuring the safety of Members, employees, and visitors to the Hill.

On October 22, 2014, their quick response during the attack in Centre Block most certainly prevented an even more tragic conclusion to the day's events.

1. *Journals*, December 9, 2014, p. 1932.

As hon. Members will know, Constable Samearn Son, a valued member of the House of Commons protective service for 10 years, was injured while attempting to disarm the gunman, despite being unarmed himself. His selfless action, putting his own body in harm's way, was a stunning example of bravery and brought further honour and esteem to the protective service.

We also remember those constables who stood guard, protecting parliamentarians, employees, and others who waited to receive word that all was clear. They provided reassurance in the early moments following the gunfire, and remained calm in the performance of their duties as the lockdown continued throughout the day and into the evening.

Throughout the day's events, along with great acts of bravery, there were many acts of kindness and generosity as well.

A group of Swiss students visiting Canada for the first time was in the midst of a tour of Parliament when the incident began. While they were safely ushered to a secure area, the group had been split over two different tours and found themselves separated and anxious about their classmates and fellow teachers. Constables were able to account for the full group and provide assurances that everyone was safe. In the midst of everything that was going on, I can only imagine the measure of relief that this brought to the teachers and parents accompanying their group.

The response on October 22 was certainly a team effort, as much a result of rigorous training and skilled leadership as it was the product of individual bravery and basic kindness.

It is also important to acknowledge the support provided by the House Administration and the many parliamentary services that worked tirelessly behind the scenes to support our frontline protective service personnel and to ensure that we could return to work, business as usual, the very next morning.

I believe the sentiments we all share were aptly captured by the Chair of the Procedure and House Affairs Committee, the Member for Elgin—Middlesex—London, when he recently stated, "We had acquaintances with some of the constables up until that day. I think (we) have formed lifelong friendships with some of them now."

On behalf of all Members, it is a sincere honour to express our gratitude here today to all the men and women of the House of Commons protective service. We know we are safer because of you and your actions will not be forgotten by anyone in the Parliament Hill community.

THE HOUSE OF COMMONS CHAMBER

New flagpole and flag stand in silver maple; 50th anniversary of the maple leaf flag

February 18, 2015
Debates, p. 11348

Context

On February 18, 2015, the Speaker made a statement about the new flag stand located to the right of the Speaker's chair. It was made from the wood of the maple tree that inspired Alexander Muir's patriotic song *The Maple Leaf Forever*, written in October 1867. The Speaker also recognized the 50th anniversary of the maple leaf flag, mentioning that the original flag was on display in the Hall of Honour.

STATEMENT OF THE CHAIR

The Speaker: I would like to draw to the attention of all hon. Members a new flagpole and stand fashioned from wood from the silver maple tree that inspired the song *The Maple Leaf Forever* here at the right hand of the Speaker's chair. The remains of the tree, which fell during a storm in 2013, are being turned into 150 art-craft projects for public display across Canada.

I wish to thank the hon. Member for Toronto—Danforth who proposed that the House of Commons participate in this initiative.

I would also like to thank the teams of conservators and tradespeople in the House Administration for their superb design and excellent craftsmanship in creating these historical objects.

Members may also have noted the maple leaf flag in the Hall of Honour. It was flown at the top of the Peace Tower 50 years ago on February 15, 1965.

It will be on display until March 1. I invite all hon. Members to stop by and have a look at this remarkable artifact of our country's history.

3 — THE DAILY PROGRAM

3

THE DAILY PROGRAM

INTRODUCTION

Every day the House sits, the conduct of parliamentary business follows a set pattern prescribed by the *Standing Orders*. The official agenda of the House appears in the *Notice Paper* and lists the items that may be addressed. It is up to the Speaker to ensure that this order is followed. The activities of the House are generally grouped into five categories: Daily Proceedings, Routine Proceedings, Government Orders, Private Members' Business and Adjournment Proceedings. The decisions in this chapter relate to four themes: Daily Proceedings, Routine Proceedings, Government Orders and Weekly business statement.

The Daily Proceedings category includes three events: Prayer, Statements by Members and Oral Questions. Every sitting day begins with the reading of the prayer, which takes place before the doors are opened to the public and the work of the House begins. On Wednesdays, the national anthem is sung after the prayer but before the doors are opened. Statements by Members and Oral Questions follow later in the sitting. The timing varies each day, but the length of time allocated to each rubric does not. Statements by Members, which provides an opportunity for Members who are not Ministers to speak for up to one minute on subjects of international, national, provincial or local interest, is limited to 15 minutes. In one of his decisions, Speaker Scheer enjoined Members to be careful and to avoid personal attacks during this period, as the individual being targeted cannot respond.

Several subsequent decisions addressed matters occurring during Oral Questions, a 45-minute period following Statements by Members during which Members may ask questions on matters falling within the jurisdiction of the federal government. In one decision, Speaker Scheer stated that, despite the considerable latitude granted to Members, questions on the internal affairs of parties, on Senate proceedings and on the actions of Senators or other Members would likely be ruled out of order. He also specified that it is not for the Chair to determine whether the content of the responses is relevant, and that the onus is on all Members to raise the quality of both questions and answers. The Speaker was also called on to deliver a ruling on the rules associated with written questions.

The second category of the Daily Program covered in this chapter falls under the rubric "Routine Proceedings", which is the part of the daily program during which various matters of essential business are addressed. Members may bring a variety of matters to the attention of the House, generally without debate. Separate rubrics are addressed each sitting day in a specific order. "Motions" provides Members with the opportunity to move various specific types of motions for debate, such as motions for concurring in committee reports. Ministers may also move motions about the organization of House business.

In one decision, Speaker Scheer was called upon to clarify the limits of using Standing Order 56.1[1] during Routine Proceedings. This Standing Order allows for the passing, without debate or amendment, of a routine motion for which unanimous consent is denied, unless 25 Members rise to oppose it. In his decision, Speaker Scheer explained that motions moved pursuant to this Standing Order cannot interfere with committee business. He also reminded Members that, as the Chair does not receive any advance notice for this type of motion and must put the matter to the House without delay, it is important for Members to speak up promptly if they have concerns about whether a motion is in order.

1. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 505.

With regard to the rubric "Government Orders", which accounts for the largest proportion of the House's time at each sitting, it includes every matter that a Minister has proposed for study, and also the consideration of the business of supply on allotted days. While the flow of parliamentary business and sitting hours is outlined by prescribed rules in the *Standing Orders*, the House may temporarily suspend those by adopting temporary or special orders. One of Speaker Scheer's decisions addressed a case in which the Government moved a motion to extend sitting hours. The Speaker noted that such motions are usually moved during Routine Proceedings, but that they could also be moved during Government Orders.

DAILY PROCEEDINGS

Statements by Members: personal attacks

April 2, 2012
Debates, **p. 6789**

Context

On April 2, 2012, during Statements by Members, Eve Adams (Mississauga—Brampton South) criticized what Craig Scott (Toronto—Danforth) had said.[1] The Speaker interrupted her and recognized another Member. Later that day, Joe Comartin (Windsor—Tecumseh) asked the Speaker to clarify how he intended to handle the matter of personal attacks on other Members.[2]

Resolution

The Speaker ruled immediately. He explained that, during Statements by Members, it is not possible for a Member who has been referenced to respond. Therefore, the Speaker must examine the nature and tone of the words used and the reaction they provoke. He reminded Members not to make debate personal, and to choose their words carefully during Statements by Members when they take issue with statements or positions other Members have expressed. The Speaker was of the opinion that Ms. Adams's statement had provoked a strong reaction and that, for those reasons, the interruption was justified. He said he would revisit the matter if necessary.

1. *Debates*, March 29, 2012, pp. 6693, 6704.
2. *Debates*, April 2, 2012, pp. 6774, 6789.

DECISION OF THE CHAIR

The Speaker: I appreciate the Member for Windsor—Tecumseh raising this. I was here in the previous Parliament when my predecessor attempted to bring some kind of cohesive parameters as to what would be acceptable during [Statements by Members].

Members are granted a great deal of latitude on the types of things they are allowed to talk about during their statements. Some guidelines have existed and some have been enforced at various times and some have not been. For the House, especially in this Parliament, what may help Members is, if they are referencing a particular individual, that the bar would be higher during Standing Order 31[3] than it might be during Question Period or during the normal course of debate.

As my predecessor mentioned, Statements by Members is a time of the day when it is impossible for a Member who has been referenced to respond. This is different from Question Period and it is different from other types of debate, so, as previous Speakers have done, the Chair will look at a few things, such as the nature of the words being used, as well as the reaction that they provoke. Members are free to take issue with statements or positions that other Members have expressed and can talk about their own personal views on or what the party might think in terms of ideas. However, when they are going to touch on these things in a very personal way, they need to choose their words very carefully and the tone and the reaction will be examined by the Chair.

I hope that helps. I do not think there is a formula. I do not think we can write down a mathematical equation as to what will be ruled [in] or out of order but if all Members took it upon themselves, if they are going to make reference to other Members to highlight what it was that was said, that it not be done in a personal way, the House would appreciate it and then it would be easier for the Chair to determine what the nature is.

3. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 497.

I am prepared to go back and look more closely at what the Member for Mississauga—Brampton South said during her Standing Order 31.[4] As I heard it, it certainly did provoke a reaction and it seemed to assign some kind of motive to the Member's alleged comments. I will go back and look at it if she feels she should not have been cut off. However, at the time it did seem to be causing quite a lot of disruption and it did seem to me to be worth stepping in to move on to the next one. I will come back to the House if necessary on that particular one.

I hope that answers the Member for Windsor—Tecumseh's question in a more general format.

4. See Appendix A, p. 497.

THE DAILY PROGRAM

DAILY PROCEEDINGS

Oral Questions: question concerning matters before committees; answered by a Minister

November 2, 2011
Debates, **pp. 2860–1**

Context

On October 26, 2011, during Oral Questions, Sean Casey (Charlottetown) addressed a question to the Chair of the Standing Committee on Veterans Affairs concerning an in camera meeting being held when the committee had been scheduled to hear from witnesses at a public meeting. Steven Blaney (Minister of Veterans Affairs) answered on behalf of the Committee Chair. After Oral Questions, Ralph Goodale (Wascana) rose on a point of order. In his opinion, the Chair of the committee should have answered Mr. Casey's question because it addressed committee business and did not pertain to the responsibility of the Government or the Minister. Peter Van Loan (Leader of the Government in the House of Commons) stated that since only the Minister rose to respond, the Speaker responded appropriately in recognizing him, in accordance with established practice. After hearing from other Members, the Speaker took the matter under advisement.[1]

Resolution

The Speaker delivered his ruling on November 2, 2011. He recognized that questions about the schedule or agenda of committee business should be directed to and answered by committee Chairs. However, he reminded Members of the role of the Speaker during Oral Questions, including that the Speaker is not responsible for the quality or content of replies and cannot compel a response. He added that the Speaker's role includes recognizing Members who rise to reply. As the Chair and Vice-Chair of the

1. *Debates*, October 26, 2011, pp. 2523, 2526–7.

committee had not risen, the Speaker explained that he had recognized the only person who had risen – in this case, the Minister. The Speaker invited Members to continue directing their questions to those who are properly accountable for answering them. He closed by recommending that Members address the Standing Committee on Procedure and House Affairs if they wanted the rules and procedures that guide the Chair to be changed.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the point of order raised on October 26, 2011, by the Member for Wascana regarding who ought to be recognized to answer questions posed during Question Period to the Chair of a standing committee.

I would like to thank the Member for having raised this matter, as well as the Leader of the Government in the House of Commons, the Minister of Veterans Affairs, the House Leader of the Official Opposition, and the members for Bourassa and Charlottetown for their interventions.

In raising this matter, the member for Wascana stated that the question posed by the Member for *Charlottetown* related to the work of the Standing Committee on Veterans Affairs, which is under the purview of the committee Chair rather than under the responsibility of the Government or the Minister. Noting that committees were masters of their own affairs, he sought clarification about whether it was permissible for Ministers to respond to questions on behalf of Chairs of committees and suggested that this approach would be a profound change in our long-held traditions with respect to the proper functioning of committees.

The leader of the Government in the House quoted from a ruling on a similar matter given on February 8, 2008, at pages 2836 and 2837 of *Debates*, in order to demonstrate that, in recognizing the only individual rising to answer, the Speaker had acted in accordance with the practice established and articulated by Speaker Milliken.

The House Leader of the Official Opposition reminded the House that members of the Official Opposition chaired several standing committees and suggested that it would be inappropriate for Ministers to answer questions on behalf of committee Chairs who were from the Official Opposition.

As Members know, three kinds of questions may be posed by Members during Question Period. First, questions concerning the administrative responsibility of the Government, or an individual Minister, may be directed to the ministry collectively. *House of Commons Procedure and Practice*, Second Edition, at page 509 notes:

> Questions, although customarily addressed to specific Ministers, are directed to the Ministry as a whole. It is the prerogative of the government to designate which Minister responds to which question, and the Speaker has no authority to compel a particular Minister to respond.

Second are questions that concern matters of financial or administrative policy affecting the House itself. These are not directed to the Speaker but rather to members of the Board of Internal Economy designated by the Board to respond to them.

Finally, an extremely narrow category of questions may be directed to Chairs or Vice-Chairs of committees. These must be phrased in a very specific way and can seek limited information only. In O'Brien and Bosc at page 506, it states:

> Questions seeking information about the schedule and agenda of committees may be directed to Chairs of committees. Questions to the Ministry or to a committee Chair concerning the proceedings or work of a committee, including its order of reference, may not be raised. Thus, for example, a question would be disallowed if it dealt with a vote in committee, with the attendance or testimony of Members at a committee meeting, or with the content of a committee report. When a question has been

> asked about a committee's proceedings, Speakers have encouraged Members to rephrase their questions.

House practices with regard to Oral Questions are established in this fashion so that the appropriate persons can be held accountable to the House, be it a Minister for the executive, a committee Chair for a committee or the designated member of the Board of Internal Economy for House administration matters. These categories of questions reflect the principle of distinct legislative and executive spheres of responsibility and accountability, which is at the very heart of our system of parliamentary government. That this very distinction between the executive and legislative may somehow be jeopardized by a Minister answering a question directed to a committee Chair is the crux of the matter before us. This is no doubt why the member for Wascana asked:

> Is it now permissible in the House for Ministers to effectively muzzle the Chairs of committees and impose on committees the views of the government?

Drawing from O'Brien and Bosc on pages 508 to 510, I would now like to remind the House of the role of the Speaker with respect to replies to Oral Questions. It states that: there are no explicit rules which govern the form or content of replies to Oral Questions; the Speaker has no authority to compel a response; the Speaker is not responsible for the quality or content of replies to questions; and finally, the Speaker ensures that replies are brief, within the time agreed to by the House, deal with the subject matter raised, and phrased so as not to provoke disorder in the House, that is that they adhere to the dictates of order, decorum and parliamentary language.

Coupled with this, of course, is the Speaker's role in recognizing Members who rise to reply to Oral Questions, particularly as there is an expectation on the part of Members asking the questions that they receive, at a minimum, a response. As Speaker Milliken explained in the ruling referred to by the Government House leader, in recognizing someone to answer a question, the Speaker "is to take a look at those who are standing to answer and choose who is going to answer..." and "...when no one else rises, it is reasonable to expect an answer to a question...". Simply put, it is not for the Speaker to judge

who possesses which information and, thus, who might be able to provide the information being sought. As Speaker Milliken put it in reference to the events of February 2008:

> ... no one else rose. The Member who posed the question clearly wanted an answer and got one, or at least got a response.

While there may be concerns about the Minister rising to reply to a question properly posed to the Chair of a standing committee, in this particular instance, the Chair did not rise to respond, nor did the other Vice-Chair of the committee. It is therefore perhaps not completely unexpected that the Minister would rise to offer a response related to witnesses from his department, and that the Chair would recognize him in the absence of any other Member rising. Nothing in this incident should be interpreted to mean that Members should not continue to direct their questions to those who are properly accountable for answering them. It is also entirely reasonable to expect that those to whom questions are directed, in this case the Chair or Vice-Chair of a standing committee, would automatically be recognized by the Chair to respond, provided they are, of course, rising.

The House will understand that the dynamic nature of Question Period is such that the Chair is frequently faced with split-second decisions on who to recognize. This is as true now as it was for Speaker Milliken. As always, the Chair is aware that each circumstance must be evaluated on its own merits. Were the House to recommend a different way of proceeding, the Chair would of course adapt to that. As my predecessor suggested, the Standing Committee on Procedure and House Affairs is well placed to consider this matter and, if it sees fit, to propose recommendations to help guide the Chair in cases such as this.

I thank all Members for their attention.

DAILY PROCEEDINGS

Oral Questions: response to written question (deemed unsatisfactory); cost of response mentioned

November 27, 2012
Debates, **pp. 12536–7**

Context

On November 5, 2012, during Oral Questions, Kirsty Duncan (Etobicoke North), asked Vic Toews (Minister of Public Safety) why she had not received a more detailed response to a written question. The Minister replied that it had cost taxpayers more than $1,300 just to determine whether an answer was possible, and that answering the written question in greater detail would cost even more.[1] Marc Garneau (Westmount—Ville-Marie) rose on a point of order, alleging that it was out of order for the government to indicate in a response to a written question the total time and cost incurred in the preparation of the response. After hearing from another Member, the Speaker took the matter under advisement.[2]

Resolution

On November 27, 2012, the Speaker delivered his ruling. He reminded Members of the underlying principles of written questions, and encouraged them to word their questions in such a way as to receive a response within the 45-day time limit, and the Government to respond with as much information as possible. The Speaker concluded that the Minister's reply was not out of order because the rules that apply to written questions do not apply to answers given during Oral Questions.

1. *Debates*, November 5, 2012, p. 11918.
2. *Debates*, November 5, 2012, p. 11925.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the point of order raised on November 5, 2012, by the hon. Member for Westmount—Ville-Marie and the House Leader of the Liberal Party, regarding the nature of an answer given to a written question.

I would like to thank the House Leader of the Liberal Party for having raised the matter, as well [as] the hon. Leader of the Government in the House of Commons for his comments.

During Question Period on November 5, the Member for Etobicoke North asked the Minister of Public Safety why the Government had not provided a substantive response to her written question No. 873, a very lengthy and complicated question about disaster risk reduction and recovery. The Minister replied that it had cost more than $1,300 just to determine whether an answer was possible, and suggested that the cost of preparing a comprehensive response would be prohibitive.

In raising this point of order, the House Leader of the Liberal Party objected to the Minister of Public Safety's reference to the cost of preparing a response to the question, claiming that this was contrary to our practices, as described at page 522 of *House of Commons Procedure and Practice*, Second Edition, which states:

> … it is not in order to indicate in a response to a written question the total time and cost incurred by the government in the preparation of that response.

However, the Liberal House Leader's main complaint was about the nature of the response provided to the written question itself. Specifically, he expressed concern that the nature of the response—a brief statement about why the question would not be answered—was setting a "dangerous precedent".

In response, the Government House leader stated that the Government's response to question No. 873 made no references to the cost of its preparation,

and that the costing information had been provided by the Minister of Public Safety only in the response to an oral question.

It may be useful at the outset to remind all Members of the purpose of oral and written questions to the Government. *House of Commons Procedure and Practice*, Second Edition, at page 491 states, and I quote:

> The right to seek information from the ministry of the day and the right to hold that ministry accountable are recognized as two of the fundamental principles of parliamentary government. Members exercise these rights principally by asking questions in the House. The importance of questions within the parliamentary system cannot be overemphasized and the search for or clarification of information through questioning is a vital aspect of the duties undertaken by individual Members. Questions may be asked orally without notice or may be submitted in writing after due notice.

While Members are well aware of our practices as they relate to Oral Questions, they may be less familiar with those that regulate written questions. *House of Commons Procedure and Practice*, Second Edition, states at pages 519 and 520, in relation to questions:

> In general, written questions are lengthy, often containing two or more subsections, and seek detailed or technical information from one or more government departments or agencies.... Given that the purpose of a written question is to seek and receive a precise, detailed answer, it is incumbent on a Member submitting a question for the *Notice Paper* "to ensure that it is formulated carefully enough to elicit the precise information sought".

Practices that regulate answers to written questions are similarly referenced at page 522, and I quote:

> The guidelines that apply to the form and content of written questions are also applicable to the answers provided by the government. As such, no argument or opinion is to be given and only the information needed to respond to the question is to be provided in an effort to maintain the process of written questions as an exchange of information rather than an opportunity for debate. As with oral questions, it is acceptable for the government, in responding to a written question, to indicate to the House that it cannot supply an answer. On occasion, the government has supplied supplementary or revised replies to questions already answered. The Speaker, however, has ruled that it is not in order to indicate in a response to a written question the total time and cost incurred by the government in the preparation of that response.

Let me assure the House that I realize full well that over the years Speakers have recognized that they exercise little oversight in the matter of written questions. As always, however, the Chair remains attentive to these matters and is ready to assist in any way it can in ensuring that written questions continue to serve Members as an important channel of genuine information exchange.

So I take this as an opportunity to ask the House to bear in mind the underlying purpose of a written question, namely the seeking of information. In my view, it is incumbent on the Member who submits it to formulate it in such a way that it is in fact answerable. As such, it is not unreasonable to expect, particularly where the Member submitting a question attaches to it the 45-day time limit, that it would be worded in such a way as to allow the Government to provide the information requested within the time allotted. Not surprisingly, a question that fails to do so is more likely to yield an answer that fails to meet the questioner's expectations.

Likewise, the Chair believes that it is not unreasonable for Members submitting a written question to expect that the Government would make an attempt to provide as much information as possible in response in the time available.

If, perhaps due to a request for a reply within 45 days, all of [the] information being sought cannot be produced in time, it is also always open to the Government to return later with a supplementary reply to a question already answered.

However, on careful examination of written question No. 873 and the reply it received, it would seem to the Chair that both the Member asking the question and the Government might yet find a way to achieve a result that would satisfy both parties. Is it possible that a differently worded question, resubmitted, could elicit a substantive reply about the Government's disaster management activities and policies? The Chair would like to think so. This would help allay the fears expressed by the Member for Westmount—Ville-Marie that answers, such as the one provided to written question No. 873, could recur and become a standard response. In the meantime, I can assure the Member that having looked into the matter, the Chair can report to the House that this is not at present part of a pattern that it can find in responses to written questions.

Meanwhile, in the case at hand, the Chair does not find that the rules that apply to the content of replies to written questions also apply to responses given during Oral Questions, even if the oral question relates to a written question. Accordingly, the Chair cannot find that the reply by the Minister of Public Safety during Oral Questions is out of order or has in any way offended our practices as they relate to written questions.

I thank hon. Members for their attention.

DAILY PROCEEDINGS

Oral Questions: Speaker's interventions on the admissibility of questions about the Senate

January 28, 2014
Debates, **p. 2202–5**

Context

On December 9, 2013, Nathan Cullen (Skeena—Bulkley Valley) rose on a point of order seeking clarification about Oral Questions. He raised in particular the Speaker's interventions on questions about the involvement of the Prime Minister's Office in the actions of certain Senators.[1] The Speaker took the matter under advisement.[2]

Resolution

The Speaker delivered his ruling on January 28, 2014. He reminded Members that the primary purpose of Question Period is to hold the government to account by asking questions on topics that fall under its responsibility. Questions that do not meet this requirement are inadmissible. Hybrid questions, where the preamble is about a topic that does not fall under the Government's administrative responsibility but the conclusion establishes a link, may also be found out of order. As a result, the Speaker invited Members to quickly establish the link between their question and the Government's administrative responsibility, given the short time the Speaker has to determine admissibility.

With regard to answers to oral questions, the Speaker said that he would follow the long-established practice of not intervening, and that he could follow only the procedures and practices that the House wants to see

1. The questions were about an email sent by a Senator to all parliamentarians about a Member (see page 109 for a ruling concerning this matter), as well as the expenses of a Senator, *Debates*, December 9, 2013, pp. 1928–9.
2. *Debates*, December 9, 2013, p. 1935.

applied. He added that the onus is on all Members to raise the quality of both questions and answers so that Canadians can determine that these constitute a proper use of the House's time.

DECISION OF THE CHAIR

The Speaker: On December 9, 2013, the House Leader of the Official Opposition raised various issues relating to Question Period. Other Members from all parties in the House have from time to time voiced similar concerns. In view of the desire for clarification regarding the rules and practices governing the conduct of Question Period, I undertook to return to the House and I would like to take a few minutes now to address the principles that govern this proceeding.

A good place to start is Chapter 11 of the Second Edition of *House of Commons Procedure and Practice*, which describes the evolution of Question Period from an historical perspective. What is immediately apparent is that the practice of Members posing oral questions to the Government has been a part of our daily proceedings since before Confederation. The longevity and staying power of this practice flow from the very principles that underpin our system of parliamentary democracy.

As *House of Commons Procedure and Practice*, Second Edition, states at page 491:

> The right to seek information from the Ministry of the day and the right to hold that Ministry accountable are recognized as two of the fundamental principles of parliamentary government. Members exercise these rights principally by asking questions in the House. The importance of questions within the parliamentary system cannot be overemphasized and the search for or clarification of information through questioning is a vital aspect of the duties undertaken by individual Members.

That is not to say that it is only recently that the conduct of Question Period has become a topic of public debate. On the contrary, virtually every Speaker at one time or another has had something to say about Question Period.

In the 1870s, for example, when Question Period was still in its infancy, Speaker Anglin declared that Members ought to confine themselves to seeking information from the Government and that it was not appropriate to "proceed to descant on the conduct of the Government". By the 1940s, Speaker Glen was pointing to the need for questions to be brief and that these "must not be prefaced by any argument". It was always understood, of course, that questions were to relate to matters that were "urgent and important". Other guidelines came and went, depending on the times.

In the early 1960s, Speaker McNaughton unsuccessfully tried to enforce several long-standing unwritten rules regarding the content of questions.

In 1964, a report by a special committee set out certain guidelines respecting questions and went so far as to say that "answers to questions should be as brief as possible, should deal with the matter raised, and should not provoke debate".

In the 1970s, O'Brien and Bosc tell us at page 495, Question Period became "an increasingly open forum where questions of every description could be asked", this despite Speaker Jerome having identified several principles underlying QP and issuing guidelines for its conduct. Many attributed these developments to the advent of the television era, but whatever the cause, this trend to a more freewheeling Question Period continued unabated by a statement made by Speaker Bosley in the mid-1980s aimed at curtailing the lack of discipline.

A simple review of the section entitled "Principles and Guidelines for Oral Questions", found at pages 501 to 504 of O'Brien and Bosc, shows just how many of these "guidelines" have fallen into disuse, some fairly recently. Throughout all these changes, one thing remains clear: the Speaker, as the servant of the House, can enforce only those practices and guidelines the House is willing to

have enforced. Very often the particular circumstances of the moment dictate how far the Speaker can go without unduly limiting the freedom of speech of Members.

But when content causes disorder, the Speaker must step in, all the while acting within the confines of our rules and practices. This is particularly necessary given that this House is one of the few Westminster-style deliberative assemblies where neither the question nor the topic of the question need be submitted beforehand. While this certainly makes for a lively and much-watched parliamentary exercise, it does little to make the Speaker's job any easier.

The main purpose of Question Period is undoubtedly the opportunity it provides to the legislative branch to seek information from the executive and to hold the Government to account. This opportunity is particularly important for the opposition parties. We all recognize that the opposition has the right and, indeed the duty, to question the conduct of the Government, and every effort must be made in the enforcement of our rules to safeguard that right. But the Government can only be held to account for matters that fall within its administrative responsibilities.

For example, that is why my predecessors and I have frequently ruled out of order questions regarding election expenses. Elections Canada is an independent, non-partisan agency of Parliament. While in a technical sense there is a Government Minister responsible for Elections Canada—the Minister transmits the agency's estimates, for example—the fact remains that the Chief Electoral Officer reports to the House through the Speaker. As Speaker Milliken noted in a ruling given on October 22, 2007, at page 209 of *Debates*, it is difficult to ask questions about Elections Canada to the Government unless there is a link to the administrative responsibilities of the Government—a link such as questions about changes to the law respecting Elections Canada, for example.

It is for similar reasons that questions that concern internal party matters or party expenses or that refer to proceedings in the Senate or the actions of Senators, or indeed of other Members, risk being ruled out of order. On the

latter point, as Speaker Milliken stated in a ruling on June 14, 2010, found in *Debates* at page 3778, "the use of ... preambles to questions to attack other Members does not provide those targeted with an opportunity to respond or deal directly with such attacks." Thus, unless a link to the administrative responsibilities of the Government can be established early in the question to justify them, such questions can be and indeed have been ruled out of order by successive Speakers. I discovered this myself once, when in my early days in the opposition a question of mine was ruled out of order by Speaker Milliken.

As always, however, the Speaker faces many challenges in applying the rules the House has set out. Anytime a Speaker rules a question out of order, the Member concerned will claim a legitimate reason for asking it: will claim that it is in the public interest, will claim [that] it is something that Canadians have a right to know, will claim that there is no longer a distinction between acting as party leader and leading the party in the House, and the list goes on.

But the Speaker must adhere to the long-standing principle that Question Period is intended to hold the Government to account. I have to look at whether the matter concerns a Government department, or a Minister who is exercising ministerial functions, as a Minister of the Crown and not just as a political figure or as a Member of a political party. The Speaker must ask whether the question was actually touching upon those types of Government responsibilities, or whether it was about elections or party finances or some other subject unrelated to the actual administrative responsibilities of the Government.

These principles apply to everyone who gets an opportunity to pose questions in Question Period, including backbench Members of the governing party. Indeed, because the fundamental purpose of Question Period is to provide a forum for the legislative branch to hold the executive to account, it is meant to be an opportunity—for those Government Members fortunate enough to get the floor—to ask probing questions of the Government on matters that fall within its administrative responsibilities. That said, it is not surprising to hear what might be called "friendly" questions from these Members, since they are, after all, supporters of the Government.

However, lately we have witnessed a growing trend: we hear preambles to questions that go on at some length to criticize the position, statements, or actions of other parties, Members from other parties, and in some cases even private citizens before concluding with a brief question about the Government's policies.

What we have, therefore, is an example of a hybrid question, one in which the preamble is on a subject that has nothing to do with the administrative responsibility of the Government but which concludes in the final five or ten seconds with a query that in a technical sense manages to relate to the Government's administrative responsibilities.

The House needs to ask itself if, taken as a whole, such a question—a lengthy preamble and a desultory query—can reasonably be assumed by a listener to respect the principles that govern Question Period. I would submit that it is because this formulation is actually about other parties and their positions, not about the Government, that I have had to rule such questions out of order from time to time.

To complicate matters, as I said on December 1, 2011, at page 3875 of the *Debates*, the Speaker is called upon to make decisions about the admissibility of questions on the fly. In that regard, since Members have very little time to pose their questions and the Chair has even less time to make decisions about their admissibility, it would be helpful if the link to the administrative responsibility of the Government were made as quickly as possible.

Accordingly, these kinds of questions will continue to risk being ruled out of order and Members should take care to establish the link to Government responsibility as quickly as possible.

With this approach in mind, let me turn now to the issue of answers to questions.

There has been much discussion recently about the nature of answers during Question Period, with calls for the Speaker to somehow intervene, citing practices in other countries.

It is true that there may be slight differences in the way Question Period is managed elsewhere due to each country's unique set of traditions, but it is equally without doubt a widespread practice and tradition in Westminster-style parliaments that the Chair does not judge the quality or relevance of answers.

For instance, it states on page 565 in *Parliamentary Practice in New Zealand*, Third Edition, that:

> While Ministers are required to "address" the question asked in their replies, whether the reply provided actually "answers" the question asked is a subjective judgment. It is no part of the Speaker's role to make such a judgment.

In South Africa, a similar practice prevails and, according to the *National Assembly Guide to Procedure*, 2004, on page 211, "the Chair regulates the proceedings in the House, [but] it is not possible for the Chair to dictate to Ministers how they should reply to questions".

In the United Kingdom, *Erskine May's Treatise on The Law, Privileges, Proceedings and Usage of Parliament*, Twenty-Fourth Edition, at page 356 states:

> The Speaker's responsibility in regard to questions is limited to their compliance with the rules of the House. Responsibility in other respects rests with the Member who proposes to ask the question, and responsibility for answers rests with Ministers.

Each parliament has its own traditions. Successive Speakers in our House have maintained our tradition of not intervening in respect of answers to questions, and I do not intend to change that. For me to deviate from this long-standing practice would require an invitation from the House, probably stemming from a review of our rules by the Standing Committee on Procedure and House Affairs.

Given the widespread concern and commentary about Question Period, all Members may want to consider how the House can improve things so that

observers can at least agree that Question Period presents an exchange of views and provides some information. The onus is on all Members to raise the quality of both questions and answers.

While the framework, mechanisms, and procedures associated with Question Period have evolved with time, its raison d'être and core principles have remained intact. All Members, both in Government and in opposition, need to ask themselves: Is Question Period a forum that Canadians can look at and conclude that it constitutes a proper use of Members' time?

The principle of responsible government is that the Government has to provide an accounting for where the money goes and to provide reasons for why decisions are made. In the Chair's view, it takes a partnership between the opposition and the Government to demonstrate a willingness to elevate the tone, elevate the substance, and make sure that Question Period is being used to do the job that we were elected to do, which is to represent our constituents, advance ideas, and hold the Government to account.

In conclusion, I will continue to rule questions out of order that do not establish a direct link to the administrative responsibilities of the Government. In the same sense, so-called hybrid questions will also continue to risk being ruled out of order when this link is not quickly demonstrated. Members should take care when formulating their questions and establish this link as soon as possible in posing their questions to ensure that the Chair does not rule what may be a legitimate question out of order.

The onus is on all Members to raise the quality of questions and answers during Question Period. The Chair notes with interest that the Standing Committee on Procedure and House Affairs has been instructed to undertake a review of the *Standing Orders*. As the servant to the House, the Chair will endeavour to implement any changes to the *Standing Orders* or to Question Period that the House chooses to adopt.

I thank all hon. Members for their attention to this important matter.

DAILY PROCEEDINGS

Oral Questions: relevance of responses; allegation of bias

September 24, 2014
Debates, **p. 7771**

Context

On September 23, 2014, Thomas Mulcair (Leader of the Official Opposition), dissatisfied with the answers he was receiving from Paul Calandra (Parliamentary Secretary to the Prime Minister and for Intergovernmental Affairs) during Oral Questions, asked the Speaker to enforce the rules on the relevance of responses. He made reference to the Speaker's lack of neutrality.[1]

On September 24, 2014, before proceeding with Oral Questions, the Speaker made a statement. He specified that his role was to speak to the best interests of the entire parliamentary institution, that he could exercise only those powers conferred upon him by the House, and that it is not the Chair's role to decide whether the content of a response is in fact an answer. The Speaker emphasized that the rules of repetition and relevance do not apply to Oral Questions and reminded all Members that the onus is on them to raise the quality of both questions and answers. He also made reference to the tradition whereby reflections on the character or actions of the Speaker could be taken as a breach of privilege and punished accordingly.

1. *Debates*, September 23, 2014, pp. 7718–9.

STATEMENT OF THE CHAIR

The Speaker: Before we proceed to Question Period, the Chair wishes to make a brief statement.

The office of Speaker is an ancient one, and there are many procedural authorities in this country and abroad that describe the Speaker's role. Our own tome, *House of Commons Procedure and Practice*, [Second Edition], encapsulates my role, as follows, at page 307:

> The Speaker is the servant, neither of any part of the House nor of any majority in the House, but of the entire institution and serves the best interests of the House as distilled over many generations in its practices.
>
> Despite the considerable authority of the office, the Speaker may exercise only those powers conferred upon him or her by the House, within the limits established by the House itself.

With respect to Question Period proceedings, contrary to what some Members and others may believe, this means adhering to practices that have evolved over a broad span of time and that have consistently been upheld by successive Speakers.

By way of example, on October 28, 2010, *Debates* page 5505, Speaker Milliken said:

> As all of the hon. Members know, the Speaker has no authority over the content of answers given by a Minister or Parliamentary Secretary in response to a question asked during Question Period.

The issue came up again on December 1, 2010, *Debates* page 6677, and on that occasion Speaker Milliken stated:

> The Minister, in his response, may not have answered the question, but it is not the role of the Chair to decide whether a response is an answer or not to the question. Indeed, the Chair has no authority to rule an answer out of order unless the answer contains unparliamentary remarks or a personal attack on some other member.
>
> It is not for the Chair to decide whether the content of a response is in fact an answer. As we have heard many times, that is why it is called Question Period, not answer period.

In my own ruling regarding Question Period proceedings, delivered on January 28, 2014, I stated very clearly (**Editor's Note:** The ruling can be found on page 211):

> There has been much discussion recently about the nature of answers during Question Period, with calls for the Speaker to somehow intervene, citing practices in other countries ...
>
> Each parliament has its own traditions. Successive Speakers in our House have maintained our tradition of not intervening in respect of answers to questions, and I do not intend to change that. For me to deviate from this long-standing practice would require an invitation from the House.

To date, the House has not seen fit to alter our practices or to give directions to the Chair in that regard.

That being said, I have no doubt that Canadians expect Members to elevate the tone and substance of Question Period exchanges. As your Speaker, I hope the House can rise to that challenge.

To be absolutely clear on another point, any suggestion that the rules of repetition and relevance apply to Question Period is wrong and ignores the long list of Speakers' rulings to the contrary.

Another of our time-honoured traditions is that of respect for the office of Speaker. O'Brien and Bosc, at [pages 313 and 615], states that:

> Reflections on the character or actions of the Speaker—an allegation of bias, for example—could be taken by the House as [breaches] of privilege and punished accordingly.

I wish to conclude with an appeal to Members on all sides. Needless to say, the kind of unsavoury language or expression that we heard yesterday does little to assist the Chair in managing Question Period proceedings, and I urge all Members to be judicious in the expressions they choose to use.

I also ask all Members to heed my request of last January 28, when I asked Members:

> ... to consider how the House can improve things so that observers can at least agree that Question Period presents an exchange of views and provides at least some information. The onus is on all Members to raise the quality of both questions and answers.

Postscript

On September 26, 2014, Mr. Calandra apologized to the House for his behaviour during Oral Questions on September 23, 2014.[2]

2. *Debates*, September 26, 2014, p. 7900.

ROUTINE PROCEEDINGS

Tabling of documents by a Minister: revealing political party donations by a citizen

November 17, 2011
Debates, **p. 3224**

Context

On November 3, 2011, the House approved the appointment of Michael Ferguson as Auditor General of Canada.[1]

On November 4, 2011, during Oral Questions, a number of Liberal Members mentioned that Michel Dorais of the Office of the Auditor General of Canada had resigned in protest over the appointment of Mr. Ferguson. At the end of Oral Questions, Tony Clement (President of the Treasury Board and Minister for the Federal Economic Development Initiative for Northern Ontario) tabled a document indicating that Mr. Dorais had made a donation to the former Liberal leader in 2009.[2] Later that day, Wayne Easter (Malpeque) called on the Speaker because he felt the Minister had acted inappropriately in tabling a document that revealed donations to a political party by an individual, which would destroy his reputation. In his view, it went against freedom of choice, freedom of speech and freedom of political affiliation and used fear and intimidation, which is unbecoming of a Minister. Other Members also spoke to the matter, and the Speaker took the matter under advisement.[3]

Resolution

The Speaker delivered his ruling on November 17, 2011. He stated that no offence had been committed, as Ministers enjoy considerable latitude

1. *Debates*, November 3, 2011, pp. 2889–90.
2. *Debates*, November 4, 2011, pp. 2973, 2980.
3. *Debates*, November 4, 2011, pp. 2986–7.

for the tabling of various documents pursuant to Standing Order 32(2).[4] However, he issued a caution to the House. He indicated that it would be preferable to avoid any reference to private citizens if doing so could damage their reputation, since they do not enjoy parliamentary immunity and the absolute freedom of speech that Members do; these privileges are far-reaching, and Members must exercise them with care.

DECISION OF THE CHAIR

The Speaker: I am now ready to rule on the point of order raised by the Member for Malpeque, on November 4, concerning the tabling of a document by the President of the Treasury Board.

I would like to thank the Member for Malpeque for raising this matter, as well as the hon. Minister of State and Chief Government Whip, and the Members for Richmond—Arthabaska and Winnipeg North for their comments.

The facts of this case are as follows. During Oral Questions on Friday, November 4, 2011, questions were posed which made reference to the resignation of a Member of the Auditor General's internal audit committee in protest over the appointment of the new Auditor General. In one of these questions, the Member for Bourassa named the individual concerned. Then, after Question Period, the President of the Treasury Board tabled a document that detailed a political donation this individual had made, referring to him by name twice.

In raising this point of order, the Member for Malpeque condemned the Minister's action, claiming that:

> It is fear and intimidation. It can put the chill of fear into public servants and individuals in Canada donating to a political party that a Minister will use that against them. By implication, it can be damaging to a person's reputation.

4. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 498.

In response, the Chief Government Whip pointed out that since the document contained publicly available information, no confidentiality had been breached and no offence committed.

Before dealing with the substance of the point of order raised by the Member for Malpeque, I would remind the House that Ministers enjoy considerable latitude and may, at their discretion, table a wide range of documents in the House.

Standing Order 32(2)[5] states:

> A Minister of the Crown, or a Parliamentary Secretary acting on behalf of a Minister, may, in his or her place in the House, state that he or she proposes to lay upon the Table of the House, any report or other paper dealing with a matter coming within the administrative responsibilities of the government, and, thereupon, the same shall be deemed for all purposes to have been laid before the House.

Accordingly, it is clear that the President of the Treasury Board was acting within the established rules of the House in tabling a document for the information of Members.

However, the information in the document tabled by the President of the Treasury Board, though publicly available, remains information about an individual in his capacity as a private citizen. Therefore, the Chair would like to take this opportunity to remind all Members of what my predecessors had to say on similar matters.

As Speaker Fraser outlined in a ruling on May 5, 1987, the freedom of speech Members of the House enjoy is an "awesome and far-reaching privilege", one that allows our "parliamentary system to operate free of any hindrance".

5. See Appendix A, p. 498.

But he added, at page 5766 of the *Debates*, that:

> Such a privilege confers grave responsibilities on those who are protected by it. By that I mean specifically the hon. Members of this place... All hon. Members are conscious of the care they must exercise in availing themselves of their absolute privilege of freedom of speech. That is why there are long-standing practices and traditions observed in this House to counter the potential for abuse.

This same caution is taken up in *House of Commons Procedure and Practice*, Second Edition, at page 616, which states:

> Members are discouraged from referring by name to persons who are not Members of Parliament and who do not enjoy parliamentary immunity, except in extraordinary circumstances when the national interest calls for this.

Cognizant of this fundamental principle and having acknowledged that there is no rule that prohibits mentioning individuals by name in the House, my predecessors have warned Members of the potential risks of referring to members of the public in the House.

On April 24, 2007, on page [8586] of *Debates*, Speaker Milliken said:

> It is incumbent upon all Members to exercise fairness with respect to those who are not in a position to defend themselves. That being said, the Chair finds no grounds for further action in the present case.

On May 26, 1987, at page 6375 of *Debates*, Speaker Fraser went even further, stating:

> It is not simply that such people could be slandered, with impunity, without any redress available to them, but that wrongdoing may be implied simply by making a personal reference.

On the same occasion he reminded the House of the immediacy with which remarks are widely communicated, stating:

> We are living in a day when anything said in this place is said right across the country and that is why I have said before and why I say again that care ought to be exercised, keeping in mind that the great privilege we do have ought not to be abused.

I need not elaborate on the fact that what was true in 1987 is even truer today.

It is these wise cautionary remarks that have prompted me to use this occasion to remind all hon. Members to use great care when referring to or singling out an individual who does not have a voice here in this House and to avoid circumstances when, by such reference, an individual could have his or her reputation damaged without having the opportunity to respond.

I thank all hon. Members for their attention.

ROUTINE PROCEEDINGS

Tabling of documents by a Minister: practices

February 19, 2015
Debates, **p. 11441**

Context

On February 19, 2015, John Duncan (Minister of State and Chief Government Whip) rose on a point of order during Routine Proceedings to table copies of an announcement made by the Prime Minister, who was in British Columbia. In turn, Wayne Easter (Malpeque) rose on a point of order. He made the argument that the Minister's point of order was out of order because it was a ministerial statement and not the tabling of documents. Other Members also spoke to the matter.[1]

Resolution

The Acting Speaker (Bruce Stanton) delivered his ruling immediately. He reminded the House that Ministers could rise on a point of order at any time to table documents, and that they could take a few moments to explain the context of the tabling.

DECISION OF THE CHAIR

The Acting Speaker: I thank hon. Members and the Chief Government Whip for their interventions on this question.

Members will know that Ministers of the Crown may interrupt on a point of order to table documents at any given time. They have that privilege. I saw

1. *Debates*, February 19, 2015, pp. 11440–1.

this as what the Chief Government Whip was doing. He used a few moments to explain the context of the tabling, and this is quite commonplace when Ministers give the context for posing the documents to the House.

We are really at a point where all Members have been heard on this question. I do not see the practice in this case being out of order.

ROUTINE PROCEEDINGS

Introduction of Government Bills: bill that implements an international treaty; Government policy on tabling of treaties

May 12, 2014
Debates, **pp. 5220–1**

Context

On April 28, 2014, Marc Garneau (Westmount—Ville-Marie) rose on a point of order to draw attention to the fact that a treaty that would be implemented by Bill C-31, *An Act to implement certain provisions of the budget tabled in Parliament on February 11, 2014 and other measures*, had not been tabled. He contended that parliamentary practice was to notify the House at least 21 days before the introduction of the legislation that would implement it. Peter Van Loan (Leader of the Government in the House of Commons) confirmed that there was a policy on tabling of treaties. However, he said that it is not a product of the *Standing Orders*, nor is it a practice of the House; rather, it is a Government policy that is not under the jurisdiction of the Speaker. After hearing from another Member, the Deputy Speaker (Joe Comartin) said that the Speaker would take their observations into account when he came back with a ruling.[1]

Resolution

The Speaker delivered his ruling on May 12, 2014. He said that the policy belonged to the Government, and thus it was not up to the Chair to intervene in ministerial affairs or to determine whether the Government had complied with its own policies. He added that it could not be considered a practice adopted by the House, given that the tabling of treaties is not mentioned in the rules and practices of the House. He concluded that the matter raised by the Member was not a point of order and that the study of Bill C-31 could continue.

1. *Debates*, April 28, 2014, pp. 4602, 4607–10, May 5, 2014, pp. 4930–1.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the point of order raised on April 28, 2014, by the Member for Westmount—Ville-Marie regarding the procedural acceptability of Bill C-31, *An Act to implement certain provisions of the budget tabled in Parliament on February 11, 2014 and other measures*.

I thank the Member for Westmount—Ville-Marie for having raised the question, as well as the Leader of the Government in the House of Commons and the House Leader for the Official Opposition for their comments.

In raising the point of order, the Member for Westmount—Ville-Marie contended that Bill C-31 is not properly before the House nor the Standing Committee on Finance since, prior to its introduction in the House, the Government failed to table a copy of a treaty included in the bill, namely:

> The Agreement between the Government of the United States of America and the Government of Canada to improve international tax compliance through enhanced exchange of information under the convention between the United States of America and Canada with respect to taxes on income and on capital.

In his view, the Government's routine tabling of treaties at least 21 days prior to introducing implementing legislation, pursuant to its *Policy on Tabling of Treaties in Parliament*, has evolved into a parliamentary custom and is therefore a prerequisite to debate.

While recognizing that the policy allows for exceptions, the Member for Westmount—Ville-Marie argued that in this instance the Government had violated its own policy, thereby infringing upon a custom of the House and creating what he described as a legislative defect.

The Leader of the Government in the House of Commons replied that the process governing the tabling of treaties is in fact a Government policy and thus is not found in the rules or practices of the House, nor is it under the

purview of the Speaker. He cited numerous Speakers' rulings in support of this position. In addition, he noted that the policy does provide for exceptions, and thus that what is being done in the case of Bill C-31 is in fact consistent with the provisions of the policy.

The Leader of the Government in the House of Commons added that since the treaty was being implemented through legislation, opportunity existed for the House to debate it and vote upon it before it is ratified.

In raising this matter, the Member for Westmount—Ville-Marie made reference to what he considered to have been procedural irregularities. It is important to understand in this case what type of procedure, departmental or House, is being referenced. As well, the Member asked the Chair for clarity on whether the use of this policy on treaties has become regular enough to deem it a parliamentary custom such that any deviation from it has a procedural impact. In other words, is this a matter of parliamentary procedure, one over which the Chair has any authority?

It is clear to me that the policy in question belongs to the Government and not the House. It is equally clear that it is not within the Speaker's authority to adjudicate on Government policies or processes, and this includes determining whether the Government is in compliance with its own policies.

In a recent ruling, on February 7, 2013, I reminded the House of this at page 13869 of *Debates* (**Editor's Note:** The ruling can be found on page 134):

> It is beyond the purview of the Chair to intervene in departmental matters or to get involved in Government processes, no matter how frustrating they may appear to be to the Member.

The Chair has nevertheless reviewed the sequence of events described by the Member for Westmount—Ville-Marie to ascertain whether there are procedural grounds, as opposed to departmental directives, to support the idea that treaties must be tabled in the House, let alone debated here.

Not surprisingly, the review revealed that many *Standing Orders* and statutes deal with the tabling of documents, and *House of Commons Procedure and Practice*, Second Edition, on pages 430 and 609 actually enumerates the types of documents that must be tabled in the House. These include certain returns, reports, and other papers that are required to be tabled by statute, by order of the House, or by standing order. Treaties are not mentioned. In fact, the rules and practices of the House are silent with regard to the tabling of treaties.

This leads the Chair to conclude that the manner in which the Government has usually chosen to interpret its own policy on treaties cannot be construed as the House having adopted that policy as its own. As always, the rules and practices of the House must emanate explicitly from the House itself. That is not to gain the merits of receiving essential information before considering legislation. However, the distinction between governmental procedures and House procedures remains and must be acknowledged.

Therefore, the Chair cannot find evidence to support the Member's contention that Bill C-31 is not properly before the House because of what he has characterized as a deviation from what he contends is the usual practice.

[Accordingly, I cannot find that the point of order is well-founded or that the normal progression of Bill C-31 throughout the legislative process is flawed in any way. As such, the House's study of the Bill may proceed in the usual manner.]

I thank all hon. Members for their attention

ROUTINE PROCEEDINGS

Motions: Standing Order 56.1 used to direct the business of committees

June 12, 2014
Debates, **pp. 6717–9**

Context

On March 27, 2014, Kellie Leitch (Minister of Labour and Minister of Status of Women) moved a motion pursuant to Standing Order 56.1.[1] The motion called for the Standing Committee on Procedure and House Affairs to be instructed to consider the matter of accusations of the Official Opposition's improper use of House of Commons resources for partisan purposes. The motion also called for Thomas Mulcair (Leader of the Official Opposition) to be ordered to appear before the Committee. As fewer than 25 Members rose to object to the motion, it was adopted.[2]

On May 16, 2014, the day after Mr. Mulcair appeared before the Committee, Peter Julian (Burnaby—New Westminster) rose on a point of order. He contended that the motion should have been ruled out of order because instructing a committee to carry out certain studies or to order certain witnesses to appear goes beyond the scope of Standing Order 56.1,[3] which is intended to expedite routine business or to grant new powers. Mr. Julian also asked the Speaker to spell out the limits of Standing Order 56.1[4] since in his view it is a very powerful tool and the requirement for 25 Members to rise to contest motions pursuant to it is an issue for small parties. After hearing from other Members, the Acting Speaker (Bruce Stanton) took the matter under advisement.[5] On May 26, 2014, Mr. Julian returned to

1. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 505.
2. *Debates*, March 27, 2014, p. 3916.
3. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 505.
4. See Appendix A, p. 505.
5. *Debates*, May 16, 2014, pp. 5545–8.

the matter and, after hearing from another Member, the Acting Speaker (Barry Devolin) once again took the matter under advisement.[6]

Resolution

The Speaker ruled on the point of order on June 12, 2014. He maintained that Standing Order 56.1[7] was not intended to be used as a substitute for decisions that the House ought itself to make on substantive matters. In that sense, the wording of the motion went beyond the confines of Standing Order 56.1,[8] as it was an attempt to direct the internal affairs of the Committee. He concluded that the motion would have been ruled out of order had the matter been raised in a timely manner. As the Chair does not receive advance notice for these motions and they are put to the House immediately, the Speaker reminded Members that they need to act quickly if they deem it appropriate. The Speaker concluded by indicating that it is not for the Chair to judge whether the rule requiring 25 Members to rise for the motion to be withdrawn is appropriate. He invited Members to raise the matter of these types of rules with the Standing Committee on Procedure and House Affairs.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the point of order raised on May 16, 2014, by the House Leader of the Official Opposition regarding the use of Standing Order 56.1.[9]

I would like to thank the House Leader of the Official Opposition for having raised the question, as well as the Leader of the Government in the House of Commons for his comments.

6. *Debates*, May 26, 2014, pp. 5559–61.
7. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 505.
8. See Appendix A, p. 505.
9. See Appendix A, p. 505.

In raising his point of order, the House Leader of the Official Opposition argued that the motion adopted by the House pursuant to Standing Order 56.1[10] on March 27, 2014, should have been deemed inadmissible as it directed the affairs of a standing committee.

In particular, he suggested that Standing Order 56.1[11] is not intended to be used as a way for the House to instruct committees to conduct certain studies or to hear particular witnesses, but, rather, as a way to expedite routine business or to grant powers to committees that they do not already possess. In his view, instructing a committee to undertake a study cannot be construed as simply establishing a committee power, nor can it be considered simply a routine matter.

Noting the potential difficulties of the current requirements of the Standing Order for smaller parties, as well as its use for matters with regard to which it was never intended, the House Leader of the Official Opposition asked the Chair for clarification on the limits of Standing Order 56.1[12] in general and, in particular, whether the motion in question was admissible.

The Leader of the Government in the House of Commons agreed that Standing Order 56.1[13] was not meant to be used to reach into the conduct of committees to direct them but, instead, was meant to provide committees, in a routine manner, with powers that they do not already have. In addition, he explained that, although committees generally have the power to send for persons, they are not empowered to compel the attendance of Members of Parliament. Thus, he argued that the motion in question sought only to empower the committee, or at least remove any doubts about their power to study that matter and to compel the attendance of the Leader of the Opposition. Furthermore, since the motion was not related to the passage of a bill, he claimed that it did not violate the restriction against using Standing Order 56.1[14] on substantive matters, as enunciated by Speaker Milliken's ruling of September 18, 2001.

10. See Appendix A, p. 505.
11. See Appendix A, p. 505.
12. See Appendix A, p. 505.
13. See Appendix A, p. 505.
14. See Appendix A, p. 505.

The Leader of the Government in the House of Commons disagreed with the House Leader of the Official Opposition asking the Speaker to provide direction for the future, viewing this as an inappropriate practice and role for the Speaker. He also questioned the timing of the point of order, stating that it should have been raised early enough to allow for the Speaker's decision to be of some consequence.

Before I continue, I would like to read, for the benefit of the House, the motion at issue in this case:

> That the Standing Committee on Procedure and House Affairs be instructed to consider the matter of accusations of the Official Opposition's improper use of House of Commons resources for partisan purposes; and
>
> that the Leader of the Opposition be ordered to appear as a witness at a televised meeting of the Committee to be held no later than May 16, 2014.

Since its adoption by the House in April 1991, Standing Order 56.1[15] has been used as a legitimate procedure to allow the House to deal with what the *Standing Orders* call "routine motions".

According to Standing Order 56.1(1)(*b*),[16] a routine motion:

> —shall be understood to mean any motion, made upon Routine Proceedings, which may be required for the observance of the proprieties of the House, the maintenance of its authority, the management of its business, the arrangement of its proceedings, the establishing of the powers of its committees, the correctness of its records or the fixing of its sitting days or the times of its meeting or adjournment.

15. See Appendix A, p. 505.

16. See Appendix A, p. 505.

At issue then is whether the motion in question was an admissible motion, pursuant to Standing Order 56.1.[17] While the wording of the Standing Order has not changed over time, at times its interpretation and use have. Consequently, its attempted use for various ends has, in turn, resulted in some procedural challenges. As a result, a body of practice and rulings has emerged, leading to a better understanding of the appropriate use of this Standing Order. As an example, it is now accepted that Standing Order 56.1[18] can be used to authorize committee travel.

At the same time, however, the understanding of what constitutes a routine motion has been allowed to expand over the years, a development that has caused concern to successive Speakers. Speaker Milliken characterized it as a "disturbing trend" as early as 2001.

House of Commons Procedure and Practice, [Second Edition], makes reference to this trend when, on page 671, it provides a list of examples of motions which had been allowed to proceed, but states that, "[Not] all of these uses were consistent with the wording or the spirit of the rule ... ".

The motion in question in this case deals specifically with committees and, in that respect, while the Standing Order does allow motions for the "establishment of the powers of its committees", the question before me is whether the motion adopted falls squarely within those parameters or whether it strayed beyond them to direct the Standing Committee on Procedure and House Affairs.

Deputy Speaker Blaikie stated on June 5, 2007, at page 10124 of *Debates*:

> A key element ... is the fundamental precept that standing committees are masters of their own procedure. Indeed, so entrenched is that precept that only in a select few *Standing Orders* does the House make provision for intervening directly into the conduct of standing committee affairs.

17. See Appendix A, p. 505.

18. See Appendix A, p. 505.

A careful reading of the motion is telling: the Committee was "instructed" to consider a matter and the Leader of the Official Opposition was "ordered" to appear. In fact, it leads the Chair to the conclusion that the motion was an attempt to direct the internal affairs of the Committee, thus stepping beyond what the House has come to accept as being within the confines of Standing Order 56.1.[19] The Government House Leader argued that the motion granted the Standing Committee on Procedure and House Affairs a power it did not have, namely the power to order a Member to appear before the Committee, but the motion went beyond simply granting the Committee that power; it made the order for the Committee. In the Chair's view this would have been more appropriately done by way of a substantive motion.

The House does have the power to give instructions to committees but it is how this is achieved that is important. The Chair does not believe the House ever intended that this be done by way of Standing Order 56.1.[20] This was noted by Speaker Milliken, who stated, on September 18, 2001, at page 5258 of *Debates*:

> The Standing Order has never been used as a substitute for decisions which the House ought itself to make on substantive matters.

The Government House Leader may have been correct in noting that substantive motions were used in the passage of legislation but one cannot draw the conclusion from that, that, therefore, motions not related to legislation are routine. There are in fact other types of substantive motions that are not bound to legislation.

At page 530 of O'Brien and Bosc, it states:

> Substantive motions are independent proposals which are complete in themselves, and are neither incidental to nor dependent upon any proceeding already before the House. As self-contained items of business for consideration and

19. See Appendix A, p. 505.

20. See Appendix A, p. 505.

> decision, each is used to elicit an opinion or action of the House. They are amendable and must be phrased in such a way as to enable the House to express agreement or disagreement with what is proposed. Such motions normally require written notice before they can be moved in the House. They include, for example, private Members' motions, opposition motions on supply days and government motions.

The Government House Leader also attempted to draw a comparison with the November 8, 2012, precedent when the Standing Committee on Justice and Human Rights was "mandated ... under Standing Order 56.1,[21] to conduct the study required by section 533.1 of the *Criminal Code*". However, it was not so much that the Committee was instructed to conduct a study but, rather, that due to a mandatory statutory review of an act, the Committee needed an order of reference from the House to proceed. As the Opposition House Leader suggested, it was a routine motion.

Thus, for the reasons stated, I would have been inclined to rule the motion out of order had this matter been raised within a reasonable delay. To be clear, the Chair did not readily deem the motion to be procedurally admissible, as the Opposition House Leader suggested. Instead, in the absence of any objection at the time that the motion was moved, the matter went forward and the motion was adopted.

The operation of Standing Order 56.1[22] has long been difficult for successive Speakers. This is in part because of the legitimate expectation that a motion moved pursuant to that Standing Order will be put to the House for decision without undue delay. This obligation is further complicated in instances where the Chair has had no advance notice that such motion is to be moved, as was the case in this particular instance, so I am sure all Members will understand the quandary in which the Chair is left.

21. See Appendix A, p. 505.

22. See Appendix A, p. 505.

As the history of the use of motions under Standing Order 56.1[23] demonstrates, past Speakers have all struggled with this dilemma and have almost invariably allowed even motions about which they had reservations to go forward, having had no time to properly assess their content and formulation. This is done in the expectation that alert Members of the opposition will, if they deem it appropriate, rise to object. In this case, no one raised objections, the motion was put to the House and it was adopted.

The fact that the House Leader of the Official Opposition waited so long to raise this point of order resulted in the terms of the motion having already been carried out. This is reminiscent of the situation faced by Speaker Milliken in 2001 when the Government resorted to Standing Order 56.1[24] in a bid to dispose of numerous items of business—in this case some bills and certain supply proceedings—over the course of two sitting days. In that case, Speaker Milliken explained that he allowed the motion to proceed "because there were no objections raised at the time it was moved". As he stated on September 18, 2001, at page 5258 of *Debates*:

> However, to speak frankly, had the objection been raised in good time, I would have been inclined to rule the motion out of order. This situation serves again to remind Members of the importance of raising matters of a procedural nature in a timely fashion.

The continuing trend away from the original intent of the Standing Order toward the moving of motions that are less readily identifiable or defined as routine is a concern that I share with my predecessors and one which continues to underscore the need for the Standing Committee on Procedure and House Affairs to review and define the spirit and limitations of Standing Order 56.1.[25] There is no doubt that this would be helpful to the Chair.

23. See Appendix A, p. 505.

24. See Appendix A, p. 505.

25. See Appendix A, p. 505

Finally, the House Leader of the Official Opposition raised the issue of the fairness for smaller parties of a Standing Order that requires a minimum of 25 Members to stand in order for it to be withdrawn. It is not for the Speaker to judge whether it is appropriate or not. As is the case with other rules adopted by the House, such as the threshold of five Members to request a recorded vote, the Speaker's role is to enforce it, not question it. As Speaker, I can only suggest that the Member raise the matter with the Standing Committee on Procedure and House Affairs, which is designated to review the rules of the House.

I thank hon. Members for their attention.

ROUTINE PROCEEDINGS

Questions on the *Order Paper*: relevance of the Government response to a written question

January 29, 2013
Debates, **pp. 13395–6**

Context

On November 29, 2012, Sean Casey (Charlottetown) rose on a point of order concerning the response he had received to his written question Q-465, as it had no link to the question he had asked, and the Government's response indicated that the information requested would not be provided. He contended that his question had been both precise and direct and said that the Government does not have the right to decide which questions it will answer. After hearing from another Member, the Speaker took the matter under advisement.[1]

Resolution

The Speaker delivered his ruling on January 29, 2013. He referenced the well-established practice that Speakers do not review the content of Government responses to written or oral questions or judge the quality of the responses. He added that the purpose of written questions is the exchange of information and expressed his hope that everyone involved in preparing both questions and answers would act in such a way as to protect the process. He also specified that it remains acceptable for the Government to say that it cannot answer the question.

1. *Debates*, November 29, 2012, pp. 12653–4.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the point of order raised on November 29, 2012, by the Member for Charlottetown regarding the relevance of the Government's response to written question Q-465.

I would like to thank the hon. Member for having raised this matter and the hon. Parliamentary Secretary to the Leader of the Government in the House of Commons for his comments.

In raising his point of order, the Member for Charlottetown contended that the response provided to his written question Q-465 had no link to the question asked. Specifically, he had requested certain information related to all websites accessed by the Minister of Justice and the Minister [of] Public Safety on Government-issued computers and devices within a specific two-week period. The answer received explained, by way of reference to Bill C-30, that the information requested would not be provided. Asserting his right as a Member of Parliament to ask questions to hold the Government accountable, the hon. Member argued that the Government does not have the right to decide which questions to answer and which ones to ignore.

In response, the Parliamentary Secretary reminded the House of the ruling that the Chair gave on November 27, 2012, which can be found at pages 12536–7 of *Debates*, on the appropriateness of answers to written questions (**Editor's Note:** The ruling can be found on page 206.).

As to the appropriateness of the answer provided, Members are well aware that it is a well-established practice that Speakers do not judge the quality of Government responses to questions, whether written or oral. In fact, *House of Commons Procedure and Practice*, Second Edition, at page 522, states:

> There are no provisions in the rules for the Speaker to review government responses to questions.

That being said, I did state in the November 27 ruling to which the Parliamentary Secretary referred, at page 12536 of *Debates*, that "As always, however, the Chair remains attentive to these matters and is ready to assist in any way it can in ensuring that written questions continue to serve Members as an important channel of genuine information exchange".

I think all Members would agree that Members of the House have the right to expect that reasonable answers be given to reasonable questions, particularly given the critical role of written questions in our parliamentary system.

In a ruling on June 14, 1989, at page 3026 of *Debates*, Speaker Fraser provided an interesting comment on Government responses to questions, stating:

> It should be understood that there is no obligation on the Government to provide a perfect answer, only a fair one. A Member in framing his or her question would accept part of the responsibility for the quality of the answer.

As I reminded the House on November 27, 2012, *House of Commons Procedure and Practice*, [Second Edition], at page 522, states that "It is acceptable for the Government, in responding to a written question, to indicate to the House that it cannot supply an answer". At the same time, it is expected under our practice that the integrity of the written question process be maintained by avoiding questions or answers that stray from the underlying principle of information exchange.

As is stated in O'Brien and Bosc, again at page 522, "no argument or opinion is to be given and only the information needed to respond to the question is to be provided in an effort to maintain the process of written questions as an exchange of information rather than an opportunity for debate."

For reasons already given, the Chair is not in a position to delve into the content of answers to written questions. However, as Speaker, I have a duty to remind the House that our written question process is intended to be free

of argument and debate. To protect its integrity, I enjoin those submitting questions and those preparing answers to bear that principle in mind, remembering that it remains acceptable for the Government to say in response to a question, simply, "We cannot answer".

The Chair hopes that all those involved in the written question process will bear this ruling and my ruling of November 27, 2012, in mind so that every effort is made to ensure that information is exchanged in such [a] way as to serve the needs of Members while protecting the integrity of the written question practices that have served us so well for many, many years.

I thank all Members for their attention.

GOVERNMENT ORDERS

Motions: special orders to temporarily suspend the *Standing Orders*; extension of sitting hours

May 22, 2013
Debates, **pp. 16804–5**

Context

On May 21, 2013, during Government Orders, Peter Van Loan (Leader of the Government in the House of Commons) moved Motion No. 17. It would amend the time at which recorded divisions would be held and would extend the daily hour of adjournment to midnight from Mondays to Thursdays. Nathan Cullen (Skeena—Bulkley Valley) rose on a point of order, as he believed the motion was out of order because it went against the rules outlined in the *Standing Orders*, and particularly Standing Order 27(1),[1] which allows the Government to extend sitting hours during the 10 days preceding the summer recess. In response, the Leader of the Government in the House of Commons said that the House could adopt provisional rules that deviate from the *Standing Orders* by a majority vote. The Acting Speaker (Bruce Stanton) took the matter under advisement.[2]

Resolution

The Speaker delivered his ruling on May 22, 2013. He confirmed that, pursuant to Standing Order 27(1),[3] the Government may move a motion decided by a majority vote of the House or by unanimous consent to extend the sitting hours for the last 10 sitting days in June. However, he specified that Standing Order 27(1)[4] did not limit the ability of the House to change its sitting hours in other ways by a majority vote of the House or by unanimous consent. The Speaker ruled that the motion was in order.

1. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 494.
2. *Debates*, May 21, 2013, pp. 16689–94.
3. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 494.
4. See Appendix A, p. 494.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the point of order raised on May 21, 2013 by the hon. House Leader of the Official Opposition regarding the admissibility of Government Business No. 17, a motion to provide for the extension of sitting hours and the conduct of extended proceedings.

I would like to thank the Opposition House Leader for having raised this issue and the hon. Leader of the Government in the House of Commons for his intervention.

The Opposition House Leader claimed that this motion was "contrary to the rules and privileges of Parliament", including Standing Order 27(1),[5] which specifically allows for extended sittings during the last 10 sitting days in June, and therefore that the Speaker should, pursuant to Standing Order 13,[6] find this motion out of order.

In response, the Government House Leader cited pages 257 and 258 of *House of Commons Procedure and Practice*, Second Edition, to demonstrate that the House may deviate from the *Standing Orders* for a limited period of time by adopting special orders, which can be done by way of a Government motion decided by a majority vote.

As Members know, the House frequently extends its sitting hours in the month of June, prior to its summer recess. The Opposition House Leader is correct in stating that, pursuant to Standing Order 27(1),[7] the House can extend its sitting hours for the last 10 sitting days in June, prior to its summer recess. This has been done on a number of occasions. However, it is also true that that particular Standing Order does not limit the ability of the House to alter its sitting hours on days other than those in June prescribed by Standing Order 27(1).[8] Should the House wish to extend its sittings at times

5. See Appendix A, p. 494.
6. See Appendix A, p. 493.
7. See Appendix A, p. 494.
8. See Appendix A, p. 494.

outside that specific period, it would need to do so either by way of a motion decided by a majority vote of the House, or by unanimous consent.

Both of these methods have been used from time to time. I would refer Members to footnote 113 on page 404 of O'Brien and Bosc for examples of this type of motion that have been adopted in the past.

A review of past examples also shows that, while motions related to sittings and proceedings are frequently moved under the rubric "Motions" during Routine Proceedings, such motions have also been moved under "Government Orders". As cited in *House of Commons Procedure and Practice*, Second Edition, at page 454:

> The Chair has consistently ruled that the Government House Leader should be the one to introduce any motion pertaining to the arrangement of House business, and that the motion may be considered under "Motions" or under Government Orders, depending on where the Minister giving notice has decided to place it.

Therefore, the Chair can find no evidence that either the rules or the privileges of the House have been breached and so I find Government Motion No. 17 to be in order.

I thank all Members for their attention in this matter.

WEEKLY BUSINESS STATEMENT

Thursday Statement: length of statements

June 12, 2014
Debates, **p. 6751**

Context

On June 12, 2014, Kevin Lamoureux (Winnipeg North) rose on a point of order regarding the Thursday Statement. He alleged that it had become excessively long due to the great deal of commentary that followed it. He contended that this rubric should be concise and precise, but that if it were to become longer, his party would like to participate in this weekly discussion. Another Member made additional remarks as well.[1]

Resolution

The Speaker delivered his ruling immediately. He conceded that the length of the Thursday Statement had increased and reminded Members to limit themselves to short comments relevant to the upcoming House business, which is the principle behind the Weekly Business Statement.

DECISION OF THE CHAIR

The Speaker: I appreciate the hon. Member for Winnipeg North raising this point, as his colleague from Halifax West did last week.

I have had the opportunity to look at the scope of previous Thursday questions from previous years in previous Parliaments, and it does seem to the Chair that the length of time that the question takes up has certainly expanded.

I do ask Members, the House Leader of the Official Opposition, and the Leader of the Government in the House of Commons to keep in mind the

1. *Debates*, June 12, 2014, p. 6750.

principle behind the Thursday question, which is to inform the House of the upcoming business.

There are other opportunities to debate aspects of the current legislation in terms of the timing of it. Especially as we get into these late days in June, it might be well for them to remember the purpose of the Thursday question and not to have an extension of Question Period or other types of debate.

I do ask them to keep that in mind. I think the House would appreciate a return to the more specific scope of the original Thursday questions.

4 — THE DECISION-MAKING PROCESS

4

THE DECISION-MAKING PROCESS

INTRODUCTION

Although the House of Commons is usually thought of as a deliberative assembly, it is fundamentally a decision-making body. Its rules and practices are designed to allow its Members to adopt or reject the proposals before it.

The will of the House is ascertained by means of a vote, which is the final step in the decision-making process. Once debate on a motion has concluded, the Speaker puts the question and the House pronounces itself on the motion. Some votes are recorded divisions, which occur if five or more Members rise to signal a demand for a recorded vote. Four of the six decisions presented in this chapter relate primarily to voting, particularly to recorded divisions, with one ruling pertaining to the proposed division of a motion and another to the moving of a motion.

The rules and conventions governing debate and the decision-making process ensure that the House can adopt or reject proposals under consideration in an orderly fashion. The Speaker and the Chair Occupants are, of course, responsible for maintaining order and decorum during the entire decision-making process, and for deciding all questions of order. A number of the decisions included in this chapter pertain to decorum during recorded divisions. In some of his decisions, Speaker Scheer reminded Members that, for their votes to be recorded, they must take their seats and remain seated until the results of the vote were announced.

Speaker Scheer used his casting vote one time – in favour of a motion at second reading and in keeping with tradition. The Speaker must be impartial at all times and cannot participate in debate or vote in the House but, in the rare instances of an equality of voices, must break the tie using the casting vote. When this occurs, the Speaker normally votes to maintain the status quo and may explain briefly why the vote was cast in the way that it was.

NOTICE

Government notices of motion: Member requesting division of motion

October 17, 2013
Debates, **p. 65**

Context

On October 16, 2013, Nathan Cullen (Skeena—Bulkley Valley) rose on a point of order related to Government Business Motion No. 2, standing on a *Special Order Paper and Notice Paper*. He stated that the motion contained 13 questions but should be divided into two distinct proposals, the first proposal being the reinstatement of the business of the House, and the second proposing to restore a study on missing and murdered indigenous women, directing the Standing Committee on Procedure and House Affairs to commence work on disclosure of Members' expenses, and proposing that the House not sit on November 1, 2013, to accommodate an upcoming Conservative convention. Mr. Cullen argued that if the motion was not divided in two, Members would be asked to oppose their own values when taking a stance since the Official Opposition supports the second proposal but opposes the first. Consequently, he asked that the Chair exercise its power to divide the motion such that each element be debated and voted upon separately. Peter Van Loan (Leader of the Government in the House of Commons) stated that the motion, based on past practice, represented a balanced approach and aimed to restore the business of the House and of its committees to the state it had been in prior to prorogation. The next day, the Members provided additional comments and another Member spoke to the matter. The Speaker took the matter under advisement.[1]

Resolution

On October 17, 2013, the Speaker delivered his ruling. He stated that when motions containing two or more distinct parts capable of standing

1. *Debates*, October 16, 2013, pp. 3–4, October 17, 2013, pp. 18–21.

on their own come before the House, the Speaker has the authority to divide them, a power exercised by the Chair but rarely and with caution. In recognizing the limited precedents in this regard, the Speaker clarified that each case must be adjudicated on its own merits, taking into account the particular circumstances of the case. Accordingly, the Speaker did not conclude that the high threshold for dividing the motion had been met; however, acknowledging the broad provisions found in part (a), he directed that two separate votes be held, one in relation to section (a) of Government Business No. 2, pertaining to the reinstatement of Government bills introduced in the previous session, and the second for all other sections of the motion.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the point of order raised by the hon. House Leader of the Official Opposition regarding Government Motion No. 2 that is standing on the *Order Paper* in the name of the hon. Leader of the Government in the House of Commons.

I would like to thank the hon. House Leader of the Official Opposition for raising this matter and the hon. Government House Leader for his contribution to the discussion.

The Opposition House Leader argued that the motion, in calling for the House to reinstate Government bills and readopt several orders of reference, with or without changes, from the previous session, and in calling for the adoption of new orders of reference with regard to the management of business in the current session, both in the House and in committee, constitutes a series of distinct proposals that require separate debates and separate votes. He then asked the Chair to divide the motion to allow for this.

For his part, the Government House Leader stated that in his view the motion represented a balanced attempt to ensure that everyone's business from the last session could be preserved, but he stressed that the motion's broad purpose was also to more generally arrange business in the House and its committees this autumn.

As has been alluded to, this is not the first time the House is confronted with a situation of this kind.

O'Brien and Bosc, at pages 562-3, explains that:

> When a complicated motion comes before the House (for example, a motion containing two or more parts each capable of standing on its own), the Speaker has the authority to modify it in order to facilitate decision-making in the House. When any Member objects to a motion containing two or more distinct propositions, he or she may request that the motion be divided and that each proposition be debated and voted on separately. The final decision, however, rests with the Chair.

While previous Speakers have been faced with similar requests to divide motions, they have seldom done so, something Speaker Milliken, on October 4, 2002, at page 299 of *Debates*, remarked upon when he stated that "the Chair must exercise every caution before intervening in the deliberations of the House". In that instance, Speaker Milliken did in fact determine that a motion contained three different proposals. In that case, the broad purpose of the motion was the "resumption and continuation of the business of the House begun in the previous Session of Parliament". Accordingly, Speaker Milliken took the view that the first two proposals, which dealt with the reinstatement of business from a previous session, should be debated together but each get a separate vote. The third proposal, which concerned travel by the Standing Committee on Finance and was not found to be "strictly speaking, a matter of reinstating unfinished business", became a separate motion. In making this decision to allow a separate debate, Speaker Milliken also stated, "Our usual practice is to adopt travel motions on a case-by-case basis".

While Government Motion No. 2 is similar to the 2002 motion, it is not identical. In adjudicating cases of this kind, the Chair must always be mindful to approach each new case with a fresh eye, taking into account the particular circumstances of the situation at hand. Often, there is little in the way of

guidance for the Speaker and a strict compliance with precedent is not always appropriate.

In this case, the Chair is acutely aware, as is stated at page 562 of O'Brien and Bosc, that to divide a motion is rare and that "only in exceptional circumstances should the Chair make this decision on its own initiative".

At the same time, the Chair has listened very carefully to the interventions made on the nature of Government Motion No. 2 and on the particular parts of it that have given rise to objections on the part of the Opposition House Leader. I have noted that he reserved his strongest objections for part (a) of the motion, which deals with the reinstatement of Government bills, and indeed indicated that his party "supports" the other aspects of the motion.

In view of this unique set of circumstances, the Chair does not feel the very high threshold required for dividing the motion has been met and accordingly, I will allow the motion to be debated as a whole. However, the Chair understands the arguments raised by the Opposition House Leader as they relate to the very broad blanket provisions contained in part (a) of the motion. In that regard, I am directing that a separate vote be held on that part of Government Motion No. 2. In proceeding in this manner, I trust that Members will have satisfactory and practical means to express their views through debate, amendment and voting on the propositions contained in Government Motion No. 2.

I thank all Members for their attention.

MOVING MOTIONS

Concurrence motion: absence of sponsoring Minister

December 5, 2012
Debates, **p. 12908**

Context

On December 5, 2012, Nathan Cullen (Skeena—Bulkley Valley) rose on a point of order with regard to the legitimacy of the vote on the motion for concurrence at report stage of Bill C-45, *A second Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures*, which took place at the previous sitting. Mr. Cullen objected that the sponsoring Minister, Jim Flaherty (Minister of Finance) had been absent from the Chamber at the time the motion was moved and argued that a motion is not duly moved if the mover is not present and, that being the case, asked that the vote on the motion be revoked and a legitimate one be held. After hearing from other Members, the Speaker took the matter under advisement.[1]

Resolution

Later that day, the Speaker delivered his ruling. He acknowledged that the Minister was not present to move his motion and that neither the staff nor the Chair noticed his absence. He added that it was a minor oversight and explained that practice allows for substitution for the name of the sponsoring Minister with the name of another Minister who is present in the Chamber since the progress of Government bills is seen as the collective will of Cabinet. Consequently, he ruled that the vote on concurrence at report stage was valid and that the debate at third reading of the Bill could proceed.

1. *Debates*, December 5, 2012, pp. 12905–7.

DECISION OF THE CHAIR

The Speaker: The Chair is now prepared to rule on the point of order raised a few moments ago by the House Leader of the Official Opposition with regard to the manner in which the motion for concurrence at report stage of Bill C-45 was moved yesterday evening.

I have looked into how events transpired last night and can report to the House that there was indeed a clerical oversight in the moving of the motion for concurrence at report stage. However, Members will know that our practices do provide for this.

As is stated at page 440 of *House of Commons Procedure and Practice*, Second Edition:

> A government bill standing on the *Order Paper* in one Minister's name may be moved on his or her behalf by another Minister since the bill is considered an initiative of the entire Cabinet.

Members will know that it routinely happens that sponsoring ministers are not present when their bills are either introduced or are proceeding through the various stages of the legislative process. When that is the case, staff assisting the Speaker with forms will note the absence, insert the name of another Minister, and the Chair carries on, indicating that one Minister is moving a motion on behalf of another.

Last night, the staff had duly noted the Minister of Finance as moving the motion for concurrence, but when the time came to move the motion last evening, the Minister had stepped out, and neither the staff nor the Chair noticed his absence, nor, might I say, was that raised by any Member.

This kind of occurrence is, in my view, a minor oversight. It is our practice to consider that this progress of Government bills represents the will of the Cabinet. I will again refer the House to page 440 of O'Brien and Bosc. One

Minister is often cited by the Chair as moving a motion for the sponsoring minister who is absent.

That is how events are recorded in *Journals*, since the absence of the Minister was drawn to the Table's attention after the fact by a Member. As it usually does, the Table followed our practice and the *Journals* were drafted to indicate that the Government House Leader, who we knew to have been present, had moved the motion for the Minister of Finance.

Accordingly, at this time I cannot find in favour of the Opposition House Leader. I find that the House can proceed with debate on third reading of Bill C-45.

RECORDED DIVISIONS

Member voting twice on the same motion

June 6, 2012
Debates, **p. 8996**

Context

On June 6, 2012, Brian Jean (Fort McMurray—Athabasca) rose on a point of order with regard to a recorded division on the second reading of Bill C-273, *An Act to amend the Criminal Code (cyberbullying)*. Before the Clerk announced the results of the vote, Mr. Jean rose to indicate that he had inadvertently voted twice and had intended to vote against the motion.

Resolution

The Speaker indicated that, in accordance with past practice, when Members vote twice on a motion, they are accorded the opportunity to clarify their intentions. Mr. Jean was therefore recorded as voting against the motion.

DECISION OF THE CHAIR

The Speaker: The hon. Member voted twice. It has been the practice that when a Member votes twice, he then indicates which way he meant to vote. In this case he has indicated that he meant to vote against. That is how it has been when a Member gets up on both the yeas and the nays.

Postscript

Following the division, there was an equality of voices, which required the Speaker to use his casting vote. As per past practice for tie votes at second reading of a bill, the Speaker voted in favour of the motion.[1]

1. *Debates*, June 6, 2012, p. 8997.

RECORDED DIVISIONS

Member rising to request that their vote be counted; alleged error in voting process

May 27, 2014
Debates, **p. 5725**

Context

On May 27, 2014, Dean Del Mastro (Peterborough) rose on a point of order with regard to the recorded division on Government Motion No. 10. Mr. Del Mastro stated that he had risen to vote in favour of the motion but did not believe his vote had been counted. After the Speaker indicated that he did not think the Member had risen, he asked for unanimous consent for the Member's vote to be recorded, which was denied. Several Members then rose to attest to the fact that Mr. Del Mastro was standing to vote. The Speaker stated that he would review the tapes and come back to the House with a ruling on the matter.[1]

Resolution

The Speaker, after having reviewed the tape of the vote on Government Motion No. 10, indicated that Mr. Del Mastro had indeed stood to vote in favour of the motion and, thus, his vote would be recorded. He also reminded Members to be attentive and rise in a timely fashion to ensure that their votes were properly recorded.

DECISION OF THE CHAIR

The Speaker: Further to the point of order raised at the end of tonight's vote on Government Motion No. 10, I have reviewed the tape, as I had committed to do, and can now confirm that the hon. Member for Peterborough did rise when the yeas were called. As such, and specifically in this case, because there was an error in the voting process, his vote will be recorded accordingly.

1. *Debates*, May 27, 2014, p. 5710.

That being said, the confusion tonight should again serve as a reminder to all Members to remain attentive throughout the duration of votes, rising at the appropriate time in order to have their votes recorded as they intended and listening to ensure that their names have indeed been called. This would be of great assistance to the Chair, and it is only by doing so that the Chair and the vote-callers are not left guessing and that Members' votes will be properly recorded.

RECORDED DIVISIONS

Members arriving late during a recorded division

June 5, 2014
Debates, p. 6257

Context

On June 5, 2014, Nycole Turmel (Hull—Aylmer) rose on a point of order following a recorded division on a motion to confirm the appointment of Daniel Therrien to the position of Privacy Commissioner. Ms. Turmel asked that the vote of Peter MacKay (Minister of Justice) not be counted as he had arrived after the vote had begun. The Minister rose to advise the Chair that he had been present and had heard the question being put.

Resolution

The Acting Speaker (Barry Devolin) ruled immediately. After summarizing the procedures and practices that pertain to recorded divisions, he explained that each Member is required to be in the Chamber though not necessarily in their seat at the time the question is put in order for their vote to be counted. The Acting Speaker further encouraged Members to arrive in the House in a timely manner to avoid such circumstances in the future. He concluded that he would accept the Minister at his word, and his vote was recorded accordingly.

DECISION OF THE CHAIR

The Acting Speaker: This is the second day that this issue has arisen. Perhaps it is time to review what the *Standing Orders* actually say and what the expectations of Members are.

When the bells for the vote started ringing, there were 30 minutes. It is an obligation of the Members to be in the Chamber when the 30-minute bell has expired.

I think it is obvious to all Members that over the past months, or possibly years, Members have slipped into the habit of starting to enter the House or getting ready to enter the House when the clock hits zero. In fact, it is the responsibility of Members who want to participate in the vote to actually be in the Chamber and to be ready for the vote when the clock hits zero.

As Members also know, it is standard practice that the Whips for both the Government and the Official Opposition will be out in the lobby and will come down into the Chamber together and take their seats. In almost all cases, Members know they need to be in their seat at that point, so the vote can proceed.

What we had happen both yesterday and today is that one of the two Whips, the Government Whip yesterday and the Opposition Whip today, waited until the bells expired and very quickly thereafter entered the Chamber by themselves, addressed the Chair, and then took their seat. It is, in fact, not necessary for either of the Whips to enter the House. The Speaker can rise and call the vote as soon as the bells have expired. It has become standard practice, in the co-operation that makes this place work better for all of us, that those two Whips do that together.

However, it is important to point out to all hon. Members on both sides of the House that this is a practice; it is not a rule.

In terms of who is or is not eligible to vote, the issue is that the Member needs to be in the Chamber in order to hear the question. That is the test for whether they can vote or not. I know that in the past, as I said, it has become common practice that Members have been in their seats, sitting, when the two Whips take their seats, at which point the Chair Occupant rises to put the question.

However, it is important to point out that this is not, in fact, absolutely necessary.

It is impossible for the Speaker to keep track of where all 300 Members are as the question is being put. To a certain extent, there is an onus on the

Members not only to be on time but, if they are not here on time, to own up to that and to either not participate in the vote or, if it is pointed out, to subsequently say that their vote ought not to be counted. As is the practice and as Members will know, there are times when Members rise on a point of order immediately following a vote and point out that another Member arrived late, was not here on time, and in their view, did not hear the question being put.

On that basis, being in one's seat, while always a very good idea, is not an actual requirement for being able to participate in the vote. Hearing the question is the requirement.

I have a suggestion for all hon. Members. We can avoid this unfortunate circumstance in the future if Members pay closer attention to the clock and actually arrive in the House, ready for the vote to be taken, when the clock hits zero, rather than be standing in the lobby.

The Chair is pleased to hear so many Members applauding that, knowing that they will all be doing that in the future.

This month is, for many of us, our 10th anniversary of being elected to this place. We all know that there are rules and that there are *Standing Orders*. However, to a certain extent, this place only works with the good will and cooperation of all Members.

After 10 years, the Chair is also aware that toward the end of session, particularly in June when the days get longer, the weather gets warmer, and thoughts of returning to our constituents grow fonder in our hearts, it gets a little crazy around here. I would say that we have had ample evidence of that in the past two days.

I will close with this. If the Minister of Justice says he was in the Chamber and he heard the question being put, the Chair will accept that on the word of the Minister. I will point out to all hon. Members that in the future, the way to avoid this is to actually be in their seat, where they can hear the question being put clearly.

RECORDED DIVISIONS

Members leaving their seat during the taking of recorded divisions

March 10, 2015
Debates, **p. 11890**

Context

On February 19, 2015, Royal Galipeau (Ottawa—Orléans) rose on a point of order to seek clarification on the validity of a vote recorded in the name of Pat Martin (Winnipeg Centre) on a motion to adjourn the debate on a motion to concur in a committee report. Mr. Martin admitted that he had left his seat briefly during the vote but returned in time to vote from his seat. Immediately thereafter, the Deputy Speaker (Joe Comartin) ruled that the Member's vote would stand.[1] Later in the sitting, John Duncan (Chief Government Whip) rose to seek further clarifications from the Chair on the appropriate procedures for the conduct of votes. After hearing from another Member, the Speaker took the matter under advisement.[2]

Resolution

On March 10, 2015, the Speaker delivered his ruling. He explained that, in order for a vote to be recorded, Members must be in their assigned seat and have heard the Speaker read the motion. However, he reminded Members that their obligation did not end there, as they should remain in their seat from the time the motion is read until the result of the vote is announced in the Chamber. The Speaker also noted that, when there is a question as to whether these requirements have been met, it is the usual practice of the House to allow a Member to clarify the situation and for the House to accept the Member's word. This having been the case with respect to Mr. Martin's vote, the Speaker confirmed the ruling of the Deputy Speaker, who had found the Member's explanation at the time to be satisfactory.

1. *Debates*, February 19, 2015, p. 11390.
2. *Debates*, February 19, 2015, pp. 11397–8.

DECISION OF THE CHAIR

The Speaker: I am now prepared to respond to the point of order raised by the Chief Government Whip on February 19, 2015, regarding decorum during the taking of recorded divisions.

I would like to thank the hon. Chief Government Whip for having raised this matter, as well as the hon. House Leader of the Official Opposition and the Members for Winnipeg Centre and Ottawa—Orléans for their comments.

In raising this matter, the Chief Government Whip sought clarification of acceptable practices during a recorded division, further to one that had taken place earlier that day. In particular, he requested that the Chair clarify each Member's obligation to remain in their seat for the duration of a recorded division, from the time the question is put to the House to the announcement of the results.

The requirements of Members during a recorded division are clearly laid out in Standing Order 16,[3] which states:

> When the Speaker is putting a question, no Member shall enter, walk out of or across the House, or make any noise or disturbance.

House of Commons Procedure and Practice, Second Edition, provides further explanation when it states at page 580:

> From the time the Speaker begins to put the question until the results of the vote are announced, Members are not to enter, leave or cross the House, nor may they make any noise or disturbance.
>
> Members must be in their assigned seats in the Chamber and have heard the motion read in order for their votes to be recorded.

3. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 493.

In addition, successive rulings have provided sound guidance for the Speaker in this respect.

On the requirement for Members to be present in the Chamber to hear the question, the current Deputy Chair of Committees of the Whole stated on June 5, 2014, at page 6257 of the *Debates of the House of Commons* (**Editor's Note:** The ruling can be found on page 267.):

> In terms of who is or is not eligible to vote, the issue is that the Member needs to be in the Chamber in order to hear the question. That is the test for whether they can vote or not.

However, and more directly to the point raised by the Chief Government Whip, each Member's obligation does not end there, as they must also remain in their seat until the results of the vote are announced. As Speaker Milliken reminded the House on October 28, 2003, at page 8884 of the *Debates*:

> I would urge hon. Members that if they want to have their vote count, they must remain in their seats from the time the vote begins until the result of the vote is announced.

Where there is a question as to whether either of these requirements has not been met, our practice typically allows the Member to clarify the situation for the House, with the House accepting the Member's word, as it must. As Standing Order 1.1[4] states:

> The Speaker may alter the application of any Standing or special Order or practice of the House in order to permit the full participation in the proceedings of the House of any Member with a disability.

Needless to say, the explanation given by the Member for Winnipeg Centre, in which he indicated that he was temporarily disabled, self-inflicted though it

4. See Appendix A, p. 493.

may have been, was deemed satisfactory to the Deputy Speaker, and there the matter has ended. It would not be the first time that the House, in the face of a situation without known precedent, finds a way to accommodate a Member in need.

I would like to thank all Members for their attention in this matter and for their continued support in maintaining order and decorum during the voting process.

5 — THE LEGISLATIVE PROCESS

FORM OF BILLS

5

THE LEGISLATIVE PROCESS

INTRODUCTION

The examination and enactment of legislation are arguably the primary tasks of Parliament. A bill (a legislative proposal) must pass through a number of very specific stages in the House of Commons and the Senate before it becomes law. This is known as the legislative process.

Since Confederation, the rules of both Houses have contained detailed provisions governing the passage of public and private bills. A number of the rules that were in effect at Confederation remain in effect today. For example, in the case of the House of Commons, the *Standing Orders* prohibit the introduction of bills in blank or imperfect form, stipulate that all bills be subject to three separate readings, on different days, and require that bills be printed in both official languages and be certified by the Clerk of the House after each reading.

Over the years, the rules governing the legislative process have been amended on many occasions in order to better facilitate the consideration of public bills, to expand the roles of committees and to encourage greater participation by Members.

There were no changes to the *Standing Orders* with respect to the legislative process during Speaker Scheer's term; nevertheless, he did provide a number of rulings that further contributed to the clarification of the Speaker's role in selecting motions in amendment at report stage. In particular, Speaker Scheer's decision of June 11, 2012, regarding 871 motions

in amendment of Bill C-38, *An Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures*, reaffirmed the Speaker's discretionary authority to select and group motions at report stage. Similarly, his decision of November 29, 2012, which he elaborated upon on December 12, 2012, further confirmed that the Speaker selects and groups motions in amendment at report stage in accordance with past practice.

In these two rulings, Speaker Scheer also acknowledged some of the challenges faced by independent Members in presenting amendments to legislation. While reminding Members that the Chair could only follow past practice without regard to the composition of the House, he invited Members to explore new possibilities and to find a mechanism that would afford independent Members an opportunity to move motions to legislation in committee. This led to the development of a new practice in which committees of the House started including independent Members in their clause-by-clause consideration of legislation.

The Speaker also made a number of important rulings relating to the powers of committees. On May 21, 2013, he ruled on the admissibility of a concurrence in a committee report which effectively expanded the scope of a private Member's bill. In so doing, he indicated that committees must continue to meet their obligations regarding the admissibility of amendments, but that ultimately the Speaker could act as arbiter in determining the admissibility of amendments agreed to in committee. Speaker Scheer also ruled on the admissibility of a motion of instruction giving a committee the power to expand the scope of a bill.

On several occasions, Speaker Scheer ruled on procedural matters related to the form of bills or the transmission of bills from the House to the Senate.

This chapter contains 17 decisions, including those mentioned above, that touch on and are grouped here by the various stages in the legislative process. They show that Speaker Scheer played an important role in upholding and explaining relevant practices, while also responding to new and unforeseen circumstances.

STAGES

Introduction and first reading: admissibility; bill argued to be in imperfect shape; short title

February 14, 2012
Debates, **p. 5273**

Context

On February 14, 2012, Elizabeth May (Saanich—Gulf Islands) rose on a point of order with regard to the introduction earlier that day of Bill C-30, *An Act to enact the Investigating and Preventing Criminal Electronic Communications Act and to amend the Criminal Code and other Acts*. Ms. May stated that the copies of the Bill distributed in the opposition lobbies contained a different short title than that which was provided during a departmental briefing earlier that day. Therefore, she suspected that the Bill may have been introduced in imperfect form, in contravention of the *Standing Orders*, and sought the guidance of the Chair on the matter.[1]

Resolution

The Speaker ruled later that day. He stated that there had been an error in a limited number of courtesy copies of the Bill distributed to the House, but that the error had since been corrected. He confirmed that the Bill, as introduced, contained the correct short title and was presented in its proper form.

DECISION OF THE CHAIR

The Speaker: Further to the point of order raised by the Member for Saanich—Gulf Islands, I would like to provide clarification concerning the introduction of the Government bill during this morning's Routine Proceedings.

1. *Debates*, February 14, 2012, p. 5245.

Following the introduction of Bill C-30, *An Act to enact the Investigating and Preventing Criminal Electronic Communications Act and to amend the Criminal Code and other Acts*, there was an error in a limited number of courtesy copies distributed to the House. These have since been replaced with the correct version. I want to reassure the House that the Bill, as introduced, was in its correct form and, therefore, is properly before the House.

I regret any inconvenience this may have caused Members.

STAGES

Introduction and first reading: admissibility; bill argued to be in imperfect shape; summary

February 10, 2014
Debates, **pp. 2803–4**

Context

On February 6, 2014, Nathan Cullen (Skeena—Bulkley Valley) rose on a point of order with regard to Bill C-23, *An Act to amend the Canada Elections Act and other Acts and to make consequential amendments to certain Acts*. Mr. Cullen, citing contradictory information in the English and French versions of the summary of the Bill, stated that it was in imperfect shape and that the order for second reading must therefore be discharged, in accordance with the *Standing Orders*. Peter Van Loan (Leader of the Government in the House) rose to argue that as the summary is not considered to be part of the Bill and as the Bill as introduced in the House and on the website was correct, the Bill was in fact in its proper form. Having heard from other Members, the Acting Speaker (Bruce Stanton) took the matter under advisement.[1]

Resolution

On February 10, 2014, the Speaker delivered his ruling. He stated that the inconsistency in the summary of the Bill was found only in the advance copy and was corrected in the official version of the Bill tabled in the House and available on the Parliament of Canada website. The Speaker also confirmed that the summary is not, strictly speaking, part of the Bill. Reminding the House that an incomplete Bill is one that has only a title or the drafting of which is incomplete, he was satisfied that Bill C-23 was in proper form.

1. *Debates*, February 6, 2014, pp. 2678–80, 2714–5.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the point of order raised on February 6, 2014, by the hon. House Leader for the Official Opposition, regarding the form of Bill C-23, *An Act to amend the Canada Elections Act and other Acts and to make consequential amendments to certain Acts*.

I would like to thank the hon. House Leader for the Official Opposition for having raised this matter, as well as the hon. Leader of the Government in the House of Commons and the Member for Abitibi—Témiscamingue for their comments.

The Opposition House Leader claimed that a significant error had occurred in the tabling and the drafting of the Bill, namely that there was contradictory information provided in the French and English versions of the summary of the Bill. More specifically, he explained that the notion of exemption, though central to that section of the summary, was absent in the French version.

In claiming that the Bill is, therefore, in imperfect form, the House Leader for the Official Opposition invoked *House of Commons Procedure and Practice*, Second Edition, which states on page 728 that:

> In the past, the Speaker has directed that the order for second reading of certain bills be discharged, when it was discovered that they were not in their final form and were therefore not ready to be introduced.

As well, he noted that Standing Order 68(3)[2] states that, "No bill may be introduced either in blank or in an imperfect shape" and asserted that the correction of errors on websites or through reprints of bills does not remedy such cases.

The hon. Government House Leader countered that the summary of a bill is not, in fact, considered to be a part of a bill and, thus, even grievous

2. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 506.

errors in the summary would not constitute grounds to find a bill to be in improper form. He cited precedents to demonstrate that previous Speakers had withdrawn bills only when they were not finalized or even drafted, and he noted that, on May 17, 1956, Speaker Beaudoin determined that a bill has to have blanks to be considered to be in imperfect form.

The hon. Government House Leader also noted that the wording was correct in both the version now before the House and in the version found on the Internet.

In drawing the attention of the House to the inconsistency found in the summary of the advance copy of the Bill, the Opposition House Leader has reminded us all of the importance of proper drafting. This is recognized in *House of Commons Procedure and Practice*, Second Edition, on page 720, which states:

> The enactment of a statute by Parliament is the final step in a long process that starts with the proposal, preparation and drafting of a bill. The drafting of a bill is a vital stage in this process—one which challenges the decision makers and drafters to take carefully into account certain constraints, since a failure to abide by these may have negative consequences in relation to the eventual interpretation and application of the law and to the proper functioning of the legislative process.

It is therefore comforting to know that Members take their responsibility seriously and scrutinize the bills that come before the House.

Having said that, I must inform the House that in the official version of the Bill, the one printed and found on our website, the concept of exemption has not been omitted. In other words, the inconsistency the Opposition House Leader noticed has been caught and corrected in the version of which the House is officially seized. On that basis, it would seem that the issue has been resolved.

But, I also want to take the time to add that the summary of a bill is not, per se, considered part of a bill. This is quite clear in *House of Commons Procedure and Practice*, Second Edition, on page 733:

> The summary is a comprehensive and usually brief recapitulation of the substance of a bill. It offers "a clear, factual, non-partisan summary of the purpose of the bill and its main provisions". The purpose of the summary is to contribute to a better understanding of the contents of the bill, of which it is not a part.

In addition, procedural authorities and precedents have provided us with a clear understanding of what constitutes an incomplete bill. O'Brien and Bosc, on page 728, states:

> A bill in blank or in an imperfect shape is a bill which has only a title, or the drafting of which has not been completed.

In the present circumstances, the Chair is satisfied that Bill C-23, *An Act to amend the Canada Elections Act and other Acts and to make consequential amendments to certain Acts*, is in proper form.

I thank all hon. Members for their attention and I trust the references provided will assist Members as they proceed to study the Bill as it wends its way through the legislative process.

STAGES

Second reading: admissibility; copies of bill containing incorrect pagination

May 2, 2012
Debates, **pp. 7469**, **7472**

Context

On May 2, 2012, Scott Brison (Kings—Hants) rose on a point of order with regard to Bill C-38, *An Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures*. Mr. Brison stated that the version of the Bill distributed to opposition Members following its tabling in the House differed from the version distributed to Members in the mail and posted on the Parliament of Canada website in that the two versions had a different number of pages. Therefore, he suggested that it was unclear which version should be used, thereby impeding Members' ability to debate the Bill properly. Other Members also spoke to the matter.[1]

Resolution

The Speaker ruled immediately. He stated that the pagination between the two versions of the Bill was slightly different but that they were otherwise identical. The Speaker explained that this was due to the fact that software used by the department introducing the Bill, the Department of Justice, was different from that used to print the Bill used by the House of Commons. Later that day, the Acting Speaker (Bruce Stanton) confirmed that the Bills were indeed identical.

1. *Debates*, May 2, 2012, pp. 7467–69.

DECISION OF THE CHAIR

The Speaker: I think I can shed some light on where we are. When the Bill is brought to the House, it is printed first by whichever department is introducing it, which in this case was the Department of Justice. Standing Order 70[2] says, "All bills shall be printed before the second reading in the English and French languages". I have been told it is a question of pagination based on the different software that is used when the department prints its version. Then it is transmitted to the Law Clerk's office, at which point it is then printed for distribution to Members. I am prepared to allow debate to proceed. The pagination that is being used for the debate has 425 pages and it is properly before the House in that respect.

If there is any further confusion, I can come back with a more thorough explanation of how that happens, but the Bills are identical. It is simply a matter that when they are printed by the House of Commons, the slightly different software results in a different pagination.

Editor's Note

In order to provide additional clarification on the Speaker's ruling, the Acting Speaker (Bruce Stanton) delivered the following statement later that day:

The Acting Speaker: Before we go to questions and comments, I want to bring to the attention of the House that arising from the point of order brought forward by the hon. Member for Kings—Hants and with subsequent interventions by the Government House Leader, the Opposition House Leader and the hon. Member for Wascana, I am pleased to report to the House that the Office of the Law Clerk and Parliamentary Counsel responsible for the printing of bills can confirm that the text included in the version of Bill C-38 tabled in the House on April 26, 2012, is identical to the text found in the copy printed after first reading of the said Bill, as distributed to all Members of the House.

2. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 507.

The version of the Bill distributed to Members on April 26 was a photocopy of the secret copy of the Bill prepared by the Department of Justice. The version distributed to Members after first reading is produced by the House administration—in particular, the Office of the Law Clerk—and the difference in text and number of pages is due to the electronic preparation of the Bill in House software.

The text is identical and has been reviewed by legislative editors working in the Law Clerk's office. Except for a few pagination differences, it is identical in all respects.

I thank hon. Members for their interventions on this matter.

Postscript

In October 2012, the Government took up the practice of adding a notice on the advance copies of bills, stating that these copies are to be formatted and reprinted by Parliament.

STAGES

Consideration in committee: report to the House; requesting power to expand the scope of a private Member's bill

May 21, 2013
Debates, **pp. 16704–6**

Context

On April 25, 2013, Bob Rae (Toronto Centre) rose on a question of privilege with regard to the Eighth Report from the Standing Committee on Citizenship and Immigration, which asked the House to grant the Committee the power to expand the scope of Bill C-425, *An Act to amend the Citizenship Act (honouring the Canadian Armed Forces)* for the purpose of considering certain amendments. Mr. Rae argued that Standing Order 97.1[1] provides for only two types of committee reports in relation to private Members' bills: reports on bills, with or without amendment; and reports to extend the time for consideration of the bill in committee. He also expressed concern about the impact such a way of proceeding could have in that it would allow a majority Government to broaden the scope of a private Member's bill to drive its own agenda. That being said, Mr. Rae asked that the Speaker rule the Report out of order. The Speaker heard from other Members on that day, on April 30 and on May 9, 2013. On May 9, 2013, Tom Lukiwski (Parliamentary Secretary to the Leader of the Government in the House of Commons) stated that Standing Order 97.1[2] does not exclude the ability of the House to give instruction to a committee. The Speaker indicated that the matter was to be considered as a point of order rather than a question of privilege.[3]

1. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 527.
2. See Appendix A, p. 527.
3. *Debates*, April 25, 2013, pp. 15922–5, April 30, 2013, pp. 16089–91, May 9, 2013, pp. 16539–43.

Resolution

The Speaker delivered his ruling on the point of order on May 21, 2013. He confirmed that the Subcommittee on Private Members' Business must determine if a private Member's bill violates the Constitution, that no further constitutional compliance tests are applied once bills are before the House and that the Speaker has no role in interpreting matters of a constitutional or legal nature. The Speaker stated that the House can in fact grant permission to a committee to expand the scope of a bill, either by way of a motion of instruction or through concurrence in a committee report. However, he noted that committees cannot adopt amendments that run counter to the principle of a bill, and that the Speaker retains the authority to determine the admissibility of amendments adopted in committee, either in response to a point of order or on the Chair's own initiative. Consequently, the Speaker declared the Eighth Report of the Standing Committee on Citizenship and Immigration to be in order.

DECISION OF THE CHAIR

The Speaker: Before moving on to questions and comments, I am now prepared to rule on the point of order raised on April 25 by the hon. Member for Toronto Centre regarding the Eighth Report of the Standing Committee on Citizenship and Immigration, recommending that the scope of Bill C-425, *An Act to amend the Citizenship Act (honouring the Canadian Armed Forces)*, be expanded.

I would like to thank the hon. Member for Toronto Centre for having raised this issue, and the hon. Leader of the Government in the House of Commons, the hon. House Leader of the Official Opposition, the Parliamentary Secretary to the Minister of Citizenship and Immigration, the Parliamentary Secretary to the Leader of the Government in the House of Commons, and the Members for Winnipeg North, Saint-Lambert and Calgary Northeast for their interventions.

In raising this matter, the hon. Member for Toronto Centre explained that during its consideration of Bill C-425, the Standing Committee on Citizenship and Immigration adopted a motion recommending that the House grant the

Committee the power to expand the scope of the Bill in order to allow for the consideration of what he called "amendments that the Minister of Citizenship, Immigration and Multiculturalism has asked be added to the list".

This led to the presentation on April 23, 2013, of the Committee's Eighth Report. He found this approach to be problematic in two respects. First, he argued that pursuant to Standing Order 97.1,[4] committees examining private Members' bills are restricted as to the types of reports they can present to the House. He argued essentially that since the Eighth Report falls outside these parameters, it is out of order.

His second argument centred on the impact such a manner of proceeding could have. Specifically, he expressed concern that if committees examining private Members' bills were to be allowed latitude to proceed in this fashion, the effect of this practice "will be that the Government could, by extrapolation, even add an omnibus feature to a private Member's bill and say it is using its majority to add everything, the whole kitchen sink, into the measure."

The Government House Leader explained that, in view of the differences of opinion expressed in the Committee as to whether the amendments proposed were within the scope of the Bill, the Committee was seeking guidance from the House on the matter. In making this observation, he pointed out that this process would result in a number of hours of debate in the House on the Committee Report before a decision was taken.

In his presentation the Parliamentary Secretary to the Leader of the Government in the House of Commons argued that Standing Order 97.1[5] does not preclude a committee from seeking an instruction from the House in relation to a private Member's bill. He further explained that the Committee remains seized of Bill C-425 and that its Eighth Report in no way supersedes the 60-sitting-day deadline to report the Bill back to the House.

4. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 527.
5. See Appendix A, p. 527.

At the outset the Chair wishes to clarify what appear to be certain misconceptions about the nature of private Members' bills.

The first of these has to do with the arguments made by the House Leader for the Official Opposition and the Member for Saint-Lambert in reference to the constitutional compliance of legislation sponsored by private Members.

As pointed out by the Member for Saint-Lambert, constitutional compliance is among the criteria used by the Subcommittee on Private Members' Business to determine non-votability of private Members' bills. *House of Commons Procedure and Practice*, Second Edition, describes these criteria at page 1130, including one requirement that "bills and motions must not clearly violate the *Constitution Acts, 1867 to 1982*, including the *Canadian Charter of Rights and Freedoms*".

The Chair is not aware of further constitutional compliance tests that are applied to any kind of legislation, whether sponsored by the Government or by private Members, once bills are before the House or its committees. In addition, hon. Members will recall that in a recent ruling delivered on March 27, I reminded the House that as Speaker I have no role in interpreting matters of a constitutional or legal nature (**Editor's Note:** The ruling can be found on page 35.).

Another apparent source of confusion has to do with the difference between private bills and public bills. Virtually all the bills that come before the House are public bills, whether they are sponsored by private Members or by the Government.

As O'Brien and Bosc explains at page 1178:

> Private bills must not be confused with private Members' bills. Although private bills are sponsored by private Members, the term "private Member's bill" refers only to public bills dealing with a matter of public policy introduced by Members who are not Ministers.

Thus both Government and private Members' bills are subject to the same basic legislative process, namely introduction and first reading, second reading, committee stage, report stage and, finally, third reading. At the same time, the House has seen fit to devise specific procedures for dealing with public bills sponsored by the Government and private Members alike.

For example, Standing Order 73[6] allows the Government to propose that a Government bill be referred to committee before second reading after a five-hour debate. The purpose of this rule is to allow greater flexibility to Members in committee by enabling them to propose amendments to alter the scope of the measure.

The procedures in place for dealing with private Members' bills are likewise many layered, and have evolved in response to particular situations faced by the House in the past. This is the case with the provision for a maximum of two hours of debate at second reading, which came about to allow the House to consider more items and thus to allow more private Members to have their measures considered. Similarly, Standing Order 97.1[7] was originally brought in to ensure that private Members' bills referred to committee would be returned to the House and to the order of precedence in a timely fashion.

In the present case, it appears to the Chair that the essence of the procedural question before me is to determine whether the House has the power to grant permission to a committee to expand the scope of a private Member's bill after that scope has been agreed to by the House at second reading and, if so, whether this can be achieved by way of a committee report.

House of Commons Procedure and Practice, Second Edition, is helpful in this regard. It states at page 752:

> Once a bill has been referred to a committee, the House may instruct the committee by way of a motion authorizing what would otherwise be beyond its powers, such as, for

6. See Appendix A, p. 508.
7. See Appendix A, p. 527.

> example, examining a portion of a bill and reporting it separately, examining certain items in particular, dividing a bill into more than one bill, consolidating two or more bills into a single bill, or expanding or narrowing the scope or application of a bill.

Clearly then, by way of a motion of instruction, the House can grant a committee the power to expand the scope of a bill, be it a Government bill or a private Member's bill. An example can be found at page 289 of the *Journals* for April 27, 2010, where an opposition Member moved a motion of instruction related to a Government bill.

Having established that the House does have the authority to grant permission to a committee to expand the scope of a bill through a motion of instruction, the question becomes whether a committee report is also a procedurally valid way to achieve the same result.

The Member for Toronto Centre is correct in saying that the explicit authority to present this type of report is not found in Standing Order 97.1,[8] which exists to oblige committees to respect deadlines for reporting back to the House on private Members' bills. In that respect, Standing Order 97.1[9] continues to apply.

However, Standing Order 108(1)(*a*)[10] does grant committees this power under their more general mandate to:

> examine and enquire into all such matters as may be referred to them by the House [and] to report from time to time.

8. See Appendix A, p. 527.
9. See Appendix A, p. 527.
10. See Appendix A, p. 532.

In describing the three broad categories of reports that standing committees normally present, O'Brien and Bosc, at page 985, describes administrative and procedural reports as those:

> in which standing committees ask the House for special permission or additional powers, or those that deal with a matter of privilege or procedure arising from committee proceedings.

An example of a committee reporting on a matter related to a bill may be found in the *Journals* of April 29, 2008, where, in its Sixth Report, the Standing Committee on Environment and Sustainable Development felt compelled to provide reasons why it did not complete the study of a particular private Member's bill.

Finally, O'Brien and Bosc, at page 752, further states:

> A committee that so wishes may also seek an instruction from the House.

This undoubtedly could be done only through the presentation of a committee report to the House.

What this confirms is that the authority of the House to grant permission to a committee to expand the scope of a bill can be sought and secured, either through a motion of instruction or through concurrence in a committee report.

O'Brien and Bosc summarizes this well at page 992 [and 993]:

> If a standing, legislative or special committee requires additional powers, they may be conferred on the committee by an order of the House—by far the most common approach—or by concurrence in a committee report requesting the conferring of those powers.

Later, O'Brien and Bosc explain, at page 1075:

> Recommendations in committee reports are normally drafted in the form of motions so that, if the reports are concurred in, the recommendations become clear orders or resolutions of the House.

Just as the adoption of a motion of instruction to a committee would become an order of the House, so too would the adoption of a committee report requesting the permission of the House to expand the scope of a bill.

Of course, it has always been the case that instructions to a committee must be in proper form. According to O'Brien and Bosc, at page 754, such instructions must be "worded in such a way that the committee will clearly understand what the House wants".

It is nevertheless clear to the Chair that there is genuine disquiet about the impact of this attempted procedural course of action. The Chair is not deaf to those concerns and, in that light, wishes to reassure the House that this manner of proceedings does not obviate the need for committees to observe all the usual rules governing the admissibility of amendments to the clauses of a bill, which are described in detail at pages 766 to [771] of *House of Commons Procedure and Practice*, Second Edition.

In particular, granting a committee permission to expand the scope of a bill does not, ipso facto, grant it permission to adopt amendments that run counter to its principle. Were a committee to report a bill to the House containing inadmissible amendments, O'Brien and Bosc at page 775 states:

> The admissibility of those amendments, and of any other amendments made by a committee, may therefore be challenged on procedural grounds when the House resumes its consideration of the bill at report stage. The admissibility of the amendments is then determined by the Speaker of the House, whether in response to a point of order or on his or her own initiative.

For all of the reasons outlined, I must conclude that the Eighth Report of the Standing Committee on Citizenship and Immigration is in order. I thank all hon. Members for their attention.

Postscript

Five motions for concurrence in the Eighth Report of the Standing Committee on Citizenship and Immigration were placed on the *Notice Paper*. The motions were never debated, and the Report was never adopted by the House. On June 18, 2013, by unanimous consent, Bill C-425 was deemed reported by the Committee without amendment. On February 26, 2014, by unanimous consent, the order for consideration at report stage of Bill C-425 was discharged and the Bill withdrawn.[11]

11. *Journals*, June 18, 2013, p. 3441; February 26, 2014, p. 583.

STAGES

Consideration in committee: motions of instruction; empowering a committee to expand the scope of a bill

March 31, 2015
Debates, **p. 12576**

Context

On March 31, 2015, Peter Van Loan (Leader of the Government in the House of Commons) rose on a point of order with regard to a motion of instruction to the Standing Committee on Public Safety and National Security moved by Peter Julian (Burnaby—New Westminster) to grant the Committee the power to expand the scope of Bill C-51, *An Act to enact the Security of Canada Information Sharing Act and the Secure Air Travel Act, to amend the Criminal Code, the Canadian Security Intelligence Service Act and the Immigration and Refugee Protection Act and to make related and consequential amendments to other Acts*. The Government House Leader argued that the motion, in seeking to have the Committee establish new charges upon the Crown, would require a royal recommendation, and he thus asked the Speaker to rule the motion out of order because it infringed the financial prerogative of the Crown. Other Members also contributed to the discussion.[1]

Resolution

The Speaker delivered his ruling immediately. The Speaker determined that the motion of instruction was permissive rather than prescriptive, thus allowing the Committee to decide if and how it would exercise powers granted to it by the House. He stated that the Chair should not prejudge how the Committee may proceed and that the Committee would remain limited by the rules related to the financial prerogative of the Crown. That being the case, the Speaker declared the motion in order and allowed debate to proceed.

1. *Debates*, March 31, 2015, pp. 12571–6.

DECISION OF THE CHAIR

The Speaker: I thank all hon. Members for their interventions on this point. I thank the hon. Government House Leader for raising it.

As I read the motion of instruction, it does seem to me to be a permissive instruction; it is not a prescriptive instruction—that is, telling the Committee exactly how to accomplish the aims of it. Were the motion to be adopted, it would be up to the Committee to decide if it wished to exercise the powers given to it by the House and how it would do so.

What is clear to me is that, in widening the scope of the Bill, the Committee would still be limited by the other rules of admissibility in relation to amendments, including Standing Order 79.[2] Clearly in that regard, the Committee cannot adopt an amendment that violates the financial prerogatives of the Crown. However, it may well be that the Committee may find a way to accomplish the goals stated in the motion of instruction without infringing on the Royal Recommendation.

I do not believe the Chair should prejudge what steps the Committee may take. Even though the Government House Leader was making arguments about what public statements may have been made, I do not know that that would put the Chair in a position to rule this out of order just based on those statements alone. As I said, it may well be that the Committee would find other ways to accomplish what is set out in the motion without infringing on the Royal Recommendation.

For that reason, I believe the motion is in order, and I will allow it to proceed.

Postscript

During debate on the motion, Peter Kent (Thornhill) moved that the debate be adjourned. That motion was adopted and no further consideration was given to the motion of instruction.[3]

2. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 516.
3. *Debates*, March 31, 2015, pp. 12580–2.

STAGES

Report stage: power of the Speaker to select amendments; amendments not presented in committee

March 12, 2012
Debates, **p. 6053**

Context

Hedy Fry (Vancouver Centre), in a written submission to the Speaker, described the efforts she had made to propose an amendment to Bill C-314, *An Act respecting the awareness of screening among women with dense breast tissue*, during its study by the Standing Committee on Health. Ms. Fry explained that, since her amendment was based on witnesses' testimony and since the Committee proceeded with the clause-by-clause study of the Bill immediately after hearing from the witnesses, she had not been able to avail herself of the drafting services of the parliamentary counsel. In addition, the Chair of the Committee raised concerns over the amendment's admissibility and, lacking time to provide a definitive ruling, advised Ms. Fry to submit her amendment at report stage instead.

Resolution

On March 12, 2012, the Speaker delivered his ruling on the selection of the motion in amendment at report stage. He ruled that, due to the exceptional circumstances in committee and given that the amendment was admissible, he would select it for debate.

DECISION OF THE CHAIR

The Speaker: There is one motion in amendment standing on the *Notice Paper* for the report stage of Bill C-314, standing in the name of the hon. Member for Vancouver Centre. At first glance, it appears that this motion could have been presented in Committee.

However, in submitting her motion for consideration at report stage, the Member for Vancouver Centre provided the Chair with a written explanation in which she outlined her efforts to propose a similar amendment during the clause-by-clause study of the Bill, and where she explained that her amendment was based on the testimony of witnesses who had appeared earlier in the meeting. As the Committee desired to proceed with the clause-by-clause study of the Bill immediately after hearing from the Bill's sponsor and other witnesses, she did not have time to avail herself of the drafting services of the parliamentary counsel assigned to the Bill.

Upon presentation of her amendment, the Member was cautioned by the Chair of the Committee that there was some concern over certain legal terminology her amendment contained that might have had the undesired effect of infringing on the financial initiative of the Crown. In this case, there was not sufficient time for the Chair of the Committee to carry out the necessary consultations and provide a definitive ruling on admissibility. As a potential remedy to this unusual situation, the Chair of the Committee suggested to the Member that she might wish to submit her amendment at the report stage instead.

Having received the Committee's consent to withdraw the amendment, the Member for Vancouver Centre explained that she was able to consult with parliamentary counsel and the legislative clerk assigned to the Bill. She was thus able to prepare a motion for the report stage which she feels, and I agree, does not appear to infringe on the financial initiative of the Crown. Therefore, due to the exceptional circumstances outlined above, the Chair has selected for debate the motion submitted by the Member for Vancouver Centre.

I shall now propose Motion No. 1 to the House.

STAGES

Report stage: power of the Speaker to select amendments; selection and grouping of motions

June 11, 2012
Debates, **pp. 9123–4**

Context

On June 11, 2012, the House proceeded to the consideration at report stage of Bill C-38, *An Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures*. Pursuant to Standing Order 76.1,[1] the Speaker ruled on the selection and grouping for debate and voting of 871 motions in amendment standing on the *Notice Paper*.

Resolution

Exceptionally, the Speaker explained the reasoning behind his report stage ruling. He stated that, in keeping with recent precedents, the motions to delete clauses were found to be in order. He grouped them for debate and applied the vote on one motion to others as much as possible to minimize time spent in the House on such motions. Motions to amend clauses, submitted by Members who had no opportunity to present substantive amendments at committee stage, were also selected, except for similar motions already considered in committee, and they were grouped according to the divisions of the Bill. He added that the vote on the first motion would apply to the Members' other motions in the same clause. The Speaker also specified which motions were not selected because they either required a royal recommendation, were defeated in committee, or would have introduced inconsistencies. The Speaker suggested that the House or the Standing Committee on Procedure and House Affairs might wish to re-evaluate the adequacy of the rules and practices regarding amendments presented at report stage.

1. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 512.

DECISION OF THE CHAIR

The Speaker: As Members are aware, the Chair does not ordinarily provide an explanation on the basis for the report stage ruling. In cases where there are a large number of amendments or where the relations among them are complex, it has been found helpful to provide some description of the underlying organization of the ruling. I believe that the case before us today is one in which the House may benefit from some comments in this regard.

I remind the House that my comments are limited to addressing procedural issues relating to report stage and to my responsibility as Speaker to ensure that the relevant provisions contained in the *Standing Orders* are complied with.

On February 27, 2001, the House adopted a motion to add an additional paragraph to the "note" to Standing Order 76(5) and 76.1(5).[2] That additional final paragraph added to the note reads as follows:

> For greater clarity, the Speaker will not select for debate a motion or series of motions of a repetitive, frivolous or vexatious nature or of a nature that would serve merely to prolong unnecessarily proceedings at the report stage and, in exercising this power of selection, the Speaker shall be guided by the practice followed in the House of Commons of the United Kingdom.

As mentioned in the *House of Commons Procedure and Practice*, [Second Edition], at page 778, "This occurred in response to the flooding of the *Notice Paper* with hundreds of amendments".

Following the adoption of this new note in the *Standing Orders*, Speaker Milliken made a statement, *Debates*, March 21, 2001, pages 1991 to 1993, regarding how the Chair would interpret this note which has formed the basis of our current practice with regard to the selection of motions at

2. See Appendix A, p. 510, 513.

report stage. If I may add, this process appears to have effectively served the House since that time.

Given the infrequency with which similar cases to those that led to the introduction of the note have arisen in the past decade, the Speaker has little in the way of precedent to guide him in arranging the report stage motions in a manner which will adequately reflect the various competing interests in the House.

In reviewing the motions placed before the House, there are essentially two types of motions the Chair has received. First, hundreds of motions to delete individual clauses in the bill have been placed on notice as well as a second group of amendments which seek to amend the text of a clause.

The recent precedents in relation to both types of motions are clear. For example, motions to delete clauses have always been found to be in order and it must also be noted have been selected at report stage. These motions are allowed at report stage because Members may wish to express views on a clause without seeking to amend it. As is the case on such occasions, I have tried to minimize the amount of time spent in the House on this kind of motion by grouping them as tightly as possible and by applying the vote on one to as many others as possible.

The second group of motions, which seek to amend the text of individual clauses, have been submitted by Members who had no opportunity to present amendments at committee stage and, consistent with the current practice, their motions have also been selected, except in the case where similar motions had already been considered by the committee and where all other procedural requirements have been met. The grouping of these motions follows the divisions of the Bill. Motions have been grouped by the Members submitting them for each clause of the Bill. The vote on the first motion will be applied to the Member's other motions in that [clause].

Although 871 motions have been placed on the *Notice Paper*, it is clearly not intended, nor do our rules and practices lend themselves to the taking of 871 consecutive votes. With respect to the voting table, substantive

amendments have been grouped so as to allow for a clear expression of opinion on each of the subject areas contained in the Bill. Motions to delete have been dealt with in conformity with the grouping scheme outlined above.

As your Speaker, I am fully aware of the extraordinary nature of the current situation. In reviewing the March 2001 statement by then Speaker Milliken, I was struck by the following, which I feel might have some resonance today:

> As your Speaker, I am ready to shoulder the report stage responsibilities that the House has spelled out for me. However, I think it would be naive to hope that the frustrations implicit in the putting on notice of hundreds of motions in amendment of a bill will somehow be answered by bringing greater rigour to the Speaker's process of selection.

Since the decision of the House on February 27, 2001 to add the final paragraph to the note in the *Standing Orders* regarding report stage, there are few precedents to guide the Speaker in dealing with this type of situation. In my selection of motions, in their grouping and in the organization of the votes, I have made every effort to respect both the wishes of the House and my responsibility to organize the consideration of report stage motions in a fair and balanced manner. To the extent that some may have differing views concerning the decisions taken, it may be that the House or perhaps the Standing Committee on Procedure and House Affairs will wish to revisit the adequacy of our rules and practices in dealing with cases of this extraordinary nature.

There are 871 motions in amendment standing on the *Notice Paper* for the report stage of C-38.

The Chair will not select Motions Nos. 570, 571, 576, 626 to 628, 630, 842 and 843, since they require a royal recommendation. The Chair will not select Motions Nos. 411 and 412, because they were defeated in committee.

Motions Nos. 27, 29, 39, 55 to 61, 71, 73, 75, 83, 85 and 545 will not be selected by the Chair as they would introduce inconsistencies.

All remaining motions have been examined and the Chair is satisfied that they meet the guidelines expressed in the note to Standing Order 76.1(5)[3] regarding the selection of motions in amendment at the report stage.

The motions will be grouped for debate as follows:

Group No. 1, Motions Nos. 1 to 15.

Group No. 2, Motions Nos. 16 to 23.

Group No. 3, Motions Nos. 24 to 26, 28, 30 to 38, 40 to 54, 62 to 70, 72, 74, 76 to 82, 84 and 86 to 367.

Group No. 4, Motions Nos. 368 to 410, 413 to 544, 546 to 569, 572 to 575, 577 to 625, 629, 631 to 841 and 844 to 871.

The voting patterns for the motions within each group are available at the Table. The Chair will remind the House of each pattern at the time of voting.

I shall now propose Motions Nos. 1 to 15 in Group No. 1 to the House.

3. See Appendix A, p. 513.

STAGES

Report stage: power of the Speaker to select amendments; amendments not presented in committee

December 7, 2012
Debates, **p. 13030**

Context

In written submissions to the Speaker, Rodger Cuzner (Cape Breton—Canso) and Russ Hiebert (South Surrey—White Rock—Cloverdale) described their efforts to propose amendments to Bill C-377, *An Act to amend the Income Tax Act (requirements for labour organizations)*, during its study by the Standing Committee on Finance. They argued that, since the Committee was unsuccessful in starting the clause-by-clause study of the Bill as scheduled and in completing its consideration of the Bill before it was deemed reported back to the House without amendment pursuant to Standing Order 97.1,[1] there was no opportunity to propose their amendments in committee. Consequently, Mr. Hiebert and Mr. Cuzner submitted motions in amendment at report stage.

Resolution

On December 7, 2012, the Acting Speaker (Barry Devolin) delivered his ruling on the selection of the five report stage motions in amendment to the Bill. He stated that, having reviewed the written submissions from Mr. Hiebert and Mr. Cuzner as well as the sequence of events that occurred during the Committee meeting, he felt these motions could not have been presented in committee and, accordingly, all five motions were selected for debate at report stage.

1. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 527.

DECISION OF THE CHAIR

The Acting Speaker: There are five motions standing on the *Notice Paper* for the report stage of the Member for South Surrey—White Rock—Cloverdale's Bill C-377, *An Act to amend the Income Tax Act (requirements for labour organizations)*.

While it is not usual for the Chair to provide reasons for the selection of report stage motions, in this case it has been decided to do so given that the Speaker has received written submissions from the hon. Members for South Surrey—White Rock—Cloverdale and Cape Breton—Canso, outlining exceptional circumstances surrounding the committee consideration of the Bill.

As Members know, consistent with the note to Standing Order 76.1(5),[2] the Chair would not normally select motions that could have been presented in committee.

In the present case, however, there appear to be extenuating circumstances. The hon. Members who have submitted motions at report stage were in attendance at the meeting scheduled for the clause-by-clause consideration of the Bill by the Standing Committee on Finance. In addition, they had both submitted motions in advance of this meeting and these had been circulated to all Members of the Committee. At first glance, it would therefore appear that the amendments submitted by these Members could have been proposed during the committee consideration of the Bill.

In his submission, the Member for South Surrey—White Rock—Cloverdale explained the efforts that were made to ensure that the Committee would actually begin the clause-by-clause study of the Bill as scheduled in order to complete consideration of the Bill within the prescribed deadlines attached to it. He reported that these efforts were unsuccessful and, as a result, there was no opportunity to propose amendments in Committee.

2. See Appendix A, p. 513.

The Chair has been met with this kind of circumstance before. On September 20, 2010, in the *Debates* on page 4069, Speaker Milliken ruled on a case where the Member for Scarborough—Guildwood faced a similar situation in relation to his Bill C-300, *An Act respecting corporate accountability for the activities of mining, oil or gas in developing countries*. In that case, the Speaker selected report stage motions for debate because it had been established that the Member had made clear attempts to have the clause-by-clause study take place so that amendments could be considered by the Committee.

Similarly, in the case before us today, the Chair has carefully reviewed the sequence of events as well as the written submissions from the Members for South Surrey—White Rock—Cloverdale and Cape Breton—Canso and is satisfied that these motions could not be presented during the Committee consideration of the Bill.

Accordingly, Motions Nos. 1 to 5 have been selected for debate at report stage. They will be grouped for debate and voted upon according to the voting patterns available at the Table.

I shall now propose Motions Nos. 1 to 5 to the House.

STAGES

Report stage: power of the Speaker to select amendments; selection and grouping of motions

November 29, 2012 and December 12, 2012
Debates, pp. 12610–1, 13223–5

Context

On November 28, 2012, Nathan Cullen (Skeena—Bulkley Valley) rose on a point of order with regard to the grouping of votes at report stage for Bill C-45, *A second Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures*. Mr. Cullen argued that the practice of allowing the Speaker to group report stage motions for the purpose of voting required Members to vote once on multiple motions related to different issues, negatively impacting their right to vote according to their conscience. He contended that it is not for the Speaker to limit the ability of Members to make distinct choices on how to vote on distinct questions, and requested that, rather than grouping together many of the motions to delete clauses selected for debate and having a single vote applied to them, the Speaker allow Members to vote separately on each motion. Peter Van Loan (Leader of the Government in the House of Commons) rose to argue that motions to delete clauses of a bill at report stage amount to a reconsideration of the committee stage of the bill and that they should not be selected. He added that if the Speaker decided otherwise, he should group the motions for the purpose of voting in an efficient manner that recognizes the anticipated will of the House. The Speaker took the matter under advisement.[1]

Resolution

The Speaker delivered an initial ruling on November 29, 2012, promising to deliver a more comprehensive ruling at a later date. He stated that allowing a

1. *Debates*, November 28, 2012, pp. 12577–85.

separate vote on every motion to delete a clause would diverge from current practice and, in essence, duplicate the clause-by-clause consideration of a bill in committee, thereby contravening Standing Orders 76(5) and 76.1(5).[2] The Speaker concluded by saying that, without specific guidance from the House, he could not deviate from well-established practice with regard to the grouping of report stage motions. On December 12, 2012, the Speaker delivered a more comprehensive ruling. The authority of the Speaker derived from past practice as well as written rules. He noted that it is not the Speaker's role to try to anticipate the will of the House but rather to be guided by procedural imperatives in his decisions. The Speaker then stated that he would uphold the right of independent Members to propose amendments at report stage, in keeping with the *Standing Orders*, until such a time as arrangements could be made to permit independent Members to present their amendments to legislation in committee. The Speaker concluded that the report stage selection process would then be adapted to the new reality.

DECISION OF THE CHAIR

November 29, 2012

The Speaker: Before delivering a ruling regarding the report stage of Bill C-45, *A second Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures*, the Chair would like to take a moment to respond briefly to certain arguments raised yesterday by the hon. House leaders of the Government and the Official Opposition. A more comprehensive ruling, dealing with their points in detail, will be delivered at a later date. Today I will limit my comments to only a few key points.

Yesterday, the hon. Opposition House leader raised a point of order about the manner in which votes were applied in June of this year at the report stage of Bill C-38, *An Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures*. He expressed concern that, as a result of the grouping of votes at report stage, Members may, in essence,

2. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 510, 513.

have had to cast a single vote that would apply to several motions, some of which they supported and some of which they opposed.

Let me say at the outset that analyzing report stage motions for purposes of selection, grouping for debate and voting is never an easy task and represents a significant challenge for the Chair, particularly in cases such as the present one where a very large number of motions have been placed on notice. As I stated in my ruling of June 11, 2012 in relation to Bill C-38 (**Editor's Note:** The ruling can be found on page 303.):

> In my selection of motions, in their grouping and in the organization of the votes, I have made every effort to respect both the wishes of the House and my responsibility to organize the consideration of report stage motions in a fair and balanced manner.

The Chair is being asked to consider the suggestion that every motion to delete a clause should be voted on separately. This would diverge from our practice where, for voting purposes where appropriate, a long series of motions to delete are grouped for a vote. Since the effect of deleting a clause at report stage is, for all practical purposes, the same as negativing a clause in committee, to change our practice to a one deletion, one vote approach could be seen as a repetition of the clause-by-clause consideration of the bill in committee, something which the House is specifically enjoined against in the notes to Standing Orders 76(5) and 76.1(5),[3] which state that the report stage is not meant to be a reconsideration of the committee stage.

That said, though, it has been a long-standing practice for the Chair to select motions to delete clauses at report stage. I reminded the House of our practices in that regard in my ruling in relation to Bill C-38 when I stated, "motions to delete clauses have always been found to be in order and it must also be noted have been selected at report stage".

3. See Appendix A, p. 510, 513.

To provide just two examples, I would refer Members to a ruling by Speaker Milliken regarding the report stage of Bill C-50 on May 30, 2008, which can be found at page 6341 of the *Debates of the House of Commons*, as well as my own ruling regarding the report stage of Bill C-9, which can be found at page 2971 of the *Debates* for May 26, 2010.

In the absence of any specific guidance from the House with regard to motions to delete and other matters raised in the points of order, the Speaker cannot unilaterally modify the well-established current practice. Accordingly, with regard to the report stage of Bill C-45, the Chair will be guided by my past rulings and, in particular, by the ruling on Bill C-38.

Editor's Note

The Speaker then delivered his ruling on the selection and grouping of the 1,667 motions in amendment at report stage standing on the *Notice Paper*.

December 12, 2012

The Speaker: As I committed to do on November 29, 2012, I am now prepared to provide the House with a more comprehensive ruling on the points of order raised on November 28 by the hon. House Leaders for the Official Opposition and the Government regarding the report stage proceedings on Bill C-45, *A Second Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures*.

In making their interventions, both House Leaders made two kinds of arguments. First, they made what the Chair would characterize as strictly technical procedural points related to the mechanics of report stage for Bill C-45. At the same time, they shared other views with the House on broader issues, such as the role of the Speaker in general and in relation to report stage, the role of the House and of the Speaker in a majority setting, and the role and rights of independent Members in relation to report stage.

In its earlier ruling on some of the purely procedural matters raised in these points of order, the Chair outlined the rationale for its selection for debate and grouping for voting purposes of motions at report stage of Bill C-45, in particular motions to delete. Motions to delete were a preoccupation for both House Leaders: the Opposition House Leader wanted the Speaker to select them all and allow separate votes on all of them, while the Government House Leader did not want me to select any of them, to avoid votes altogether.

As I explained to the House on November 29, there are several precedents to justify not only the selection of motions to delete for debate at report stage but also to justify their grouping for voting purposes. These are long-standing practices of the House.

References made by the Opposition House Leader to rulings by Speakers Jerome and Fraser, while of interest, failed to take into account the evolution of our procedures as they relate to report stage, particularly the very clear direction included in the notes to Standing Orders 76(5) and 76.1(5)[4] since 2001. These notes outline the desire of the House to circumscribe report stage and instruct the Speaker to select motions for debate in accordance with certain criteria to ensure that report stage is not a mere repetition of the committee stage.

As I stated in my ruling on November 29, *Debates*, page 12611:

> In the absence of any specific guidance from the House with regard to motions to delete and other matters raised in the points of order, the Speaker cannot unilaterally modify the well-established current practice.

Despite the brevity of the ruling, the Chair believes it puts to rest any ambiguity that may have been perceived with regard to the Chair's approach to the fundamental procedural aspects of selection and voting processes as they relate to motions at report stage.

4. See Appendix A, p. 510, 513.

With regard to the broader issues raised by the two House leaders, the Chair intends to address them thematically, beginning with a discussion on the role of the Speaker.

House of Commons Procedure and Practice, Second Edition, at page 307, states that it is the duty of the Speaker:

> … to ensure that public business is transacted efficiently and that the interests of all parts of the House are advocated and protected against the use of arbitrary authority. It is in this spirit that the Speaker, as the chief servant of the House, applies the rules. The Speaker is the servant, neither of any part of the House nor of any majority in the House, but of the entire institution and serves the best interests of the House ...

O'Brien and Bosc further states that:

> Despite the considerable authority of the office, the Speaker may exercise only those powers conferred upon him or her by the House, within the limits established by the House itself.

Speaker Milliken provided useful insight into this role when on April 27, 2010, on page 2039 of *Debates*, he stated:

> —the Chair is always mindful of the established precedents, usages, traditions and practices of the House and of the role of the Chair in their ongoing evolution.

This not only confirms that it is not just written rules from which the Speaker's authority is legitimately derived, as suggested by the Opposition House Leader, but that the evolutionary nature of procedure must be taken into account. It was on this basis of the House's long-standing acceptance, and in fact expectations, of the practices at report stage, in conjunction with the

need for adaptation to the current context, that the amendments for Bill C-45 were grouped for debate and voting purposes in the manner that they were.

Nor does the role of the Speaker in this regard vary from Parliament to Parliament, as has been suggested by the Government House Leader, who said:

> It may be justifiable in a minority Parliament for the Chair to accept any questions for the House to decide, because it is difficult to predict the intentions of the majority of Members. This is not the case in a majority Parliament in general.

Let me be clear: the Speaker does not make decisions based on who is in control of the House. Report stage motions are not, and never have been, selected for debate and grouped for voting on the basis of who the Chair thinks might win the vote on them. This is why, in the case of Bill C-45, the Chair rejected the proposal made by the Government House Leader that I group certain motions, to use his words, "in a manner that recognizes the anticipated will of the House".

The Chair is and will continue to be guided by procedural imperatives in all of its decisions, not by somehow substituting the Speaker's prediction of the likely outcome of a vote for the expressed will of the House itself.

This brings me to a discussion of the role of the House as a whole.

The role of the House in the legislative process must be seen in the larger context of the accountability of the executive branch to the elected Members of the legislative branch. Speaker Milliken, in a ruling given on April 27, 2010, which can be found at page 2039 of *Debates*, stated:

> In a system of responsible government, the fundamental right of the House of Commons to hold the Government to account for its actions is an indisputable privilege and in fact an obligation.

He continued:

> … it is why that right is manifested in numerous procedures of the House, from the daily question period to the detailed examination by committees of estimates, to reviews of the accounts of Canada, to debate, amendments, and votes on legislation.

The *House of Commons Procedure and Practice*, Second Edition, at page 250, puts into context how our practices have attempted to strike an appropriate balance between Government and Opposition. It states that:

> —it remains true that parliamentary procedure is intended to ensure that there is a balance between the government's need to get its business through the House, and the opposition's responsibility to debate that business without completely immobilizing the proceedings of the House. In short, debate in the House is necessary, but it should lead to a decision in a reasonable time.

The underlying principles these citations express are the cornerstones of our parliamentary system. They enshrine the ancient democratic tradition of allowing the minority to voice its views and opinions in the public square and, in counterpoint, of allowing the majority to put its legislative program before Parliament and have it voted upon.

In advocating a much stricter approach to the report stage on Bill C-45, the Government House Leader seemed to argue that the existence of a Government majority meant that the outcome of proceedings on the Bill was known in advance, that somehow this justified taking a new approach to decision-making by the House and that anything short of that would constitute a waste of the House's time.

This line of reasoning, taken to its logical end, might lead to conclusions that trespass on important foundational principles of our institution, regardless of its composition. Speaker Milliken recognized this when, on March 29, 2007, at page 8136 of *Debates*, he stated:

> … neither the political realities of the moment nor the sheer force of the numbers should force us to set aside the values inherent in the parliamentary conventions and procedures by which we govern our deliberations.

Speaker Fraser on October 10, 1989, at page 4461 of the *Debates of the House of Commons*, also reminded the House that decisions on legislation are for the House alone to make, stating that:

> … we are a parliamentary democracy, not a so-called executive democracy, nor a so-called administrative democracy.

I would now like to turn my attention to the issue of the role and rights of independent Members in the context of report stage.

While acknowledging that some accommodation for the participation of independent Members was necessary, the Government House Leader was critical of the current state of affairs, which he claims can allow a single independent Member, as the Government House Leader put it, "to hold the House hostage in a voting marathon".

As all Members know, this year the House has had to deal with thousands of report stage motions when considering the two budget implementation bills, which resulted, in the case of Bill C-38, in around-the-clock voting. While this is not unprecedented, it is the first time it has happened since the rules governing report stage were changed in 2001. As is often the case in the midst of such consuming procedural challenges, frustration surfaces, our practices are examined and remedies are proposed.

As I have indicated, the note to Standing Orders 76(5) and 76.1(5)[5] already provides guidance to the Chair with regard to the selection of amendments at report stage, and in particular, states the following:

> For greater certainty, the purpose of this Standing Order is, primarily, to provide Members who were not members of the committee, with an opportunity to have the House consider specific amendments they wish to propose.

It is no secret that independent Members do not sit on committees in the current Parliament. In light of recent report stage challenges and the frustrations that have resurfaced, the Chair would like to point out the opportunities and mechanisms that are at the House's disposal to resolve these issues to the satisfaction of all Members.

The *Standing Orders* currently in place offer committees wide latitude to deal with bills in an inclusive and thorough manner that would balance the rights of all Members. In fact, it is neither inconceivable nor unprecedented for committees to allow Members, regardless of party status, permanently or temporarily, to be part of their proceedings, thereby opening the possibility for the restoration of report stage to its original purpose.

For inspiration on the possibilities, Members need only to remember that there are several precedents where independent Members were made members of standing committees. Short of that, there is no doubt that any number of procedural arrangements could be developed that would ensure that the amendments that independent Members wish to propose to legislation could be put in committee.

Thus, it is difficult for the Chair to accept the argument that current report stage practices and rules are somehow being used in an untoward manner by independent Members when simple and straightforward solutions are not being explored. Were a satisfactory mechanism found that would afford independent Members an opportunity to move motions to move bills in

5. See Appendix A, p. 510, 513.

committee, the Chair has no doubt that its report stage selection process would adapt to the new reality.

In the meantime, as all honourable Members know, and as is stated at page 307 of *House of Commons Procedure and Practice*, Second Edition:

> It is the duty of the Speaker to act as the guardian of the rights and privileges of Members and of the House as an institution.

Accordingly, unless and until new satisfactory ways of considering the motions of all Members to amend bills in committee are found, the Chair intends to continue to protect the rights of independent Members to propose amendments at report stage.

Finally, as we prepare to adjourn for the Christmas holidays, the Chair invites all Members to reflect on how best to strengthen public confidence in this institution and on how best to balance the competing interests with which we will always grapple.

I thank all hon. Members for their attention.

Postscript

Following this ruling, several standing committees of the House began to adopt motions to provide for a means of participation for independent Members in the clause-by-clause consideration of legislation.[6]

6. See, for example, Standing Committee on Justice and Human Rights, *Minutes of Proceedings*, June 3, 2013, Meeting No. 75; Standing Committee on Environment and Sustainable Development, *Minutes of Proceedings*, June 13, 2013, Meeting No. 81; Standing Committee on Foreign Affairs and International Development, *Minutes of Proceedings*, October 29, 2013, Meeting No. 1.

STAGES

Report stage: power of the Speaker to select amendments; amendments not presented in committee

February 27, 2013
Debates, **p. 14397**

Context

Randall Garrison (Esquimalt—Juan de Fuca), in a written submission to the Speaker, requested to have his amendments to Bill C-279, *An Act to amend the Canadian Human Rights Act and the Criminal Code (gender identity and gender expression)*,[1] selected for debate at report stage. He described the efforts he had made to amend the Bill during its study by the Standing Committee on Justice and Human Rights, including seeking a 30-day extension for the consideration of the Bill. Mr. Garrison informed the Speaker that he had not been successful and explained that, while the Committee did begin clause-by-clause consideration of the Bill and pass two amendments, it was unable to get past the first clause and complete its study prior to the Bill being deemed reported back to the House without amendment pursuant to Standing Order 97.1.[2]

Resolution

On February 27, 2013, the Speaker delivered his ruling on the selection of the nine report stage motions in amendment to Bill C-279 put on notice by Mr. Garrison. The Speaker stated that, at first glance, the nine motions could have been presented during the committee study of the Bill. However, having reviewed Mr. Garrison's written submission and the sequence of events related to the study of the Bill by the Standing Committee on

1. On March 20, 2013, the House adopted a motion during consideration at report stage of Bill C-279 to change the long title to "*An Act to amend the Canadian Human Rights Act and the Criminal Code (gender identity)*". *Journals*, pp. 2895–7.
2. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 527.

Justice and Human Rights, the Speaker was satisfied that the Member was unable to have his amendments considered by the Committee despite his efforts and, therefore, selected his motions for debate at report stage.

DECISION OF THE CHAIR

The Speaker: There are nine motions standing on the *Notice Paper* for the report stage of the Member for Esquimalt—Juan de Fuca's Bill C-279, *An Act to amend the Canadian Human Rights Act and the Criminal Code (gender identity and gender expression).*

While it is not usual for the Chair to provide reasons for the selection of report stage motions, in this case, I have decided to do so, as I have received a written submission from the hon. Member for Esquimalt—Juan de Fuca outlining what he feels are exceptional circumstances surrounding the clauseby-clause consideration of the Bill in committee.

As Members know, consistent with the note to Standing Order 76.1(5),[3] the Chair would not normally select motions that could have been presented in committee.

The hon. Member who has submitted motions at report stage was also an active participant in the meeting scheduled for the clause-by-clause consideration of the Bill by the Standing Committee on Justice and Human Rights. As such, it would appear that the amendments submitted by the Member could have been proposed during the Committee consideration of the Bill. In the present case, however, there appear to be extenuating circumstances.

In his remarks, the Member for Esquimalt—Juan de Fuca explained that during clause-by-clause consideration of the Bill on December 6, 2012, the Committee passed two amendments to the first clause of the text as well as the clause itself, as amended. He stated that the Committee did not continue studying the Bill.

3. See Appendix A, p. 513.

Even the Member for Esquimalt—Juan de Fuca's attempt to seek a 30-day extension for the consideration of Bill C-279 in committee was unsuccessful. As a result, clause-by-clause consideration of the Bill did not proceed beyond the first clause, and pursuant to Standing Order 97.1,[4] on December 10, 2012, the Bill was deemed reported back to the House without amendment.

The Chair has had to rule on similar cases in the past, including one that came up on December 7, 2012—at page 13030 of *House of Commons Debates*—regarding Bill C-377, *An Act to amend the Income Tax Act (requirements for labour organizations)*. In that case, due to circumstances beyond its control, the Committee was unable to complete its examination before the Bill was deemed to have been reported without amendment pursuant to Standing Order 97.1.[5] Accordingly, any amendments that had originally been submitted for the clause-by-clause examination of the Bill in committee were submitted again at report stage. The Chair therefore selected those motions at report stage for debate, because it was clear that the Members in question had attempted to propose their amendments in committee during the clause-by-clause examination of the Bill (**Editor's Note:** The ruling can be found on page 308.).

In reviewing the sequence of events related to the Bill now before the House, as well as the written submission from the Member for Esquimalt—Juan de Fuca, I am satisfied that despite the efforts of the Member to have his amendments considered by the Committee, he was unable to do so before the Bill was deemed reported back to the House.

Accordingly, Motions Nos. 1 to 9 have been selected for debate at report stage, and they will be grouped for debate and voted upon, according to the voting patterns available at the Table.

I shall now propose Motions Nos. 1 to 9 to the House.

4. See Appendix A, p. 527.
5. See Appendix A, p. 527.

STAGES

Report stage: power of the Speaker to select amendments; amendments not presented in committee

December 10, 2013
Debates, **p. 1982**

Context

On December 10, 2013, the Speaker delivered his ruling on the selection of three report stage motions in amendment to Bill C-9, *An Act respecting the election and term of office of chiefs and councillors of certain first nations and the composition of council of those first nations*, standing in the name of Members from unrecognized parties, Elizabeth May (Saanich—Gulf Islands) and Louis Plamondon (Bas-Richelieu—Nicolet—Bécancour).

Resolution

The Speaker explained that though the two Members are not part of a recognized party caucus, they were invited to participate in the Standing Committee on Aboriginal Affairs and Northern Development's clause-by-clause consideration of the Bill. However, due to an administrative error, they were not informed of the deadline to submit amendments. Consequently, given the extenuating circumstances, the Speaker selected all three motions for debate.

DECISION OF THE CHAIR

The Speaker: There are three motions in amendment standing on the *Notice Paper* for the report stage of Bill C-9, *An Act respecting the election and term of office of chiefs and councillors of certain first nations and the composition of council of those first nations*. While it is not usual for the Chair to provide reasons for the selection of report stage motions, in this case the Chair would like to provide a brief explanation.

As is the case with several standing committees considering bills, Members who are not members of a [recognized party] caucus represented on the Standing Committee on Aboriginal Affairs and Northern Development were invited to participate in the Committee's clause-by-clause consideration of Bill C-9. However, due to an administrative error, these Members were not informed of the deadline to submit amendments for the Committee's clause-by-clause consideration of the Bill.

As Members know, consistent with the note to Standing Order 76.1(5),[1] the Chair would not normally select motions that could have been presented in committee; however, in light of the circumstances in this case, the Chair has decided to select these motions.

That being said, while the Chair certainly appreciates some of the challenges presented to Members who are not part of a recognized caucus to follow the work of numerous committees, the Chair would nevertheless strongly urge all Members to continue to ensure they are prepared to avail themselves of all opportunities presented to them with respect to committee proceedings on bills.

Accordingly, Motions Nos. 1 to 3 have been selected for debate at report stage. They will be grouped for debate and voted upon according to the voting pattern available at the Table.

1. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 513.

STAGES

Report stage: sponsor not moving concurrence

February 26, 2014
Debates, **p. 3259**

Context

On February 26, 2014, the sponsor of Bill C-461, *An Act to amend the Access to Information Act and the Privacy Act (disclosure of information)*, Brent Rathgeber (Edmonton—St. Albert), rose on a point of order following the defeat of eight report stage motions he had proposed in amendment. These eight motions sought to bring the Bill back to a state that resembled the original version he had introduced by amending alterations to the content of the Bill at committee stage.[1] He explained that since all motions in amendment at report stage that were standing in his name had been defeated, the Bill now bore no resemblance to the original version he had introduced at first reading. Consequently, he announced that he would not move the motion for concurrence at report stage of the Bill.

Resolution

The Speaker ruled immediately. He explained that since the two hours of debate prescribed for report stage and third reading were exhausted and that the report stage motions had been disposed of, all questions necessary to dispose of the Bill had to be put immediately to the House. However, since the sponsor of the Bill had indicated he would not move the motion to concur in the Bill as amended at report stage, the Speaker, pursuant to Standing Order 94,[2] ruled that the order for concurrence at report stage of the Bill be discharged and the Bill dropped from the *Order Paper*.

1. Three amendments to Bill C-461 were adopted during clause-by-clause study by the Standing Committee on Access to Information, Privacy and Ethics (*Minutes of Proceedings*, June 5, 2013, Meeting No. 84).
2. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 526.

DECISION OF THE CHAIR

The Speaker: The House now seems faced with what seems to be an unprecedented situation. Since the two hours of debate prescribed for report stage and third reading have concluded and the report stage motions have been disposed of, all questions necessary to dispose of the Bill should now be put immediately to the House, pursuant to Standing Order 98(4).[3]

However, the sponsor of the Bill, the hon. Member for Edmonton—St. Albert, has indicated that he does not wish to move the motion to concur in the Bill as amended at report stage. Members will recall that pursuant to Standing Order 94,[4] the Speaker may make all arrangements necessary to ensure the orderly conduct of private Members' business.

Accordingly, I rule that the order for concurrence at report stage of Bill C-461, *An Act to amend the Access to Information Act and the Privacy Act (disclosure of information)*, be discharged and the Bill be dropped from the *Order Paper*.

3. See Appendix A, p. 531.
4. See Appendix A, p. 526.

STAGES

Report stage: power of the Speaker to select amendments; amendments having been voted on in committee

May 7, 2014
Debates, **pp. 5057–8**

Context

On May 6, 2014, Elizabeth May (Saanich—Gulf Islands) rose on a point of order regarding the consideration of amendments to Bill C-23, *An Act to amend the Canada Elections Act and other Acts and to make consequential amendments to certain Acts*, by the Standing Committee on Procedure and House Affairs. Ms. May argued that an order adopted by the Committee requiring that all remaining questions necessary to dispose of its clause-by-clause consideration of the Bill be put by a specified time contradicted an earlier order by the Committee. She contended that this resulted in Members from non-recognized parties being prevented from speaking to their amendments before they were voted on by the Committee. That being the case, Ms. May argued that some of her motions in amendment should be selected by the Speaker for consideration at report stage, even though they were already voted on by the Committee. After hearing from other Members, the Speaker took the matter under advisement.[1]

Resolution

On May 7, 2014, the Speaker delivered his ruling. He stated that the Committee was within its rights to impose a deadline for debate on clause-by-clause consideration of the Bill, even if it kept Ms. May from speaking to all of her proposed amendments. The Speaker added that decisions on the conduct of its business was the exclusive responsibility of

1. *Debates*, May 6, 2014, pp. 5008–12.

the Committee. The Speaker concluded that the imposition of a deadline for debate by the Committee did not provide sufficient grounds to select Ms. May's amendments, which the committee considered and voted on for consideration at report stage.

DECISION OF THE CHAIR

The Speaker: Before addressing the selection and grouping of report stage motions for Bill C-23, *An Act to amend the Canada Elections Act and other Acts*, I would like to address the point of order raised on May 6, 2014, by the hon. Member for Saanich—Gulf Islands.

I would like to thank the Member for Saanich—Gulf Islands for raising this matter as well as the Government Leader in the House, the House Leader of the Official Opposition, and the Members for Toronto—Danforth, Bas-Richelieu—Nicolet—Bécancour, and Winnipeg North for their comments.

The Member for Saanich—Gulf Islands raised concerns that the Standing Committee on Procedure and House Affairs adopted a motion requiring all remaining questions necessary to dispose of its clause-by-clause consideration of the Bill to be put by a specified time, effectively creating a deadline for the debate to end. She argued that this motion contradicts an earlier Committee order adopted on October 29, 2013, which gives Members from non-recognized parties the ability to speak to their suggested amendments to Bills before they are voted on by the Committee. Because of the imposed deadline, the Member's opportunity to speak to her amendments was interfered with, pursuant to the Committee order of October 29, 2013. As such, the Member for Saanich—Gulf Islands suggested that substantive amendments, even if already voted on by the Committee, should be selected for consideration at report stage. Several Members rose in support of the Member for Saanich—Gulf Islands' point of order.

The Government House Leader made two central points in response. First, he reminded the House that at report stage the Speaker's authority to

select report stage amendments is limited to determining whether they were presented, or could have been presented at committee. Second, he pointed out that the deadline adopted by the Committee affected all Members the same way, so it is inaccurate to claim that Members from unrecognized parties and independents were particularly penalized in this regard.

In examining the matter, it is useful to remind the House of the power of the Speaker to select amendments at report stage. To place the matter in its proper context, it is helpful to refer to the March 21, 2001, statement by Speaker Milliken, found at page 1991 of the *Debates*, which establishes the guidelines upon which I rely to discharge my responsibility to select amendments at report stage. Speaker Milliken was clear in his intent when he urged:

> … all Members and all parties to avail themselves fully of the opportunity to propose amendments during committee stage so that the report stage can return to the purpose for which it was created, namely for the House to consider the committee report and the work the committee has done …

These principles are also reflected in the interpretive notes attached to Standing Orders 76(5) and 76.1(5).[2] *House of Commons Procedure and Practice*, Second Edition, further expands on these principles, explaining at pages 783 and 784 that:

> … the Speaker will normally only select motions in amendment that could not have been presented in committee.

I would remind all Members that the guidelines for selection specify whether amendments could have been presented in committee and whether they were defeated in committee. In the case of the Committee's consideration of Bill C-23, all members of the Committee, as well as any interested independent Member, were given the opportunity to present their amendments at Committee, and a certain number of these amendments were defeated. The

2. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 510–3.

hon. Member is now asking the Chair, in exercising its powers of selection, to evaluate whether the consideration afforded such amendments in Committee was sufficient.

It is evident that the Committee chose to handle its consideration of Bill C-23 in a particular way. A motion setting out the process to be followed was proposed, debated, and ultimately agreed to. Just as the opportunity to present and speak to amendments was decided by way of a committee motion, the deadline by which debate would end likewise was decided by a committee motion. Such decisions are the exclusive responsibility of the Committee. I do not believe that it is for the Chair to second-guess how committees choose to manage their business.

The hon. Member has asked that I select motions for consideration at report stage because she was not able to debate them in Committee. In doing so, she referred to a ruling I gave on December 12, 2012, whereby I noted that I would continue to select motions from independent Members at report stage until such time as a satisfactory method was found for them to participate in the clause-by-clause consideration at committee (**Editor's Note:** The ruling can be found on page 311.) I understand that the hon. Member found unsatisfactory the opportunities afforded to her at the Procedure and House Affairs Committee in relation to Bill C-23. Other members of the Committee echoed they too were not satisfied that certain amendments were not debated once the Committee's self-imposed deadline was reached. That said, it remains clear to me that the Committee considered and voted on all amendments she is asking me to select.

In 2006, Speaker Milliken dealt with a somewhat analogous situation in relation to Bill C-24, the *Softwood Lumber Products Export Charge Act*.

On November 6, 2006, the hon. Member for Burnaby—New Westminster raised a point of order regarding the decision of the Standing Committee on International Trade to limit debate and set a strict deadline by which point debate would end.

Though the situation was different insofar as he was a Member of the Committee concerned, I believe Speaker Milliken's response, found on page 4756 of *Debates*, was instructive:

> I do think that committees are masters of their own procedure. They are entitled to make provisions in adopting orders in the committee that govern the way they are going to conduct their business.. The committee is allowed to make amendments to the bill. The committee has imposed rules on how those amendments will be dealt with in the committee and how Members will be able to address the issues raised by the amendments. It seems to me that [it] is entirely within the jurisdiction of the committee and indeed [it] is [a] quite normal exercise of its powers.

When the Bill was taken up at report stage, the Member for Burnaby—New Westminster submitted a large number of the amendments that had been defeated in committee, and asked the Chair to select them on the basis that they had not been debated in committee.

In a ruling I gave as Acting Speaker on November 21, 2006, found on page 5125 of *Debates*, I declined to do so, reminding the House that:

> ... the Chair selects motions which further amend an amendment adopted by a committee, motions which make consequential changes based on an amendment adopted by a committee and motions which delete a clause.

Aside from this, the Chair is loath to select motions unless a Member makes a compelling argument for selection based on the exceptional significance of the amendment.

As far as the Chair is concerned, in keeping with past precedents, I cannot see how the imposition of a deadline for the end of the debate could constitute a justifiable argument for the selection of amendments at report stage that were already presented and defeated in committee.

STAGES

Report stage: power of the Speaker to select amendments; alleged exceptional significance of an amendment defeated in committee

September 22, 2014
Debates, **pp. 7655–6**

Context

On September 22, 2014, Randall Garrison (Esquimalt—Juan de Fuca) rose on a point of order with regard to his motion in amendment at report stage of Bill C-13, *An Act to amend the Criminal Code, the Canada Evidence Act, the Competition Act and the Mutual Legal Assistance in Criminal Matters Act*. Mr. Garrison asked the Speaker to select his motion due to its exceptional significance, even though it had been defeated in committee. His motion to amend would add "gender identity" to the definition of "identifiable group" in the Criminal Code. Mr. Garrison stated that because the House had already voted on and passed a similar clause in Bill C-279, *An Act to amend the Canadian Human Rights Act and the Criminal Code (gender identity)*, a private Member's bill sponsored by him that was at Senate committee stage, the House risked reversing a decision, and would, in effect, override a part of Bill C-279. He further argued that due to the similarity of the clauses between the two bills, and given the previous decision of the House on the similar clause in Bill C-279, he reasoned that it was likely that the outcome of a vote by the House on his proposed motion in amendment of Bill C-13 would be different from the vote at committee stage. Another Member intervened and the Acting Speaker (Barry Devolin) took the matter under advisement.[1]

Resolution

The Speaker delivered his ruling later that day, stating that he must be guided by past practice and procedural imperatives in the selection of report stage motions. The Speaker explained that consequently, he could

1. *Debates*, September 22, 2014, pp. 7623–5.

not select report stage motions based on a predicted outcome of a vote in the House, as this could lead to precisely what report stage was meant to avoid, namely being a repetition of the committee stage. Finding that exceptional circumstances did not exist, he did not select Mr. Garrison's motion in amendment at report stage as it was identical to the amendment defeated in committee.

DECISION OF THE CHAIR

The Speaker: Before providing my decision on the selection of report stage motions for Bill C-13, *An Act to amend the Criminal Code, the Canada Evidence Act, the Competition Act, and the Mutual Legal Assistance in Criminal Matters Act*, I would like to address the concerns raised and the supplementary information provided earlier today by the hon. Member for Esquimalt—Juan de Fuca, concerning report stage Motion No. 3, standing in his name on the *Notice Paper*.

I would like to thank the hon. Member for having raised this matter.

As mentioned by the Member for Esquimalt—Juan de Fuca, he also did write to me to urge that I select his report stage motion on the basis of exceptional significance.

I wish to reassure the hon. Member that I have carefully reviewed all the relevant contextual and substantive circumstances surrounding the matter. While each case is different, and occasionally there are exceptional circumstances that merit the selection of certain report stage motions, ultimately I must be guided by the procedural practice relating to the selection of report stage motions.

House of Commons Procedure and Practice, [Second Edition], sets the following general principle with respect to the selection of report stage motions. At page 783 it states:

> As a general principle, the Speaker seeks to forestall debate on the floor of the House which is simply a repetition

> of the debate in committee […] the Speaker will normally only select motions in amendment that could not have been presented in committee.

More guidance as to the selection of report stage motions can be found in Standing Orders 76(5) and 76.1(5).[2] The note accompanying those Standing Orders states, in part:

> A motion previously defeated in committee, will only be selected if the Speaker judges it to be of such exceptional significance as to warrant a further consideration at report stage.

As evidenced by his first having written a detailed letter, and now having raised the matter again in the form of a point of order, the Member for Esquimalt—Juan de Fuca clearly feels that the circumstances surrounding the Committee's consideration of his amendment are exceptional, and on that basis, the House as a whole should decide whether Bill C-13 should be amended in the fashion he is proposing. While I understand his argument, I would remind him that the Chair cannot make decisions on selection based on the likely outcome of the vote.

As I stated in the decision on December 12, 2012, page 13224 in the *Debates*, in relation to a point of order raised by the Government House Leader (**Editor's Note:** The ruling can be found on page 311):

> The Chair is and will continue to be guided by procedural imperatives in all of its decisions, not by somehow substituting the Speaker's prediction of the likely outcome of a vote expressed by the House itself.

His belief that the outcome might be different in the House from what it was in committee, or that a certain foreknowledge exists as to the will of the House on a given question, is not sufficient grounds for the Chair to determine

2. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 510, 513.

that exceptional circumstances exist that would warrant the selection of this particular amendment.

Furthermore, I would note that Bill C-279, *An Act to amend the Canadian Human Rights Act and the Criminal Code (gender identity)* at present stands referred to a Senate committee. The *Criminal Code* has not yet been amended in the manner that Bill C-279 proposes. Presumably, as both Bill C-279 and Bill C-13 advance through the legislative process, Parliament will, in due course, choose which approach it prefers.

With respect to the existing practice relating to report stage, I would remind Members that since 2001, report stage has undergone a significant evolution so as not to repeat debate that already occurred in committee. As such, the Speaker is empowered to decline to put report stage motions that would be tantamount to a repetition of the work that was already done in committee.

Were I to select Motion No. 3 on the basis of the arguments put forward by the Member, I fear it could lead exactly to a situation that our report stage practice was designed to avoid, namely a repetition of the debate that occurred in committee on this matter. Therefore, I must inform the Member that Motion No. 3 will not be selected for consideration at report stage.

There are nine motions in amendment standing on the *Notice Paper* for the report stage of Bill C-13.

Motion No. 3, as indicated previously, as well as Motion No. 6 will not be selected as they are identical to amendments defeated in committee.

I shall now propose Motions Nos. 1, 2, 4, 5, and 7 to 9 to the House.

STAGES

Report stage: power of the Speaker to select amendments; amendments not presented in committee

June 9, 2015
Debates, **p. 14830**

Context

On June 9, 2015, Elizabeth May (Saanich—Gulf Islands) rose on a point of order with regard to two report stage motions standing in her name for Bill C-59, *An Act to implement certain provisions of the budget tabled in Parliament on April 21, 2015 and other measures*. Ms. May asked the Speaker to select these motions since they flowed directly from witness testimony that occurred after the deadline set for Members of non-recognized parties to submit their motions to the Standing Committee on Finance. After other Members made comments, the Speaker took the matter under advisement.[1]

Resolution

The Deputy Speaker (Joe Comartin) ruled later that day. He reaffirmed that report stage is not intended to duplicate the clause-by-clause consideration of a bill in committee, and that he was not adequately convinced that witness testimony was so fundamental to the process that the situation was exceptional and would have prevented Ms. May from proposing her amendments. The Deputy Speaker also noted that it would have helped in his deliberation on the matter if Ms. May had provided compelling evidence that an attempt was made to submit her motions in amendment to the Committee after the deadline. Given the flexibility committees have shown in the past, he questioned whether it truly was impossible to have these amendments considered in Committee. Consequently, the Deputy Speaker declined to select her motions for consideration at report stage.

1. *Debates*, June 9, 2015, pp. 14802–3, 14816–7.

DECISION OF THE CHAIR

The Deputy Speaker: Before resuming debate, the Chair wishes to make a ruling on the motion by the Member for Saanich—Gulf Islands on a point of order earlier today.

Having delivered a decision on the selection of report stage motions for Bill C-59, *An Act to implement certain provisions of the budget tabled in Parliament on April 21, 2015 and other measures*, the Chair would like to address the concerns raised by the hon. Member for Saanich—Gulf Islands concerning report stage motions Nos. 49 and 116, standing in her name on the *Notice Paper*.

I would like to thank the hon. Member for having raised this matter, as well as the hon. Leader of the Government in the House of Commons for his comments.

The Member's main point of contention is that her proposed amendments could not have been presented before the deadline adopted by the Standing Committee on Finance because they flow directly from witness testimony that took place after the deadline passed.

As evidenced by first having written a detailed letter and now having raised the matter again in the form of a point of order, the Member for Saanich—Gulf Islands clearly feels that she was not provided an opportunity to have certain amendments considered by the Committee. She feels this circumstance is exceptional, and on that basis, the House as a whole should decide whether Bill C-59 should be amended in the fashion she is proposing.

In deciding the matter I must be guided by our long-established practice in relation to the Chair's authority to select report stage motions. A note to Standing Order 76.1(5)[2] says:

> The Speaker will not normally select for consideration any motion previously ruled out of order in committee [and]

2. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 513.

> will normally only select motions that were not or could not be presented in committee.

At page 783 [and 784], the authors of *House of Commons Procedure and Practice*, [Second Edition], set out the general principle with respect to the selection of report stage motions:

> As a general principle, the Speaker seeks to forestall debate on the floor of the House which is simply a repetition of the debate in committee … [T]he Speaker will normally only select motions in amendment that could not have been presented in committee.

Both these excerpts point to an essential truth about report stage: mainly that it is not meant to be another opportunity for detailed consideration of the clauses of the bill. For this reason, the Chair rigorously limits the types of motions that could be considered at report stage. In so doing, the Chair rests on the presumption that a committee's clause-by-clause consideration provides ample opportunity to scrutinize the clauses of the bill and have amendments considered accordingly.

The Chair is not convinced by the argument that the rationale for selection of report stage motions can be rooted so exclusively in anyone's particular testimony and qualify as an exceptional circumstance that the Chair ought to consider.

While the Chair understands the Member's specific argument about deadlines with respect to submissions of amendments for Bill C-59, I also know that committees have shown great flexibility in the past, not only about deadlines, but more generally in how they consider amendments in clause-by-clause. In fact, one such example of that flexibility is the very process that committees adopted, allowing Members of non-recognized parties to have their amendments considered in committee.

I know the Member for Saanich—Gulf Islands is one of the more active Members of this place when it comes to clause-by-clause. In this regard it would have helped establish for the Chair the degree to which it truly was impossible to have these amendments considered in Committee. If she had pointed to demonstrable attempts to bring before the Committee her amendments, her arguments might have been more persuasive.

As such, the Chair cannot agree with the Member for Saanich—Gulf Islands and finds that Motions Nos. 49 and 116 should not be selected on the basis of exceptional significance. I would like to thank the hon. Member for having raised this matter.

FORM OF BILLS

Omnibus bills: argued to be in imperfect shape

June 11, 2012
Debates, **pp. 9121–3**

Context

On June 4 and 7, 2012, Elizabeth May (Saanich—Gulf Islands) rose on a point of order with regard to Bill C-38, *An Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures*. Ms. May argued that the requirements of Standing Order 68(3)[1] were contravened when the Bill was introduced in imperfect shape and that, therefore, it should not be allowed to proceed. She contended that Bill C-38 was not a proper omnibus bill for three reasons: it lacked a central theme; there was no link between the budget and certain items in the Bill; and certain items that were purported to be in the Bill by representatives of the Government had been omitted. Peter Van Loan (Leader of the Government in the House of Commons) intervened to argue that Bill C-38 did have a common theme, that is, the implementation of the budget tabled on March 29, 2012 and that the Speaker has limited purview in determining whether omnibus legislation is out of order. Other Members also made observations.[2] On June 8, 2012, other Members made comments and the Speaker took the matter under advisement.[3]

Resolution

On June 11, 2012, the Speaker delivered his ruling. He assured the House that Bill C-38 was in proper form as it contained all the required elements, namely a number, a title, an enacting clause, clauses, the requisite notice, a Ways and Means motion, and a Royal Recommendation. He confirmed that

1. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 506.
2. *Debates*, June 4, 2012, pp. 8719–25, June 7, 2012, pp. 9048–9, 9056–8.
3. *Debates*, June 8, 2012, pp. 9073–5.

even though there is no precise definition of an omnibus bill, past Chairs have consistently ruled them procedurally in order when the common thread is the Government's intention to enact provisions of the Budget. He added that, as the title of the Bill was very broad in scope, it was accepted practice that the content of the Bill could be similarly broad. He stated that the generous latitude for relevance in debate on such bills meant that issues raised in debate do not have to exactly mirror the content of the legislation in every respect. The Speaker then added that without clear rules, it remained for the House, not the Chair, to determine such matters and ruled that Bill C-38 appeared to be in proper form and could proceed. He concluded by inviting the Standing Committee on Procedure and House Affairs to look into whether limits should be set on omnibus legislation.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the point of order raised on June [4], by the hon. Member for Saanich—Gulf Islands regarding the form of Bill C-38, *An Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures*.

I thank the hon. Member for Saanich—Gulf Islands for having raised the matter, as well as the hon. Leader of the Government in the House of Commons, the hon. House Leader of the Official Opposition, the hon. House Leader of the Liberal Party, and the hon. Members for Winnipeg Centre, Winnipeg North and Thunder Bay—Superior North for their comments.

The foundation of the arguments brought forward by the Member for Saanich—Gulf Islands is that Bill C-38 has not been brought forward in a proper form and is, therefore, imperfect and must be set aside. Specifically, the Member relies on Standing Order 68(3),[4] which states that, "no bill may be introduced either in blank or in an imperfect shape".

In laying out her case, she argues that in its current form the Bill fails the test of being "a proper omnibus bill"; first, because it lacks one central theme,

4. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 506.

that is "one basic principle or purpose"; second, because it fails to provide a link between certain items in the Bill and the budget itself; and third, because it "omits actions, regulatory and legislative changes" that are purported to be included in it by representatives of the Government.

In response, the Government House Leader indicated that Bill C-38, as a Budget implementation bill, had as its unifying theme the implementation of the Budget. This, he reminded the House, arose from the adoption of the Budget by the House. To use his words, "The Budget sets the clear policy direction and the Budget implementation bill implements that direction" and is "a comprehensive suite of measures designed to ensure jobs, economic growth and long-term prosperity".

Before I address the arguments put forward in this case, it is perhaps useful to remind Members of what the provisions of Standing Order 68(3)[5]—the basis of the point of order raised by the Member for Saanich—Gulf Islands—refer to. *House of Commons Procedure and Practice*, Second Edition, at page 728, states:

> Since Confederation, the Chair has held that the introduction of bills that contain blank passages or that are in an imperfect shape is clearly contrary to the *Standing Orders*. A bill in blank or in imperfect shape is a bill which has only a title, or the drafting of which has not been completed. Although this provision exists mainly in contemplation of errors identified when a bill is introduced, Members have brought such defects or anomalies to the attention of the Chair at various stages in the legislative process. In the past, the Speaker has directed that the order for second reading of certain bills be discharged, when it was discovered that they were not in their final form and were therefore not ready to be introduced.

Furthermore, at pages 730 to 734, Members can find a description of the various elements that comprise a bill. A bill must have a number, a title, an

5. See Appendix A, p. 506.

enacting clause, and clauses. It may also have a preamble, interpretation and coming-into-force provisions, and schedules.

Having reviewed Bill C-38, I can assure the House that it contains all of the required elements and is therefore in proper form in these respects. In addition, the requisite notice was given for its introduction and the Bill was preceded by a Ways and Means motion, as is required. It is also duly accompanied by a Royal Recommendation.

Now the Member for Saanich—Gulf Islands has taken the argument of imperfect shape one step further in stating that Bill C-38 is not in the proper form and that it is not, in her words, "a proper omnibus bill".

Here again it is perhaps useful to return to *House of Commons, Procedure and Practice*, Second Edition, which states, at page 724, in reference to omnibus bills, "Although this expression is commonly used, there is no precise definition of an omnibus bill".

It then goes on to state that:

> In general, an omnibus bill seeks to amend, repeal or enact several acts, and is characterized by the fact that it is made up of a number of related but separate initiatives. An omnibus bill has "one basic principle or purpose which ties together all the proposed enactments and thereby renders the bill intelligible for parliamentary purposes." One of the reasons cited for introducing an omnibus bill is to bring together in a single bill all the legislative amendments arising from a single policy decision in order to facilitate parliamentary debate.

At page 725, O'Brien and Bosc goes on to state:

> It appears to be entirely proper, in procedural terms, for a bill to amend, repeal or enact more than one Act, provided that the requisite notice is given, that it is accompanied by a

> royal recommendation (where necessary), and that it follows the form required.

Naturally, there have been a number of rulings on the subject. Among these is a ruling given by Speaker Sauvé on June 20, 1983, which can be found at pages 26537 and 26538 of *Debates*, where she stated that:

> —although some occupants in the Chair have expressed concern about the practice of incorporating several distinct principles in a single bill, they have consistently found that such bills are procedurally in order and properly before the House.

On April 11, 1994, Speaker Parent faced similar objections to another Budget Bill—C-17—when a Member argued that the House was being asked to take a single decision on a number of unrelated items. As can be found at pages 2859 to 2861 of the *Debates*, the Speaker disagreed, noting that in the Chair's opinion:

> —a common thread does run through Bill C-17; namely, the government's intention to enact the provisions in the recent budget, including measures to extend the fiscal restraint measures currently in place.

The second argument raised by the Member for Saanich—Gulf Islands, which is irrevocably linked to her first argument regarding the need for a central theme, was that there were elements found in Bill C-38 that were not provided for in the Budget. It would be useful, at this juncture, to remind Members that the long title of Bill C-38, *An Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures*, is very broad, as is typical in bills of this kind. Clause 1 of the Bill, which contains its short title, provides that "This act may be cited as the *Jobs, Growth and Long-term Prosperity Act*" and thus restates the very broad scope of the measure. O'Brien and Bosc, at page 731, notes that the long title sets out the purpose of the Bill, in general terms, and must accurately reflect its content.

Speaker Fraser, on June 8, 1988, at page 16257 of the *Debates*, also referred to the use in our practice of generic language in bill titles and stated that, "every act being amended need not be mentioned in the title".

If the long title had been specific and limited in scope, then the hon. Member might have had a sounder basis for claiming that the Bill went beyond what was contained in the Budget. However, the title of Bill C-38 is wide in scope, and therefore, it is an accepted practice that the content of the Bill could be similarly broad.

The third point raised by the Member for Saanich—Gulf Islands relates to her contention that representatives of the Government, during debate at second reading of Bill C-38, claimed that the Bill gave legislative effect to policy decisions that are not in fact contained in the Bill.

What the Member is raising here is perhaps a question of relevance in debate or a dispute as to facts. As Speaker Milliken stated at page 5411 of the *Debates* on October 27, 2010:

> It is not the Speaker's role to determine who is right and who is wrong. I know there are disagreements over some things that are said in this House, but it is not up to the Speaker to decide either way.

It may well be that Members, in their remarks, spoke about elements of the Government's fiscal or regulatory policy intentions that were not contained in the Bill, or that may flow from the Bill if it is passed. These are matters that are beyond the purview of the Speaker. Given the generous latitude for relevance which is typically accorded to Members on such wide-ranging debates, including that on the budget, it is in keeping with parliamentary practice that issues raised in debate would not exactly mirror the contents of legislation in every respect. As such, while these concerns are certainly pertinent to the wider debate surrounding the Bill, they do not, in and of themselves, point to a technical deficiency in the Bill itself.

As the Member for Saanich—Gulf Islands noted, my predecessors have frequently been called upon to rule on matters pertaining to omnibus bills. In this regard, her argument that, "… there is a compelling case that the House must act to set limits around omnibus legislation" is one that has been made before. On these occasions, the key question faced by Speakers has been: What is the role of the Chair in dealing with such matters?

As Speaker Sauv[é] said on March 2, 1982 at page 15532 of the *Debates*:

> It may be that the House should accept rules or guidelines as to the form and content of omnibus bills, but in that case the House, and not the Speaker, must make those rules.

Speaker Fraser, in the June 8, 1988 ruling referred to by the Member, advanced his own view of the role of the Chair in dealing with omnibus bills, by stating, at page 16257 of *Debates*:

> Until the House adopts specific rules relating to omnibus bills, the Chair's role is very limited and the Speaker should remain on the sidelines as debate proceeds and the House resolves the issue.

Indeed, the Member for Saanich—Gulf Islands herself also recognized the limited role of the Speaker in such circumstances, stating:

> It is clear that the Speaker is not, at present and in absence of rules from the House to limit the length and complexities of omnibus bills, entitled to rule that an omnibus bill is too long, too complex or too broad in scope.

It may well be time for Members to consider our practices for dealing with omnibus bills. However, in the absence of any clear rules, I find myself agreeing with Speaker Fraser, that the most appropriate role for the Chair is to step aside and allow the House to determine the matter.

When addressing similar matters in relation to omnibus bills, Speaker Jerome on May 11, 1977, at page 5523 of *Debates*, and Speaker Parent on April 11, 1994, at page 2861 of *Debates*, both suggested that Members could propose amendments at report stage to delete clauses they felt should not be part of a bill, or vote against it. We all know that this has certainly been done with respect to Bill C-38.

In the same ruling by Speaker Parent, again at page 2861 of *Debates*, he stated:

> —it is procedurally correct and common practice for a bill to amend, repeal, or enact several statutes. There are numerous rulings in which Speakers have declined to intervene simply because a bill was complex and permitted omnibus legislation to proceed.

Perhaps the Standing Committee on Procedure and House Affairs, which is engaged in a review of the *Standing Orders*, could examine this thorny issue as part of its study, but until such time as the House feels compelled to set new limits on omnibus legislation, as your Speaker, I must continue to be guided by current rules and practice.

Having reviewed the submissions made by hon. Members and the relevant precedents, including the many rulings just cited, the Chair cannot agree with the hon. Member for Saanich—Gulf Islands to conclude that Bill C-38 is not in the proper form and therefore should not be allowed to proceed.

In the absence of rules or guidelines regarding omnibus legislation, the Chair cannot justify setting aside Bill C-38 and accordingly must rule that Bill C-38, in its current form, is in order.

I thank hon. Members for their attention.

FORM OF BILLS

Administrative error: incorrect version sent to Senate following third reading in the House

September 15, 2014
Debates, **p. 7239**

Context

On May 7, 2014, the House adopted a report stage motion in amendment to Bill C-479, *An Act to amend the Corrections and Conditional Release Act (fairness for victims)*.[1] After the Bill was adopted at third reading on June 4, 2014, a message was sent to the Senate with the Bill. However, the version of the Bill that was transmitted to the Senate did not include the amendment adopted at report stage.

Resolution

On September 15, 2014, the Speaker made a statement regarding Bill C-479. He explained that, due to an administrative error, the version of the Bill that was transmitted to the Senate did not include the amendment the House had adopted at report stage. The Speaker stated that, in light of this error and guided by a precedent from November 22, 2001, he had instructed the Acting Clerk to provide the Senate with a corrected copy of the Bill and had asked that the Bill, as passed by the House, be reprinted.

STATEMENT OF THE CHAIR

The Speaker: I wish to inform the House of an administrative error that occurred with regard to Bill C-479, *An Act to amend the Corrections and Conditional Release Act (fairness for victims).*

1. *Debates*, May 7, 2014, pp. 5066–8.

Members may recall that the Standing Committee on Public Safety and National Security made a series of amendments to the Bill, which were presented to the House in the Committee's Second Report on March 5, 2014. The Committee also ordered that the Bill, as amended, be reprinted for the use of the House at report stage.

On May 7, 2014, the House concurred in the Bill as amended at report stage with a further amendment, and later adopted the Bill at third reading.

As is the usual practice following passage at third reading, House officials prepared a parchment version of the Bill and transmitted this parchment to the Senate. Due to an administrative error, the version of the Bill that was transmitted to the other place did not reflect the amendment adopted by the House at report stage, but was instead a reflection of the Bill as it had been reported back from Committee. Unfortunately, this error was not detected until after both Houses had adjourned for the summer.

I wish to reassure the House that this error was strictly administrative in nature and occurred after third reading was given to Bill C-479. The proceedings which took place in this House and the decisions made by the House with respect to Bill C-479 remain entirely valid. The records of the House relating to this Bill are clear and complete.

However, the documents relating to Bill C-479 that were sent to the other place were not an accurate reflection of the House's decisions.

My predecessor, Speaker Milliken, addressed a similar situation in a ruling given on November 22, 2001, and found on page 7455 of *Debates*. Guided by this precedent, similar steps have been undertaken in this case. First, once this discrepancy was detected, House officials immediately communicated with their counterparts in the Senate to set about resolving it. Next, I have instructed the Acting Clerk and his officials to take the necessary steps to rectify this error and to ensure that the other place has a corrected copy of Bill C-479 which reflects the proceedings which occurred in this House. Thus, a revised version of the Bill will be transmitted to the other place through the

usual administrative procedures of Parliament. Finally, I have asked that the "as passed at third reading" version of the Bill be reprinted.

The Senate will of course make its own determination as to how it proceeds with Bill C-479 in light of this situation.

I wish to reassure Members that steps have been taken to ensure that similar errors, rare though they may be, do not reoccur.

I thank hon. Members for their attention.

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RULES OF DEBATE

INTRODUCTION

One of the fundamental principles of parliamentary procedure is that debate and other proceedings in the House of Commons be conducted in terms of a free and civil discourse. Accordingly, the House has adopted rules of order and decorum governing the conduct of Members towards each other and towards the institution as a whole. Members are expected to show respect for one another and for viewpoints differing from their own; offensive or rude behaviour or language is not tolerated; and opinions are to be expressed with civility.

The Speaker is charged with maintaining order in the Chamber by ensuring that the House's rules and practices are respected. It is the duty of the Speaker to safeguard the orderly conduct of debate by curbing disorder when it arises either on the floor of the Chamber or in the galleries, and by ruling on points of order raised by Members. The Speaker's disciplinary powers are intended to ensure that debate remains focused and that order and decorum are maintained.

The rules of debate cover proper attire, the citing of documents and their tabling, the application of the *sub judice* convention, and any critical remarks directed towards both Houses, Members and Senators, representatives of the Crown, judges and courts.

Another fundamental principle of parliamentary procedure is that debate must lead to a decision within a reasonable period of time. Few parliamentarians contest the idea that, at some point, debate must end. While House business is often concluded without recourse to special procedures intended to limit or end debate, certain rules exist to curtail debate. When asked to determine the acceptability of a motion to limit debate, the Speaker does not judge the importance of the issue in question or whether a reasonable time has been allowed for debate but addresses strictly the acceptability of the procedure followed.

During his tenure, Speaker Scheer made a number of decisions to help guide the flow of debate in the House. With respect to order and decorum in the House and in the galleries, he made several rulings, notably one on December 6, 2011, in response to a point of order in which a disturbance in the galleries was alleged to have been sponsored and supported by a Member of Parliament.

The Speaker also addressed with several points of order raised on the process of debate. For example, on May 12, 2014, Speaker Scheer ruled on a point of order regarding a grouping of motions in amendment at report stage which prevented Members from voting in accordance with their views. On June 11, 2014, Speaker Scheer assessed the admissibility of a motion that the Government House Leader claimed offended the rule of anticipation. He also ruled on measures intended to limit debate. For example, on June 18, 2012, the Speaker ruled on a point of order regarding a time allocation motion that a Member argued was in violation of the Standing Order that governed such motions.

At times, the Acting Speakers were tasked with responding to points of order on the rule of relevance. The requirement that speeches remain relevant to the question protects the right of the House to reach decisions without undue obstruction and to exclude from debate any discussion not conducive to that end. The enforcement of the rule of relevance must also respect the freedom of debate enjoyed by all Members. The Chair had to use its discretion to ensure that rules were applied without curtailing debate or allowing the loss of debating time, which may have prevented other Members from participating.

This chapter contains decisions that touch on various rules of debate and reflect Speaker Scheer's respect for the traditions and practices of the House of Commons. As he worked in an at times emotionally intense environment, his decisions demonstrate his commitment to maintaining order and decorum in the House and to enforcing the rules of debate while respecting the rights and privileges of Members.

PROCESS OF DEBATE

Motions: denial of unanimous consent

December 3, 2012
Debates, **pp. 12741–2**

Context

On December 3, 2012, Megan Leslie (Halifax) rose on a point of order to seek the unanimous consent of the House to move an amendment to Bill C-45, *A second Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures*. After approximately 10 minutes, Ms. Leslie had not yet finished reading the motion, which included a lengthy list of lakes and rivers. The Speaker interrupted the Member and asked the House if the Member had consent to move the motion. Consent was denied. On a point of order, Nathan Cullen (Skeena—Bulkley Valley) argued that it was impossible for the House to provide or deny consent until it had heard the motion read in full. In response, Peter Van Loan (Leader of the Government in the House of Commons) contended that if at any point it is clear that there is no consent, then the motion cannot be moved.[1]

Resolution

The Speaker ruled immediately. In his view, the House was aware of the substance of the motion and there had been a clear lack of consent at the outset. Citing a precedent and the Speaker's duty to manage the use of the House's time efficiently, he ruled that unanimous consent had been duly denied and that the motion could not be further read.

1. *Debates*, December 3, 2012, pp. 12740–2.

DECISION OF THE CHAIR

The Speaker: [I]f I can get back to the Member for Skeena—Bulkley Valley, it does say in O'Brien and Bosc that if no dissent is detected then the House is obviously allowing the Member to move the motion.

I take the Member's point with regard to the reading of the names. In my view, the Member had moved the substance of the motion and was in the process of reading an abnormally lengthy list of names of lakes that would be added. She had the floor for approximately 10 minutes.

There was a similar case that Speaker Milliken dealt with, wherein the Member at that time was reading a long litany of the names of Members, I believe, and there were several points of order. The Speaker decided that because it was unduly lengthy, and in view of the fact that there was obvious disagreement to the motion being moved, in order to manage the use of the time in the House efficiently he intervened to see if there was consent.

In my view, there is a similar parallel here. As was her right, the Member sought the floor on a point of order to ask for consent to put the substance of her motion, and then got into the part of the amendment that added all of the names of lakes, and perhaps rivers, that she was interested in. Given that it was likely to go on for a significant period of time and that she had already had the floor, in the interests of allowing the House to make a decision on that, and sensing that the House was eager to do so, I asked to see if there was even consent for her to move the motion.

I do not want to get into hypotheticals. However, if the House would have granted consent, I am sure the House would have then wanted to hear the whole term of the motion.

I will hear the hon. Member again as a courtesy, but I do believe I have made my points on this.

Editor's Note

At this point, the Speaker gave the floor to Mr. Cullen, who argued that the precedent cited by the Speaker was not a parallel case since he believed the issue in that case had been the Member's naming all the Members of a political party, rather than the length of the motion.[2] He cautioned the House against the practice of deciding on a motion that was not heard in its entirety.

The Speaker: I appreciate the points made by the hon. Member for Skeena—Bulkley Valley. However, I would remind him that there are two stages in seeking unanimous consent, the first of which is to ask for the ability to move the motion, and there are many reasons why Members may wish to do that or not.

I do find in situations in which we can envisage points of order to seek unanimous consent potentially take quite a bit of the House's time and when there is a clear lack of consent right at the outset, it is up to the Speaker to judge what is in the best interest of the House.

Given the previous example when there had been a practice for the Member who was in a certain point of motion, reading names in that case and in this case listing lakes and rivers, because they are unusual and not moved under the normal rubric for motions with proper notice to see if the House would like to continue hearing the motion, or if the House is not giving consent at the outset, is where this is coming from. I appreciate hon. Members' points on that.

2. *Debates*, February 6, 2004, pp. 244–8.

PROCESS OF DEBATE

Motions: admissibility; rule of anticipation

June 11, 2014
Debates, **p. 6649**

Context

On June 11, 2014, Peter Van Loan (Leader of the Government in the House of Commons) rose on a point of order during Routine Proceedings after Peter Julian (Burnaby—New Westminster) moved that the Standing Committee on Justice and Human Rights be granted the power to divide Bill C-13, *An Act to amend the Criminal Code, the Canada Evidence Act, the Competition Act and the Mutual Legal Assistance in Criminal Matters Act*. Mr. Van Loan noted that the motion was substantially the same as another motion to divide the Bill which had been moved and adjourned on May 26, 2014.[1] In his view, the motion offended the rule of anticipation and was out of order. In response, Mr. Julian argued that the two motions were not identical and that the rule of anticipation had fallen into disuse.

Resolution

The Speaker ruled immediately. He confirmed that the two motions were substantially the same and ruled the motion out of order.

DECISION OF THE CHAIR

The Speaker: I appreciate the points raised by both the Government House Leader and the Opposition House Leader. Upon examination of the section of O'Brien and Bosc upon which both House leaders have relied extensively for their arguments, it seems to the Chair that the key concept is the question of whether or not the motions are substantially the same.

1. *Debates*, May 26, 2014, pp. 5590–600.

Upon examination of both motions on the *Notice Paper*, it does seem that the motions are substantially the same and that the principles cited by the Government House Leader as to the practice of the House are persuasive to the Chair. Accordingly, we will not be proceeding with the motion at this time.

PROCESS OF DEBATE

Report stage: grouping of motions in amendment

May 12, 2014
Debates, **pp. 5242–3**

Context

On May 12, 2014, Peter Julian (Burnaby—New Westminster) rose on a point of order to challenge the grouping of motions in amendment for voting at report stage of Bill C-23, *An Act to amend the Canada Elections Act and other Acts and to make consequential amendments to certain Acts*. Mr. Julian explained that the Speaker selects and groups report stage motions in amendment for voting to ensure that the House does not vote twice on the same issue, and that, while the Speaker must try to ensure that the House's time is not wasted, the Chair must also preserve the right of Members to free speech to the fullest extent possible. He argued that the voting pattern determined by the Speaker prevented Members from voting in favour of certain motions and against others, in accordance with their views, as many amendments were grouped together for a single vote. In response, Peter Van Loan (Leader of the Government in the House of Commons) affirmed that it was the practice of the House to group motions in amendment to delete clauses together for voting purposes, and referred to a previous decision in which the Speaker had indicated that the report stage motions were not and had never been selected for debate or grouped for voting on the basis of who the Chair thinks may vote on them. The Speaker took the matter under advisement.[1]

Resolution

Later in the sitting, the Speaker gave his ruling. Referring to the Speaker's duty to ensure the efficient transaction of business, the Speaker confirmed that it was the practice to group motions to delete clauses together for a

1. *Debates*, May 12, 2014, pp. 5221–3.

single vote. In his view, voting on them separately would repeat the work done during clause-by-clause consideration in committee, which was not the purpose of report stage nor in accordance with the direction given to the Speaker in Standing Orders 76(5) and 76.1(5).[2]

DECISION OF THE CHAIR

The Speaker: Before we move on to questions and comments, if there is time, I am now prepared to rule on the point of order raised earlier today by the hon. House Leader of the Official Opposition regarding the voting pattern for motions in amendment for Bill C-23, *An Act to amend the Canada Elections Act and other Acts*.

I would like to thank the hon. Opposition House Leader for raising this matter, as well [as] the Government Leader in the House for his comments.

The hon. Opposition House Leader objected to the way in which the Chair proposes to apply the results of votes taken on motions to delete clauses. The hon. Member pointed out that Members of his party had proposed 110 such motions in relation to this Bill and that other Members had also submitted some of the same motions, as well as others. He argued that each motion constituted a distinct question and that Members should have the fundamental right to pronounce themselves on each question separately. By applying the result of a vote on one motion to a large number of other motions, he feared that the Chair would force Members to vote against clauses they in fact support or vote in favour of clauses they oppose.

In response, the Government House Leader said that the grouping of votes is in keeping with the recent precedent and that it is not unusual for the results of the vote to be applied in this manner.

The Chair takes seriously its responsibility to select and group motions for debate at report stage. It is often challenging to arrive at a grouping and a voting pattern that all Members will find satisfactory, and this is particularly true in cases where there are a large number of motions proposed.

2. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 510, 513.

House of Commons Procedure and Practice, Second Edition, at page 307, states that it is the duty of the Speaker:

> ... to ensure that public business is transacted efficiently and that the interests of all parts of the House are advocated and protected against the use of arbitrary authority. It is in this spirit that the Speaker, as the chief servant of the House, applies the rules. The Speaker is the servant, neither of any part of the House nor of any majority in the House, but of the entire institution and serves the best interests of the House …

The hon. House Leader of the Official Opposition is asking that each motion be voted on separately. A similar argument was made by his predecessor in 2012 with respect to Bill C-45, *A second Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures*. In the decision of November 29, 2012, found on page 12611 of the *Debates*, I reminded the House that (**Editor's Note**: The ruling can be found on page 311.):

> This would diverge from our practice where, for voting purposes where appropriate, a long series of motions to delete are grouped for a vote. Since the effect of deleting a clause at report stage is, for all practical purposes, the same as negativing a clause in committee, to change our practice to a one deletion, one vote approach could be seen as a repetition of the clause-by-clause consideration of the Bill in committee, something which the House is specifically enjoined against in the notes to Standing Orders 76(5) and 76.1(5),[3] which state that the report stage is not meant to be a reconsideration of the committee stage.

The Chair acknowledges that each clause in a bill represents a unique question. That said, it is also clear that our rules and practices foresee circumstances in which the Speaker combines several different questions in a single group for debate and where the vote on one question is applied to

3. See Appendix A, p. 510, 513.

others. This is done so that the time of the House is used efficiently and so that the House does not repeat at report stage the work done by the committee that considered the bill.

In the case before us, the Chair has grouped all of the motions to delete proposed by a party or by a Member into a single vote. I believe this is in keeping with recent precedents where there are large numbers of motions at report stage.

In fact, to do as the Opposition House Leader has suggested would be a marked departure from our practices, would be contrary to the very clear direction included in the notes to Standing Orders 76(5) and 76.1(5),[4] and is not something the Chair is prepared to entertain since, as all Members know, we are not here to repeat committee stage.

Absent any other direction from the House, I intend to follow those precedents and to maintain the voting pattern I proposed to the House when I rendered my decision last week. I thank the hon. Member for having raised this important matter.

4. See Appendix A, p. 510, 513.

PROCESS OF DEBATE

Committees of the Whole: speaking time

May 14, 2014
Debates, **p. 5416**

Context

On May 14, 2014, Nathan Cullen (Skeena—Bulkley Valley) used a point of order during consideration of the Main Estimates in Committee of the Whole to object that Joe Oliver (Minister of Finance) was being granted more time to respond to questions than the opposition Members were being granted to pose them. In his view, questions and answers were meant to be of approximately equivalent length.

Resolution

The Deputy Chair of Committees of the Whole (Barry Devolin) ruled immediately. He acknowledged that there was a degree to which overly lengthy answers to brief questions were inappropriate but ruled that the answers being given by the Minister were within acceptable limits and that the notion of equivalency should not be applied too strictly.

DECISION OF THE CHAIR

The Deputy Chair of Committees of the Whole: The Chair certainly appreciates the reminder from the hon. Member for Skeena—Bulkley Valley in terms of how to manage this process. I looked at the clock for the past several questions. The hon. Member's question took 30 seconds and the answer was 46 seconds. The question was 26 seconds and the answer again was 46 seconds. The next question was 15 seconds followed by an answer of 40 seconds.

If the Member thinks that the Chair should take a strict legalistic approach to this, very often a question can be asked in 10 or 15 seconds. I think all hon. Members would agree that it is difficult to give an answer to that question in that period of time. Certainly the Chair has on many occasions reminded

Members when they are giving very lengthy answers and appear to be just trying to use up the clock that it is inappropriate to do that, but when a question is 20 or 30 seconds and the answer is 30 or 40 seconds, that certainly is within acceptable limits.

ORDER AND DECORUM

Role of Members in fostering decorum

December 12, 2012
Debates, **pp. 13215–6**

Context

Although not recorded in the *Debates*, on December 5, 2012, a verbal exchange occurred when Peter Van Loan (Leader of the Government in the House of Commons) crossed the aisle to share his concerns about a recent point of order with Nathan Cullen (Skeena—Bulkley Valley). The following day, Bob Rae (Toronto Centre) rose on a point of order concerning that incident. Mr. Rae urged Members to conduct themselves with a greater degree of civility. In response, Mr. Van Loan apologized for the use of an inappropriate word. Mr. Cullen referred to a follow-up discussion he had with Mr. Van Loan. Another Member made comments and the Speaker took the matter under advisement.[1]

Resolution

On December 12, 2012, the Speaker made a statement on order and decorum. While acknowledging that the House is an adversarial forum where strongly held views are expressed, he entreated Members to make greater efforts to curb unruly behaviour and that he relied on their cooperation in maintaining decorum. The Speaker thanked the Deputy Speaker and Assistant Deputy Speakers for their excellent work in facilitating the orderly conduct of House business.

STATEMENT OF THE CHAIR

The Speaker: As the House prepares to adjourn for the Christmas holidays, the Chair would like to make a short statement about order and decorum.

1. *Debates*, December 6, 2012, p. 12939.

In recent months, for a variety of reasons, the atmosphere in the Chamber has been at times difficult. This is perhaps not surprising since the House is made up of Members who are committed and whose strongly held views are freely expressed on a daily basis.

The House is also an inherently adversarial forum that tends to foster conflict. As a result, sometimes emotions get the better of us and we quickly find ourselves in situations marked by disorderly conduct. Tone and gestures can cause as much of a reaction as the words used in debate. Lately, it appears that at different times the mood of the House has strayed quite far from the flexibility, accommodation and balance that ideally ought to exist in this place.

My task as Speaker is to ensure that the intensity of feeling expressed around some issues is contained within the bounds of civility without infringing on the freedom of speech that Members enjoy. The Chair tries to ensure that our rules are adhered to in a way that encourages mutual respect.

However, all Members will recognize that ultimately the Speaker must depend on their collective self-discipline to maintain order and to foster decorum. My authority to enforce the rules depends on the cooperation of the House.

Our electors expect all Members to make greater efforts to curb disorder and unruly behaviour. So I urge all Members to reflect on how best to return the House to the convivial, cooperative atmosphere I know all of us would prefer.

This would be a great help to me and my fellow Chair Occupants, about whom I would also like to say a few words.

I would like to take a moment to salute, on behalf of all of us, the excellent work of our Deputy Speaker, the Member for Windsor—Tecumseh, and our Assistant Deputy Speakers, the Members for Haliburton—Kawartha Lakes—Brock and Simcoe North.

Often under trying circumstances, my colleagues in the Chair have soldiered on, doing their best to uphold the finest traditions of this Chamber. As all honourable Members are aware, unusual events arise frequently in the House. Thus the task of reading the will of the House is often left to Chair Occupants—whether an unexpected sequence of events occurs or an expected sequence of events does not.

Since the House resumed its sittings in mid-September, we have witnessed our fair share of instances where the House has been faced with unforeseen situations but has, nevertheless, found its way with the help of our Chair Officers. I want to say that the three gentlemen who share duties in the Chair have, in my view, upheld the highest standards of professionalism and impartiality while trying to facilitate the orderly conduct of the House business.

Only those who have had the privilege of serving in the Chair and presiding over the deliberations in this Chamber can truly understand to what degree the role involves as much art as science. I am very proud of the way in which the Chair Occupants conduct themselves and I want, on your behalf, to thank them for their dedication to the institution and for their ongoing hard work.

ORDER AND DECORUM

Recognizing visitors in the gallery; acknowledgement

September 30, 2011
Debates, **p. 1704**

Context

On September 29, 2011, during Statements by Members, Corneliu Chisu (Pickering—Scarborough East) invited his colleagues to join him in congratulating the Honourable Veaceslav Ionita and the Honourable Ivan Ionas, Moldovan parliamentarians who were visiting Parliament, on the 20th anniversary of Moldova's independence.[1] The following day, also during Statements by Members, Jamie Nicholls (Vaudreuil—Soulanges) mentioned that Michel Bernier, a citizen in his riding who had retired after working for 51 years in the field of fire safety, was in the public gallery.[2]

On September 30, 2011, the Speaker reminded Members that it is the prerogative of the Chair to recognize distinguished visitors, and that this approach ensures fairness and safeguards the time of the House.

STATEMENT OF THE CHAIR

The Speaker: On two occasions this week, during Statements by Members, once by a member of the Government caucus and once by a member of the Official Opposition, individual Members took it upon themselves to recognize special guests who were in the galleries. I want to remind all hon. Members that it has been a long-standing practice in the House that this is a prerogative of the Chair.

1. *Debates*, September 29, 2011, p. 643.
2. *Debates*, September 30, 2011, pp. 1692–3.

As O'Brien and Bosc's *House of Commons Procedure and Practice*, [Second Edition], states at page 284:

> Only from the Speaker's Gallery can distinguished visitors (such as heads of state, heads of government and parliamentary delegations invited to Canada and celebrated Canadians) be recognized and introduced to the House, and only by the Speaker. Members other than the Speaker may not refer to the presence of any visitors in the galleries at any time.

Only distinguished visitors can be recognized and introduced to the House, and only by the Speaker.

I ask for the co-operation of all Members in respecting this approach, as it ensures fairness and safeguards the time of the House.

ORDER AND DECORUM

Disturbance in the gallery; Member's alleged complicity

December 6, 2011
Debates, **pp. 4089–90**

Context

On November 24, 2011, Tom Lukiwski (Parliamentary Secretary to the Leader of the Government in the House of Commons) rose on a point of order concerning a disturbance in the galleries following a vote in the previous sitting, in which a demonstrator held up a sign and shouted at Members. While the protester was being removed by security personnel, certain Members of the opposition were cheering.[1] Mr. Lukiwski alleged that the demonstration was sponsored by Niki Ashton (Churchill), and that such an activity disrespected the House and put security personnel at risk. Other Members made comments.[2] On November 28, 2011, Ms. Ashton stated that she had provided a gallery pass to the demonstrator but had no advance knowledge of the demonstration.[3] Later in the sitting, a second disturbance occurred during a vote, when Members on the Government side encouraged and cheered on demonstrators in the gallery when they began clapping as the result of the vote being announced. On November 29, 2011, Bob Rae (Toronto Centre) alleged that these demonstrators had been encouraged by Government Members. After hearing from other Members, the Speaker took both matters under advisement.[4]

1. *Debates*, November 23, 2011, pp. 3476–7.
2. *Debates*, November 24, 2011, pp. 3555–6.
3. *Debates*, November 28, 2011, p. 3684.
4. *Debates*, November 29, 2011, p. 3743.

Resolution

On December 6, 2011, the Speaker delivered his ruling. He stated that, as Members are to be taken at their word, he considered the allegation of a Member's complicity in a demonstration closed. He reaffirmed Members' right to invite the public to view proceedings from the galleries, but stated that it was not acceptable for members of the public to disrupt the proceedings of the House. He also stated that the actions of Members to encourage such demonstrations were also unacceptable, reminded Members of their responsibility to set an example of appropriate behaviour, and encouraged them to improve their comportment in the Chamber.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on two points of order raised concerning disturbances in the Chamber.

The first is the point of order raised on November 24, 2011, by the hon. Parliamentary Secretary to the Government House Leader regarding the disturbance in the gallery on November 23, 2011. Second, there is the point of order raised by the hon. Member for Toronto Centre regarding a disturbance on the floor during the taking of a vote on November 28, 2011, and the ensuing gallery disturbance.

I would like to thank the Parliamentary Secretary to the Government House Leader and the Member for Toronto Centre for raising these matters. I would also like to thank the Right Hon. Prime Minister, the hon. Minister of State and Chief Government Whip, the House Leader of the Official Opposition, the Chief Opposition Whip and the Members for Malpeque, Churchill and Acadie—Bathurst for their contributions.

The events that have given rise to the first of these points of order are the following. On November 23, following the recorded division on the motion to allocate time at the report and third reading stages of Bill C-18, *An Act to reorganize the Canadian Wheat Board and to make consequential and related amendments to certain Acts*, a disturbance occurred in the gallery when a protestor held up a sign and shouted loudly. Proceedings in the Chamber were interrupted while the individual concerned was removed by security

personnel and, while this was happening, certain Members of the opposition were cheering and encouraging the protestor.

The following day, the Parliamentary Secretary rose to say that the protester had been sponsored by the hon. Member for Churchill and went on to allege that the Member for Churchill, along with her colleagues, had known that the protest was going to take place. He argued that this foreknowledge was apparent since several Members had cameras ready, and were cheering and encouraging the protester. He stated that these actions by opposition Members were an affront to the dignity of the House and diminished respect for our parliamentary institutions.

In response, the Chief Opposition Whip acknowledged that the Member for Churchill had provided at least eight people with passes to the gallery but stated categorically that the Member for Churchill had no advance warning of the protest, was in no way responsible for it and, on the contrary, she regretted that it had occurred. The Member for Churchill herself later confirmed this account when she intervened on the matter on November 28, at page 3684 of *Debates*.

On November 5, 2009, at pages 6690 and 6691 of *Debates*, Speaker Milliken had occasion to rule on a strikingly similar incident and, in doing so, referenced two other such incidents. In all three of those cases, it was alleged that a certain Member had prior knowledge of, and was therefore complicit in, a disturbance in the galleries. Then, as now, the accused Members denied involvement and Speaker Milliken accepted those explanations. Remembering the time-honoured tradition in this place that Members are taken at their word and so in keeping with the precedents just cited, the Chair is prepared to consider this particular aspect of the matter to be closed. As for the actions of certain Members while the November 23 incident occurred, the Chair will have more to say later in this ruling.

The second point of order I want to address arises out of events that occurred November 28, when the House was voting on third reading of Bill C-18, *An Act to reorganize the Canadian Wheat Board and to make consequential and related amendments to certain Acts*. On that occasion, while their caucus voted, Members on the Government side applauded loudly in a

sustained manner. When the result was announced, a large number of gallery spectators applauded as they rose to file out of the gallery. This time, it was Members on the Government side encouraging and cheering the disturbance.

Let me be clear that the public is welcome to view our proceedings from the galleries—indeed, such visits are, I believe, encouraged and Members' offices facilitate such visits all the time. However, it is a fundamental principle of public attendance in the House that the proceedings must be respected by those who come here to witness them first-hand. In the galleries, the public is here to observe. There is ample opportunity and appropriate public venues for demonstrations but the Chamber of the House of Commons and its galleries do not constitute such a venue.

When Members assist people who wish to attend the House by providing them with gallery passes, it is simply not acceptable for those people to take advantage of their access to disrupt a proceeding of the House. So, be it the actions of the single protestor on November 23 or the groups of applauding observers on November 28, the Chair has no hesitation in stating that these behaviours are not acceptable.

But our concerns cannot end there. The actions of Members to encourage the behaviour of those who ought to have been simple spectators were as troubling to the Chair as were the disturbances themselves. The House of Commons Chamber enjoys a reputation as a forum where matters of national significance are debated and strongly held views are expressed. Sometimes, as in the case of proceedings on the Wheat Board Bill, emotions will run high. The Chair understands that. But this does not obviate the responsibility of all Members to act in a manner that is befitting their role and worthy of this institution, setting an example of appropriate behaviour for others.

Rising to address the events of November 28, the Member for Toronto Centre asked the Chair to define which types of demonstrations are permitted. It is unfortunate that such a question needs to be asked, but let me be clear with hon. Members on all sides of the House, and with those who follow our proceedings. Demonstrations are not part of the accepted standard of decorum in this Chamber, not in the galleries by visitors to the House, and not on the floor by Members of the House. Even brief applause, which

has been tolerated at times when a particular Member rising to vote is being acknowledged for his or her contribution to an initiative, is never encouraged. In fact, Standing Order 16(1)[5] states:

> When the Speaker is putting a question, no Member shall enter, walk out of or across the House, or make any noise or disturbance.

I repeat "or make any noise or disturbance". This rule has traditionally applied until the results of the vote are announced. Clearly, sustained applause during a vote is out of order and should not happen again.

While we are on the subject, let me add that lately during votes we have witnessed a variety of carryings-on, including mischief-making by whistling, changing places to confuse the vote callers and other disruptive behaviours that are not in order. Too frequently lately, lack of decorum is evident during Question Period, for example, when Members asking or answering questions are being drowned out by heckling, applause, or to use a colloquialism, hooting and hollering of one form or another.

Left unchecked, a deterioration in order and decorum risks impeding the work of the House and doing a disservice to Members and to the voters who sent them here. All Members must take great care in what they do and say here—they are personally accountable for their actions and for their words—so that they do not risk transgressing the accepted rules that exist to protect the dignity of this House and its Members.

As your Speaker, I have been entrusted with preserving order and decorum, but I can only succeed with the serious and sustained cooperation of all Members. I count on each individual Member on all sides of the House for that cooperation.

I thank all hon. Members for their attention to this matter.

5. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 493.

ORDER AND DECORUM

Displays, exhibits and props

May 15, 2014
Debates, **p. 5446**

Context

On May 15, 2014, John Duncan (Chief Government Whip) rose on a point of order regarding the use of props, specifically in the form of the Canadian Broadcasting Corporation (CBC) lapel pins worn by several Members of the New Democratic Party. The Chief Government Whip argued that, given the general rule regarding props and paraphernalia, the pins were inappropriate. Nathan Cullen (Skeena—Bulkley Valley) stated that the pins were worn in support of Canada's national broadcaster and referenced the use of props in the Chamber in the past.

Resolution

The Deputy Speaker (Joe Comartin) ruled immediately. He reminded Members of the general rule that pins and paraphernalia are not to be worn if they cause disruption in the House. The Deputy Speaker then concluded that, since Members had been wearing the pins for many days without a point of order being raised, no disruption had been caused. The Deputy Speaker cautioned that the Chair would direct the removal of the pins should they cause future disruption.

DECISION OF THE CHAIR

The Deputy Speaker: I think we are all aware of the general policies that we have followed in this House for a long period of time on the use of props and also [on] wearing pins and other paraphernalia. I will respond to the whip in particular in this regard.

The general rule, of course, is that pins and paraphernalia are not to be worn if [doing so] causes disruption to the House. I am a bit concerned about the point of order being raised now, because these pins have been worn for at least a week or 10 days, as has been my observation, to this point in time. Therefore, I am having some difficulty accepting any suggestion that it is causing disruption, because if it [were], points of order would obviously have been raised earlier in this process.

Again, speaking to the Members who are wearing the pins, if it is going to cause a problem at some point today, we may very well reverse the position that I am now taking, which is that Members can continue to wear the pins. However, if it is disruptive to the process in the House, there will be a direction from the Chair to have the pins removed.

ORDER AND DECORUM

Unparliamentary language: imputing motives

June 22, 2011
Debates, **pp. 621–2**

Context

On June 21, 2011, Bob Rae (Toronto Centre) rose on a point of order to challenge a statement made by Vic Toews (Minister of Public Safety) during debate on Bill C-4, *An Act to amend the Immigration and Refugee Protection Act, the Balanced Refugee Reform Act and the Marine Transportation Security Act*. Mr. Rae alledged that the Minister had suggested that opposition Members were in favour of furthering criminal activity. In response, the Minister clarified that he had not meant to imply that Members were contemplating committing criminal offences. The Deputy Speaker (Denise Savoie) undertook to review the transcript.[1]

Resolution

On June 22, 2011, the Deputy Speaker delivered her ruling. While she found the language used by the Minister to be unparliamentary, she accepted his clarification of his intent. She stated that such statements accusing Members of criminal activity would not be tolerated and urged Members to avoid statements imputing each other's motives.

DECISION OF THE CHAIR

The Deputy Speaker: I am now prepared to give a ruling on a point of order raised yesterday by the hon. Member for Toronto Centre regarding a statement made by the Minister of Public Safety in the course of debate on Bill C-4.

1. *Debates*, June 21, 2011, p. 597.

When the point of order was raised, I undertook to review the transcript and, if necessary, return to the House with a ruling on that matter. Having done so, the Chair finds that the words used by the Minister were unparliamentary.

However, the Chair notes that the Minister did rise to clarify his remarks, stating that he "certainly did not mean any intention to commit a criminal offence by this Member or any other Member". Given this clarification by the Minister, the Chair is prepared to take him at his word and consider the matter closed.

However, let me take this opportunity, in these early days of the Forty-First Parliament, to remind the Minister and all Members that this kind of statement will not be tolerated.

I enjoin all Members to avoid all statements that impute unworthy motives to Members.

ORDER AND DECORUM

Infants onto the floor of the House: clarification of practices

February 16, 2012
Debates, **pp. 5403–4**

Context

On February 8, 2012, Maria Mourani (Ahuntsic) rose on a question of privilege, asking the Speaker to clarify the rules and practices about Members bringing their babies onto the floor of the House during a recorded division. She also mentioned the difficulty in finding change tables in buildings within the Parliamentary Precinct.[1] This matter was raised further to the events of February 7, 2012, when Sana Hassainia (Verchères—Les Patriotes) brought her baby into the Chamber immediately before a recorded division. A number of Members then breached the rules by taking pictures of the mother and son in the Chamber.

Peter Van Loan (Leader of the Government in the House of Commons) suggested that the question be sent to the Standing Committee on Procedure and House Affairs. Chris Charlton (Hamilton Mountain) explained that it was more a matter of taking pictures in the Chamber. Lastly, Elizabeth May (Saanich—Gulf Islands) raised the topic of breastfeeding in the House.

Resolution

The Speaker delivered his ruling on February 16, 2012. He stated that it was not a matter of a question of privilege, but rather an opportunity to clarify existing practices. He reminded the House that, in the past, Members had brought infants into the Chamber, especially during votes, and that his predecessors had not intervened in these situations because there had not been a disturbance. He added that it was pictures being taken—a

1. *Debates*, February 8, 2012, p. 5019.

practice that is forbidden in the Chamber—and not the presence of an infant that created a disturbance on February 7.

The Speaker pointed out that the schedule for recorded divisions is available in advance, which gives Members the opportunity to make arrangements. However, he recognized that unexpected events could occur, and he invited Members to approach him directly to discuss any particular incidents that might arise. He recalled the latitude that Chair Occupants have to reconcile the rules and practices of the House with contemporary values while maintaining order and decorum. He reminded Members that the House has a long history of improving facilities. He specified that he had asked the Clerk to assess whether the number of change tables was sufficient and whether they were appropriately located. He ended his statement by saying that the Standing Committee on Procedure and House Affairs planned to undertake a review of the *Standing Orders* and that any comments or recommendations would be welcome.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the question of privilege raised on February 8, 2012, by the hon. Member for Ahuntsic regarding Members bringing their infant children into the Chamber.

I thank the Member for having raised this matter, as well as the Leader of the Government in the House of Commons, the Chief Opposition Whip, and the Member for Saanich—Gulf Islands for their interventions.

This question of privilege arose from events that occurred on February 7, 2012, when the hon. Member for Verchères—Les Patriotes brought her infant son into the Chamber immediately prior to the taking of a recorded division. At that time, several other Members began taking photographs of mother and son, creating a disturbance in the process.

The hon. Member for Ahuntsic explained that it had been her impression, when she had a newborn, that Members could not bring their babies into the Chamber during votes. She therefore requested that the Chair clarify whether there were any House rules or practices on the matter.

I will begin by saying that it will come as no surprise to the House that I do not see this as a matter of privilege. As the Member for Ahuntsic herself has pointed out, the matter at hand really has to do with a need to clarify existing practices, and she has requested that I also review what steps can or should be taken to assist Members with infants or young children as they juggle the challenges and obligations associated with being a parent who is also a Member of the House of Commons.

The events of Tuesday, touching as they do on very personal matters for the Members concerned, are always difficult to adjudicate. As a Member with four children under the age of seven, I must confess that I am particularly sympathetic to the challenges faced by all elected officials who strive to find a balance between the demands of their work and the needs of their families.

While the events which unfolded on February 7 may seem to suggest that some of our rules and practices are rooted in traditions that no longer mesh seamlessly with modern realities, the truth is quite different. In fact, the House—and the Speakership on its behalf—has a long history of adapting its practices to meet the needs of the day. The Chair has been afforded considerable latitude to reconcile apparent contradictions between our rules and practices and contemporary values.

This is exactly what happened over the years in relation to the kind of situation the House faced last Tuesday. As some Members have pointed out, there have been cases in the past where Members have brought very young babies into the Chamber, mainly for votes. In their wisdom, my predecessors in the Chair have handled these situations by turning a blind eye and, given that the presence of the babies did not create disturbances, allowing House business to proceed uninterrupted.

It is important to recall that in the case at hand several Members were flouting the rules by taking photographs in the Chamber, and it was this disturbance to which the Chair's attention was drawn. Therefore, let me take this opportunity to suggest to Members that it would be of great assistance if Members advised the Chair privately, in advance where they can, of a particular difficulty they are facing. I believe this would help us to avoid the

kinds of disturbances that were witnessed last Tuesday, which in turn led to the events which have given rise to this ruling.

When considering what kind of guidelines should be followed on an ongoing basis, it struck me that there are few times when Members might actually be unable to make alternative arrangements. It is really only during unexpected votes that Members could face difficulties. Fortunately, most recorded divisions are scheduled far enough in advance that Members should be able to plan accordingly.

However, the Chair appreciates that plans sometimes fail. When that happens, Members may find themselves in a difficult position. In such cases, provided there is no other type of disruption or disturbance, the Speaker's attention will likely not be drawn to the situation and the work of the House can proceed as usual.

It would also be helpful to the Chair, and I think to the whole House, even after some incident has occurred involving the Chair, if Members approached me directly to discuss any concerns they may have.

I should remind Members that, more broadly, the House as an institution has a long history of improving facilities to assist Members as working parents. Not all Members realize that it is now almost 30 years ago that under the leadership of former Speaker Jeanne Sauvé the parliamentary child care centre, The Children on the Hill, was established, providing Members and staff with young children access to workplace day care. In addition, some time ago, the House installed change tables in a number of washroom facilities in Centre Block and elsewhere. On this point, I have asked the Clerk to assess whether the number of change tables is sufficient to meet the needs of Members with infants and to verify that they are appropriately located for their use.

At the same time, the Chair is advised that the Standing Committee on Procedure and House Affairs is embarking on a thorough review of the *Standing Orders*. Given the composition of the current House, as the Members who intervened on this matter have suggested, it may well be timely for the Committee, as part of the study, to review existing practices in this regard.

The Chair would welcome the collective wisdom and guidance of the Standing Committee in this admittedly nebulous area.

In the meantime, the Chair will continue to be governed by the approach taken in the past by previous Speakers, always mindful of my obligation to preserve order and decorum so that the House may conduct its business without disruption, knowing that I can count [on] the cooperation of all Members in this regard.

I thank all hon. Members for their attention.

ORDER AND DECORUM

Relevance: debate at report stage

March 21, 2013
Debates, **pp. 15024–5, 15028–9**

Context

On March 21, 2013, James Bezan (Selkirk—Interlake) rose on a point of order during debate on motions in amendment at report stage of Bill C-15, *An Act to amend the National Defence Act and to make consequential amendments to other Acts*. Mr. Bezan argued that comments by Jack Harris (St. John's East) were not relevant to the amendments before the House, and that debate during report stage must focus on specific amendments rather than wide-ranging discussion of the Bill. Other Members made comments.

Resolution

The Acting Speaker (Barry Devolin) ruled immediately. He acknowledged that debate during report stage offered narrower parameters than did debate during second or third reading stage but confirmed that it was the practice of the House to allow Members considerable leeway to provide context for their remarks. Concluding that Mr. Harris' comments were relevant, the Acting Speaker allowed him to continue.

DECISION OF THE CHAIR

The Acting Speaker: The Chair thanks the hon. Member for Selkirk—Interlake for his intervention and the Members for St. John's East and Saanich—Gulf Islands for their subsequent interventions.

In terms of general context, the hon. Member for Selkirk—Interlake is correct that the *Standing Orders* state that when Members rise to speak to a matter before the House, their comments ought to be relevant to that matter.

It is also fair to say that historically and consistently the Chair has granted what some would consider significant latitude to Members in the points they make in their presentations. From time to time, Members take very indirect ways to come to their point. It is a good reminder for all Members that they need to keep their comments relevant to the matter before the House.

On the second point, the hon. Member is technically correct in that the parameters or leeway granted ought to be narrower when the House is considering amendments as opposed to general legislation potentially during second reading or third reading. However, once again I would suggest the Chair recognizes that in the course of a 10- or 20-minute speech, hon. Members need to provide context to the comments they wish to make that are relevant to a matter before the House.

As an editorial comment, there are certainly times when Members wander far afield from the matter before the House and are possibly beyond the grey area. However, in this case, I would suggest that has not happened. The hon. Member for St. John's East is certainly talking in the context of the Bill. I trust that before his 10 minutes expires, he will make all of the context relevant to the points that have to do with the amendments currently being debated.

Editor's Note

Later during the debate, Mr. Bezan rose again on a point of order concerning the relevance of remarks by Christine Moore (Abitibi—Témiscamingue).

The Acting Speaker: Once again the Chair thanks the hon. Member for Selkirk—Interlake for rising on this point of order and the Member for Abitibi—Témiscamingue for her reference to it as well.

I would like to reiterate a point I made earlier and possibly offer a suggestion on a go-forward basis.

The Member for Selkirk—Interlake points out quite correctly that there are rules of relevance in this place, in particular that when we are at report stage and the House is dealing with specific amendments that have been put forward, debate ought to be focused on those amendments rather than on a broad, general discussion of the entire Bill or the subject in general.

He has also suggested, if not stated outright, that in this way business before the House is in some ways similar to how a committee would deal with amendments. The points that he has made are all quite relevant.

The question becomes the latitude that the Chair grants to Members to discuss business before the House, such as what would be considered allowable context, preamble or reference to other pieces of legislation or other amendments that had been brought forward on the same piece of business, possibly at committee, or other experiences that the hon. Member has had.

Therefore, I would remind all hon. Members that it is in the collective interest of this place and of all Members that time in the House be used efficiently, that Members stick to the matter before the House, keep their comments relevant to it and avoid repetition of points that have been made to the same end in terms of the efficiency of this place.

I would suggest to the hon. Member for Selkirk—Interlake that the Chair will review the comments he has made today regarding the points of order related to the debate that is taking place in the House today and will return to this matter if it is deemed necessary. However, within that context I would like the House to resume debate on this matter and would state that the Chair will continue to exercise judgment of relevance in a way similar to the way it has been exercised in the past, rather than in the more restrictive way requested by this hon. Member. That will remain the practice of the Chair until the Chair has had an opportunity to review the matter. If changes to that practice of relevance are made, they will be announced in the House.

The point that the hon. Member for Selkirk—Interlake makes goes beyond this debate today and is a more general point. With all due respect to that point, it will be considered and if deemed reasonable or necessary, the Chair will return to this matter in the future.

Postscript

The Chair did not return to the House to announce any changes to the manner in which it would deal with matters of repetition or relevance.

ORDER AND DECORUM

Relevance: reflections on the Senate

June 8, 2015
Debates, **pp. 14746**, **14750**

Context

On June 8, 2015, Charlie Angus (Timmins—James Bay) rose on a point of order during debate to concur in Vote 1, under The Senate, of the Main Estimates for the fiscal year ending March 31, 2016, stating that Paul Calandra (Parliamentary Secretary to the Prime Minister and for Intergovernmental Affairs) had referenced issues in his question that had nothing to do with the question before the House. As debate continued, Mark Warawa (Langley) rose on a point of order reiterating that references to the Senate be respectful of the institution.[1]

Resolution

The Acting Speaker (Barry Devolin) ruled immediately after each point of order. Following Mr. Angus' point, he reminded all Members to keep questions and remarks relevant to the issue before the House. He subsequently addressed Mr. Warawa's point, clarifying that, although the motion before the House was unusual in that it referenced the Senate, a subject on which Members' comments were normally restrained, the motion was in order and so was discussion on the subject of the Senate and Senators. He asked Members to be mindful of the fact that Senators were not in the House to defend themselves or respond to comments.

1. *Debates*, June 8, 2015, p. 14745, 14749.

DECISION OF THE CHAIR

The Acting Speaker: The matter before the House tonight relates to the Main Estimates and specifically a motion from the Official Opposition to defund the Senate. That is the matter that is before the House. I have listened carefully to the Member's speech and the Member's speech touched on lack of justification for the Senate. If and when Members make arguments that the Senate ought to be defunded because money is improperly or unwisely used, and the Government Members respond with a question that relates to the spending of money in other parts of the Estimates, including in the House of Commons, this is where we sit. There is no specific Standing Order that relates to this. It would appear that the Parliamentary Secretary is intent on asking essentially a similar question to different Members when they do this.

I go back to the point that I made a couple of minutes ago which is that the point of the rules is not to put an absolute limit on where you are allowed to go, but it is to guide behaviour of Members in the House. I would ask Members, including the Parliamentary Secretary, to keep the questions focused on the business that is before the House as it relates to the Senate. His contention that a standard that is being applied in the Senate ought to be or could be applied in the House of Commons is a rhetorical question. I am not sure that the Parliamentary Secretary needs to get into all of the specific details in order to make that point, if that is the point that he wants to make. If he wants to ask that rhetorical question, that would be acceptable, but to get into the detail of matters that are before the House that do not relate directly to the Senate will be ruled out of order by this Chair.

I would ask the hon. Parliamentary Secretary to put his question to the hon. Member. For all hon. Members that ask questions subsequently, again I would ask for Members' cooperation to stick to the matter that is before the House related to Senate expenses.

Editor's Note

Debate continued. Mr. Warawa rose on a point of order to say that Members were using language that was disrespectful and called into question the integrity of Senators and the Senate, which he said was a clear violation of the rules. The Acting Speaker ruled immediately.

The Acting Speaker: The point raised by the Member for Langley reflects back to comments made by the Chair 25 minutes ago, before the Member for Timmins—James Bay began his speech, which is that the general practice in this place is that questions directly related to the Senate are not considered Government business. Consequently, there are times, for example, in Question Period, when questions are ruled out of order for that reason.

However, the matter before the House tonight relates directly to the Senate. Just to correct something I said in a previous intervention, the matter before the House tonight is whether to fund the Senate. It is not, in fact, a defunding motion; the question is whether to fund the Senate. A yes vote would be in favour of funding and a no vote would be opposing that funding. I want to make that clear.

What the hon. Member for Langley has quoted from O'Brien and Bosc is correct. He read it from the book. The *Standing Orders* do not specifically say that is context that comes from O'Brien and Bosc in terms of guiding the debate in this place.

In the opinion of the Chair, the fact that this motion has been deemed in order to be brought before Parliament makes that the subject before the Chamber. Members are debating whether, as parliamentarians, they are going to support this part of the Main Estimates. It is not a direct question in terms of the jurisdiction of the Government. It essentially is a parliamentary question as to whether Members of Parliament will fund the Senate or not. This is the context that puts it in order.

The second point is the general practice in this place, that Members are restrained in their direct comments related to Members of the Senate. In that regard, the Member for Langley is also correct that this is the general practice in this place. However, there are matters in the public eye at this point, in the media, that relate directly to specific Members of the Senate and the spending that takes place in the Senate. Those things do relate to the matter before the House tonight.

This is a long way of saying that with regard to the debate we are having tonight, there is a set of rules that is a little different than what is normally before this place in referencing Members of the Senate. However, I would ask all Members to be mindful of the fact that one of the reasons why Members of the House of Commons avoid speaking directly about Senators is because the Senators are not in this place and do not have the opportunity to directly defend themselves and their actions. Therefore, I would ask Members to be mindful of that.

As all Members can imagine, I have listened quite intently to almost every word from the Member, not simply because he is such a great speaker, but because everybody in this place has been getting very close to the line tonight. I would again ask all hon. Members to respect not only the letter of the law but the spirit of the rules that guide debate in this place.

In that context, the Chair is ruling that the speech by the Member for Timmins—James Bay was in order. It is impossible to talk about the Senate without mentioning the Senate or Senators. Therefore, in the opinion of the Chair, when the decision was made that the motion before the House was in order and was appropriate, that opened the door to this conversation tonight.

ORDER AND DECORUM

Points of order: impact on proceedings; allotted amount of time; use of titles

June 23, 2011
Debates, **p. 836**

Context

On June 23, 2011, Charlie Angus (Timmins—James Bay) rose on a point of order during debate on Bill C-6, *An Act to provide for the resumption and continuation of postal services*, noting that Cheryl Gallant (Renfrew—Nipissing—Pembroke) had used the name of a Member, rather than the Member's title, in the House. Advised by the Acting Speaker (Barry Devolin) to use the Member's title, Mrs. Gallant apologized. Mr. Angus rose again on a point of order to ask that the time taken up by his points of order be added to the questions and comments period then under way.[1]

Resolution

The Acting Speaker ruled immediately. Acknowledging Members' right to raise points of order, he reminded the House of the difference between points of order concerning matters of debate and legitimate ones concerning matters of procedure. He further noted that it was the role of the Chair to decide whether time taken up by points of order should be added to a Member's speaking time. He explained that when points of order were pertinent and succinct, time would not be added but if, in the opinion of the Chair, it appeared that a point of order was being raised in an attempt to obstruct debate, time would usually be added.

1. *Debates*, June 23, 2011, pp. 835–6.

DECISION OF THE CHAIR

The Acting Speaker: The hon. Member for Timmins—James Bay has risen on a second point of order. Maybe I will take this opportunity to clarify for all Members in the House a couple of issues: one has to do with points [of] order; the second has to do with the clock and whether it continues or stops when a point of order has been raised. This second issue has come up a couple of times in the last half hour.

I would like to remind all hon. Members that at any point during proceedings, with the exception of Question Period, Members have the right to stand and raise points of order. This is an important right that all Members have, and I think we would all agree that the Speaker needs to respect that right and immediately go to that person.

As all hon. Members will know, there are times when a point of order is obviously legitimate, when an issue is raised that clearly needs to be addressed. As an example of a legitimate point of order, I will not use the one just raised by the Member for Timmins—James Bay. I will use the one raised a couple of minutes ago regarding the use of a Member's name in the House. It has been my experience that the use of another Member's name is usually inadvertent and not deliberate. Nevertheless, this needs to be addressed. Therefore, that point of order is dealt with by the Chair.

It is also often the case that Members will rise using the process of a point of order to stop debate for something that the Chair determines is not a legitimate point of order. In this case, I appreciate that the Member for Timmins—James Bay has recently provided us with an example of this type of point of order in his second intervention. The Chair is also required to deal with whether something is debate rather than a procedural issue or a point of order.

This brings us to the second point, which is the question of the clock and whether, when a point of order is raised, the clock continues or not. I would point out to all hon. Members that it is the Chair who decides how long speeches are and that the clock is a guideline to the Chair. But at the end of the

day it is actually the person in the chair who determines when it is the end of someone's speech and whether something can be added or not.

The general practice is that, if the point of order raised is legitimate, made quickly, and pertains to the business before the House, the clock does not stop and the time continues. If, however, in the view of the Chair, the point of order is being raised in an attempt to slow things down, to take away from the presentation, or to deprive another Member of the opportunity to raise a point of order, the Chair has the right to add that time.

For example, when a Member is making a 10-minute speech and a Member from another party raises a point of order and carries on at length on what does not seem to be a legitimate point of order, the Member is not punished and time is added to the Member's speech. Conversely, if a Member of the same party as the person making the presentation uses the same approach, often the clock is not stopped. I am sure all hon. Members will agree that the Chair has an incentive not to encourage mischief but to respect the right of Members to use the point of order process when it is appropriate. Members, however, must not abuse this process in an attempt to reduce or increase the speaking time of a colleague.

This is the process that is used. In the last 15 minutes, there have been examples of all these situations. Please let me assure everyone that all Chair Occupants do their best to do this job fairly. The Chair is charged with making sure that the rights of all hon. Members are respected, and that those who have an allotted amount of time to make a presentation are not punished by having their time reduced by the actions of others, particularly when it is determined that this is the entire purpose of the point of order.

Postscript

The Acting Speaker confirmed that, in the present case, the clock had been stopped during the point of order and ruling, and he subsequently resumed the questions and comments period.

CURTAILMENT OF DEBATE

Time allocation: minimum number of hours

June 18, 2012
Debates, **pp. 9680–1**

Context

On June 12, 2012, Kevin Lamoureux (Winnipeg North) rose on a point of order concerning a time allocation motion moved by Peter Van Loan (Leader of the Government in the House of Commons) in relation to Bill C-38, *An Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures*. The motion provided for no more than 10 further hours of consideration at report stage and no more than eight hours of consideration at third reading stage. Mr. Lamoureux argued that the motion violated Standing Order 78(3)(*a*),[1] which required that at least one sitting day, or the equivalent number of sitting hours in effect when time allocation is applied, be allotted to each stage, since the House was sitting for 14 hours each day due to an extension of the hours of sitting pursuant to Standing Order 27.[2] Mr. Van Loan contended that the Standing Order would be satisfied as long as the hours allotted amounted to at least the length of the shortest possible sitting day, normally two and a half hours. After other Members made comments, the Deputy Speaker (Denise Savoie) ruled that the motion was in order and assured Members that the Speaker would return to the House with a substantive ruling.[3]

Resolution

On June 18, 2012, the Speaker delivered his ruling. He explained that in the past, the minimum number of hours of consideration required to

1. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 516.
2. See Appendix A, p. 494.
3. *Debates*, June 12, 2012, pp. 9231–6.

constitute a sitting day for the purposes of time allocation appeared to have been based on the average number of hours allotted to Government Orders per day in a normal sitting week. He noted that, under the current *Standing Orders*, consideration of Government Orders is allotted an average of 4.7 hours per day, or 5 hours when rounded up. He therefore concurred that the motion for time allocation of Bill C-38 was in order and advised the House that the Chair's interpretation of one sitting day for the purpose of Standing Order 78(3)[4] would continue to be guided by this method of calculation.

DECISION OF THE CHAIR

The Speaker: As the Deputy Speaker promised the House when she initially ruled on this matter, I am now prepared to rule substantively on the point of order raised by the hon. Member for Winnipeg North on Tuesday, June 12, in relation to the allocation of hours in the motion by the hon. Government House Leader to allocate time at report stage and third reading of Bill C-38. As Members will recall, the motion called for an additional 10 hours of consideration at report stage and eight hours at the third reading stage.

The Chair wishes to thank the hon. Government House Leader, the hon. Opposition House Leader and the hon. Member for Cardigan for their interventions on the matter.

The hon. Member for Winnipeg North has argued that the number of sitting hours that can be allocated to a given stage of a bill pursuant to Standing Order 78(3)[5] must, at a minimum, mirror the number of sitting hours in effect when the time allocation motion is moved and applied. This week and last week, depending on the day, due to the adoption of the motion for extended sitting hours, that could be up to14 hours.

The hon. House Leader of the Official Opposition and the hon. Member for Cardigan have echoed that view, claiming that the intent of the Standing

4. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 516.
5. See Appendix A, p. 516.

Order is that a time-allocated debate have a minimum duration of one sitting day, however long that day may happen to be, as per Standing Order 78(3)(*a*)[6] which states:

> ... that the time allotted to any stage is not to be less than one sitting day ...

For his part, the hon. Government House Leader has argued that the minimum number of sitting hours that can be allocated to a given stage of a bill pursuant to the same Standing Order need only be equal to the shortest day possible, in his view, 2.5 hours.

In the Chair's opinion, a close reading of the Standing Order and relevant precedents will show that none of the arguments advanced have exactly hit the mark.

A review of the best and most relevant precedent available, that of 1987, cited by the Government House Leader, illustrates well the equilibrium that the Chair always tries to achieve in cases of this kind. Let me explain.

The Government House Leader stressed that on that occasion in 1987, four hours were allocated for report stage and a further four hours for third reading on a Government bill during extended sitting hours in June. He added that he believed, "Mr. Speaker Fraser likely interpreted the length of the shortest available day to be the minimum time required by the *Standing Orders*".

However, it should be pointed out that in 1987, the sitting hours of the House were very different, and this is of critical importance if we are to extrapolate a rationale for what occurred.

In 1987, the House sat Mondays, Tuesdays and Thursdays from 11 a.m. to 6 p.m., from 2 p.m. to 6 p.m. on Wednesdays and from 10 a.m. to 3 p.m. on Fridays. If one were to subtract from these sitting times all the time allotted

6. See Appendix A, p. 516.

to Statements by Members, Question Period, Private Members' Business and, in those days, lunch hour, 18 hours were left for the consideration of Government Orders in a normal sitting week. That number divided by the number of days in the week, five, yields an average of 3.6 hours per day. In my view, it is reasonable to conclude that this is where the four hours comes from: in other words, to reason that, on that occasion, in moving time allocation, the Government of the day appears to have rounded up to the nearest hour.

In fact, on June 11, 1987, at page 7001 of *Debates*, Mr. Mazankowski, in giving notice of his intention to move time allocation, stated: "I give notice that I will be moving at a later sitting ... that four hours, the equivalent to one day's sitting, shall be allotted to the further consideration of report stage of the bill and four hours shall be allotted to the third reading stage."

This was in keeping with an earlier example on November 13, 1975, at page 9021 of *Debates*, when Mr. Sharp in speaking in debate on the motion to allocate time stated, "This motion allocates another five hours of debate, equivalent to at least another full sitting day". That the two Ministers, while specifying a specific number of hours, indicated that these were equivalent to a sitting day is consistent with the current interpretation that requires at least one further sitting day when allocating time under Standing Order 78(3).[7]

Normal sitting hours for the House are at present 11 a.m. to 6:30 p.m. on Mondays, 10 a.m. to 6:30 p.m. on Tuesdays and Thursdays, 2 p.m. to 6:30 p.m. on Wednesdays and 10 a.m. to 2:30 p.m. on Fridays. Applying the same calculation to these hours by accounting for Statements by Members, Question Period and Private Members' Business leaves 23.5 hours for the consideration of Government Orders in a typical week in 2012. That number divided by the number of days in the week, five, yields an average of 4.7 hours per day. Rounded up to the nearest hour would make it five hours, which is coincidentally exactly the number of hours used with regard to third reading of Bill C-25.

7. See Appendix A, p. 516.

Accordingly, the Chair finds that the allocation of hours to report stage and third reading of Bill C-38 is in order since it respects the terms of Standing Order 78(3).[8] Should future instances arise where arrangements pursuant to this Standing Order are contested, the Chair will continue to be guided by this method of calculation.

I thank hon. Members for their attention.

8. See Appendix A, p. 516.

CURTAILMENT OF DEBATE

Time allocation: quality of consultation

March 6, 2014
Debates, **p. 3598**

Context

On March 6, 2014, Nathan Cullen (Skeena—Bulkley Valley) rose on a point of order during the question and answer period following the moving of a time allocation motion on Bill C-20, *An Act to implement the Free Trade Agreement between Canada and the Republic of Honduras, the Agreement on Environmental Cooperation between Canada and the Republic of Honduras and the Agreement on Labour Cooperation between Canada and the Republic of Honduras*. Mr. Cullen suggested that the consultation required by Standing Order 78[1] prior to proposing the motion had not taken place. In response, Peter Van Loan (Leader of the Government in the House of Commons) argued that the Government consulted regularly with the opposition parties and that it was not for the Speaker to judge the adequacy or extent of consultation between parties.

Resolution

The Deputy Speaker (Joe Comartin) ruled immediately. Noting that the correct procedure had been followed and that it was not the role of the Chair to adjudicate on the nature, quality or quantity of consultation taking place under the Standing Order, he allowed the motion to proceed.

DECISION OF THE CHAIR

The Deputy Speaker: With regard to the point of order, I am not ruling against it, but I would like to quote from O'Brien and Bosc, page 667, under "Notice".

1. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 515.

This is what is required when one of these notices is brought forward:

> The notice in question is to state that agreement could not be reached under the other provisions of the rule and that the government therefore intends to propose a motion …

The hon. Government House Leader, when he rose in the House yesterday, preceded his presentation of the motion with the following words:

> Mr. Speaker, I would like to advise that agreements could not be reached under the provisions of Standing Orders 78(1) or 78(2)[2] …

That is all that is required by the *Standing Orders*. The nature of the consultation, the quality of the consultation, and the quantity of the consultation is not something that the Chair will involve himself in. That has been the tradition of this House for many years. What the Chair would have to do, in effect, is conduct an extensive investigative inquiry into the nature of the consultation. That is not our role, nor do the rules require it. Therefore, I am rejecting the request for the point of order.

2. See Appendix A, p. 515.

CURTAILMENT OF DEBATE

Time allocation: appropriate use; consultations

June 12, 2014
Debates, **p. 6717**

Context

On May 30, 2014, Peter Julian (Burnaby—New Westminster) rose on a point of order concerning the notice of a time allocation motion on Bill C-17, *An Act to amend the Food and Drugs Act*. Mr. Julian stated that the Government had not consulted the New Democratic Party before giving notice of the motion, as required by Standing Order 78(3).[1] After the point of order, Colin Carrie (Parliamentary Secretary to the Minister of the Environment) asked for unanimous consent to have the Bill read a second time and referred to committee. The motion was agreed to. The Deputy Speaker (Joe Comartin) asked Mr. Julian if he would be withdrawing his point of order but Mr. Julian declined.[2]

On June 2, 2014, Peter Van Loan (Leader of the Government in the House of Commons) stated that the Government had in fact consulted and, finding no agreement between the parties, gave notice of the motion.[3] The Speaker took the matter under advisement.

Resolution

On June 12, 2014, the Speaker delivered his ruling. He noted that the Chair does not have the authority to rule on whether consultations between parties took place or on what would constitute consultations. He further reminded Members that it was only the House that could determine whether sufficient debate had occurred and therefore whether time

1. *Debates*, May 30, 2014, p. 5951; See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 516.
2. *Debates*, May 30, 2014, p. 5953.
3. *Debates*, June 2, 2014, pp. 6005–6.

allocation should be applied to a bill.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the point of order raised on May 30, 2014, by the House Leader of the Official Opposition regarding the validity of a notice of time allocation with respect to Bill C-17, an *Act to amend the Food and Drugs Act*.

I would like to thank the House Leader of the Official Opposition for having raised the question, as well as the Leader of the Government in the House of Commons and the Member for Oxford for their contributions.

The House Leader of the Official Opposition argued that the consultation required pursuant to Standing Order 78(3)[4] had never taken place and [that] therefore the Chair should rescind the notice for time allocation for Bill C-17. Furthermore, it was his contention that there was no need for the Government to resort to time allocation at all since the Bill had been on the *Order Paper* for six months, yet had received virtually no debate to date.

The Leader of the Government in the House of Commons confirmed that although the contents of confidential House Leaders' meetings could not be revealed, agreements had been proposed to the House Leader of the Official Opposition and his staff. Notice of time allocation was then given only once it was evident that no agreement could be reached.

Through this point of order, the Chair is being asked to stand in judgment of two things, the first being whether or not there were consultations such that the conditions of Standing Order 78(3)[5] were satisfied. The second is whether the time that the House had debated Bill C-17 was sufficient enough to warrant the use of time allocation.

4. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 516.
5. See Appendix A, p. 516.

House of Commons Procedure and Practice, Second Edition, on pages 669 to 670, states that:

> The Speaker has stated that the wording of the rule does not define the nature of the consultations which are to be held by the Minister and representatives of the other parties, and has further ruled that the Chair has no authority to determine whether or not consultation took place nor what constitutes consultation among the representatives of the parties.

As recently as March 6, 2014, the Deputy Speaker addressed this very issue when, on page 3598 of *Debates*, he reminded the House that:

> The nature of the consultation, the quality of the consultation, and the quantity of the consultation [are] not [things] that the Chair will involve himself in. That has been the tradition of this House for many years. What the Chair would have to do, in effect, is conduct an extensive investigative inquiry into the nature of the consultation. That is not our role, nor do the rules require it.

Therefore, it remains a steadfast practice that it is not the role of the Speaker to determine whether consultations have taken place or not.

With respect to the amount of debate a bill must receive before notice of a time allocation motion can be given, the Chair is being asked to render a decision on a matter over which there are no explicit procedural rules or practices, and thus, over which it has no authority. Rather, it is the House that retains that authority and therefore must continue to make that determination as to when and if a bill has received adequate consideration.

Accordingly, notice of time allocation for Bill C-17 was valid when it was given. I thank all Members for their attention.

BUSINESS OF SUPPLY

Chair's statement: guidelines for the conduct of a debate on the Main Estimates

May 9, 2012
Debates, **pp. 7801–2**

Context

On May 9, 2012, pursuant to Standing Order 81(4)(*a*),[1] the House resolved itself into a Committee of the Whole for the purpose of considering the votes under National Defence in the main estimates for the fiscal year ending March 31, 2013.

Upon opening the session, the Chair of Committees of the Whole (Denise Savoie) made a statement to explain how debate proceeds in a Committee of the Whole. She addressed the speaking order, the time allotted for each statement, the rules of decorum and the discretion she could exercise.

She ended her statement by saying that, at the conclusion of the sitting, pursuant to Standing Order 81(4)(*a*),[2] the estimates would be deemed reported and the House would be adjourned until the following day.

STATEMENT OF THE CHAIR

The Chair of Committees of the Whole: I would like to open this session of Committee of the Whole by making a short statement.

1. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 518.
2. See Appendix A, p. 518.

Tonight's debate is being held under Standing Order 81(4)(*a*),[3] which provides for each of two sets of estimates selected by the Leader of the Opposition to be considered in Committee of the Whole for up to four hours.

For some Members, this may be the first time they participate in such a debate. Therefore, I would like to explain how we will proceed.

Tonight's debate is a general one on all of the votes under National Defence. The first round will begin with the usual rotation, with the Official Opposition followed by the Government and the Liberal Party. After that, we will follow the usual proportional rotation.

Each Member will be allocated 15 minutes at a time, which may be used both for debate and for posing questions. Should Members wish to use this time to make a speech, it can last a maximum of 10 minutes, leaving at least five minutes for questions to the Minister.

When a Member is recognized, he or she should indicate to the Chair how the 15-minute period will be used—in other words, what portion will be used for speeches and what portion for questions and answers.

Members should also note that they will need the unanimous consent of the House if they wish to split their time with another Member.

When the time is to be used for questions and answers, the Chair will expect that the Minister's response will reflect approximately the time taken by the question, since this time will be counted in the time originally allotted to the Member.

Though Members may speak more than once, the Chair will generally try to ensure that all Members wishing to speak are heard before inviting Members to speak again, while respecting the proportional party rotations for speakers.

Members need not be in their own seats to be recognized.

3. See Appendix A, p. 518.

As your Chair, I shall be guided by the rules of the Committee of the Whole. However, in the interest of a full exchange, I am prepared to exercise discretion and flexibility in the application of these rules. The Chair will expect all hon. Members to focus on the subject matter of the debate, the main estimates of the Department of National Defence.

I also wish to indicate that in Committee of the Whole, Ministers and Members should be referred to by their title or riding name and all remarks should, as usual, be addressed through the Chair.

I ask for everyone's cooperation in upholding the established standards [with regard] to parliamentary language and behaviour.

At the conclusion of tonight's debate, the Committee will rise, the estimates under National Defence will be deemed reported and the House will adjourn immediately until tomorrow.

We will now begin tonight's session of the House in Committee of the Whole pursuant to Standing Order 81(4)(*a*),[4] the first appointed day, consideration in the Committee of the Whole of all votes under National Defence in the main estimates for the fiscal year ending March 31, 2013.

For the first comment, or statement, the hon. Member for St. John's East.

4. See Appendix A, p. 518.

7 — SPECIAL DEBATES

7

SPECIAL DEBATES

INTRODUCTION

In response to parliamentary events, emergencies, and issues of national or international importance, the House will, from time to time, put aside its normal proceedings to engage in debate on these matters. These "special debates" include the debate on the Address in Reply to the Speech from the Throne; the debate on the *Standing Orders* and procedure of the House and its committees; emergency debates; debates to suspend certain Standing Orders in order to consider urgent matters; and take-note debates. The decisions included in this chapter relate to two of these types of special debates: emergency debates and take-note debates.

Emergency debates are governed by specific provisions of the *Standing Orders*. Once Routine Business has been concluded, Standing Order 52(1)[1] gives Members leave to make a motion for the adjournment of the House for the purpose of discussing a specific and important matter requiring urgent consideration. However, before refusing or granting leave to hold an emergency debate, the Speaker considers a number of factors.

The decisions in this chapter on emergency debates illustrate the wide variety of requests made and how the Speaker responds to them. In one of these decisions, made in February 2012, the Speaker ruled that an emergency

1. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 501.

debate is not justified when the matter is already being considered by another administrative body.

When determining whether a matter is urgent, the Speaker also takes into account the likelihood that the matter will be discussed in the House by other means within a reasonable time frame. As the Speaker is not obliged to indicate the reasons for refusing or granting a request for an emergency debate, the decisions in this chapter are very short. While the Speaker may provide reasons from time to time, the Chair seeks to limit its explanations in order to avoid adding to the jurisprudence, which could itself become a subject of debate in the House.

Once a request for an emergency debate has been granted, the Speaker has the discretion to decide when the debate will take place. In May 2014, Speaker Scheer granted leave to hold an emergency debate on the abduction of young girls in Nigeria, but he scheduled the debate for the following Monday to give more Members the opportunity to participate.

Take-note debates are the second group of "special debates" addressed in this chapter. Pursuant to Standing Order 53.1,[2] take-note debates are held in Committee of the Whole. The statement included in this chapter is from October 2011, when the Chair of Committees of the Whole explained the basic principles of a take-note debate and how it proceeds, including the speaking time allocated to Members.

2. See Appendix A, p. 504.

EMERGENCY DEBATES

Leave granted: abduction of young girls in Nigeria

May 8, 2014
Debates, **pp. 5116–7**

Context

On May 8, 2014, Paul Dewar (Ottawa Centre) rose in the House to request that an emergency debate be held, pursuant to Standing Order 52,[1] on the abduction of over 270 young girls in Nigeria by a Nigerian terrorist group. Mr. Dewar contended that the situation was disturbing and that it was necessary to hold an emergency debate to consider what Canada could do to address the situation and meet the expectations of Canadians.

Resolution

The Speaker delivered his ruling immediately. He advised the House of his decision to grant the request for an emergency debate. In keeping with the discretion granted to him by the *Standing Orders*, he directed that the debate be held on Monday, May 12, 2014, to ensure that more Members had the opportunity to participate.

DECISION OF THE CHAIR

The Speaker: I thank the hon. Member for Ottawa Centre for raising this issue. As a father of two young girls myself, I can certainly understand the impact this would have on concerned Canadians and Members of the House.

I am inclined to grant the emergency debate. However, given the changes to the House calendar that the House has just adopted, I think it would perhaps serve the House better and allow for better participation if I exercise my discretion under the *Standing Orders* and direct that the debate be held

1. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 501.

Monday evening so that there can be better participation of Members at that time.

Therefore, I will direct that the emergency debate be granted and be held Monday evening.

EMERGENCY DEBATES

Leave refused: matter under investigation by an administrative body

February 27, 2012
Debates, **p. 5516**

Context

On February 27, 2012, Bob Rae (Toronto Centre) rose to request that an emergency debate be held, pursuant to Standing Order 52,[1] on the conduct of the 2011 general election. Mr. Rae contended that such a debate was necessary because of the concerns raised on the subject, both nationwide and during Oral Questions that day. Mr. Rae reminded the House that it had passed a motion by unanimous consent earlier in the day calling on Members to provide any and all information associated with this matter.[2]

Immediately thereafter, Elizabeth May (Saanich—Gulf Islands) requested that an emergency debate be held on the same topic. To support her request, she highlighted several precedents and gave an example illustrating that the matter need not be an emergency or a crisis to be worthy of an emergency debate, but that it must be immediately relevant and of attention and concern throughout the nation.[3]

Resolution

The Speaker delivered his ruling immediately. He began by reminding the House that applications for emergency debate could not be debated. As a result, he could not hear André Bellavance (Richmond—Arthabaska), who rose following Ms. May's statement intending to participate in the debate. He then ruled that an emergency debate would not be granted in this case because an administrative body was already investigating the matter.

1. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 501.
2. *Journals*, February 27, 2012, p. 855.
3. *Debates*, February 22, 1978, p. 3128.

DECISION OF THE CHAIR

The Speaker: There is no debate on applications for emergency debate, and not having received notice of request for one from the Member for Richmond—Arthabaska, I cannot hear the Member at this time.

I have no doubt that Members take these concerns very seriously.

One of the criteria in O'Brien and Bosc in setting out how the Speaker determines whether or not to grant an emergency debate mentions that when matters are being investigated by other administrative bodies, they are generally rejected. Given the fact that it is my understanding that these matters are being investigated by Elections Canada at this time, I do not think it meets the criteria for that reason.

EMERGENCY DEBATES

Leave refused: closure of the Maritime Rescue Sub-Centre in Quebec City; other opportunities for debate available

March 27, 2013
Debates, **pp. 15291–2**

Context

On March 27, 2013, Yvon Godin (Acadie—Bathurst) rose in the House to request that an emergency debate be held, pursuant to Standing Order 52,[1] regarding the closure of the Maritime Rescue Sub-Centre in Quebec City slated to close on April 15, 2013. He emphasized that it was the only bilingual maritime rescue centre in Canada and that closing it could put lives at risk. Mr. Godin also mentioned that the House would adjourn the following day until April 15, 2013, which increased the urgency of the situation.

Resolution

The Speaker delivered his ruling immediately. He pointed out that Members had had the opportunity to raise this matter during the debate on the budget in previous days, and that they would also have the opportunity that day to speak to the issue. As a result, he ruled that holding an emergency debate was not necessary.

DECISION OF THE CHAIR

The Speaker: I would like to thank the Member for Acadie—Bathurst for raising this question.

I have no doubt that this is a very important issue to the hon. Member. However, I should point out that we have already had four days of debate on the budget, so we have had the opportunity to talk about many things that are

1. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 501.

the Government's responsibility. Today, we are still debating the Government's budget policy in general. I believe that the Members will have the opportunity to speak to this issue today, as they have had the opportunity to do over the past few days.

For those reasons, I do not believe it is necessary to agree to the Member's request.

EMERGENCY DEBATES

Leave refused: dismantling and transfer of the Canadian Wheat Board; matter deemed not of sufficient urgency and another opportunity for debate available

April 20, 2015
Debates, **p. 12763**

Context

On April 20, 2015, Pat Martin (Winnipeg Centre) rose in the House to request that an emergency debate be held, pursuant to Standing Order 52,[1] on the Government's intention to transfer the Canadian Wheat Board to foreign interests. Mr. Martin contended that the situation was urgent because the impact of the decision would be permanent and irreversible and farmers would have to make decisions immediately about planting and future crops. Mr. Martin noted that the Government's announcement had been made while the House was not sitting and, as a result, Members had not had the opportunity to examine the matter in depth. He added that little was known about the transfer, and that an emergency debate was necessary to ensure that Canadians could understand the implications of this decision.

Resolution

The Speaker delivered his ruling immediately. He was of the opinion that the matter was not urgent enough to require an emergency debate. He reminded Members that it was a supply day that day and that there would be other opportunities to question the Government about the Wheat Board in days to come.

1. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 501.

DECISION OF THE CHAIR

The Speaker: I thank the hon. Member for Winnipeg Centre for raising the issue of the sale of the Canadian Wheat Board. As a Member from Western Canada, I am very familiar with the Wheat Board as well in my own riding. However, I am not sure that it rises to the level of need for an emergency debate. I do note that today is a supply day, and I am sure there will be other opportunities to raise questions about the Wheat Board in days to come. However, I am not sure that it meets the test for an emergency debate as it stands.

TAKE-NOTE DEBATES

Chair of Committee of the Whole's statement: guidelines for the conduct of take-note debates

October 18, 2011
Debates, **p. 2174**

Context

On October 18, 2011, pursuant to Standing Order 53.1[1] and an Order made the previous day,[2] the House resolved itself into a Committee of the Whole to hold a take-note debate on the political situation in Ukraine. The Chair of Committees of the Whole (Denise Savoie) made a brief statement to explain how a take-note debate is conducted. She mentioned the speaking time allotted to each Member and the total length of the debate. She reminded Members that, pursuant to the Order adopted earlier that day,[3] the Chair would receive no dilatory motions, no quorum calls, and no requests for unanimous consent during the debate.

STATEMENT OF THE CHAIR

The Chair of Committees of the Whole: I would like to begin this evening's debate by making a short statement on how the proceedings will unfold.

Tonight's debate is being held under Standing Order 53.1.[4] It provides for a take-note debate to be held following a motion proposed by a Minister, [following consultation with] leaders of the other parties.

1. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 504.
2. *Journals*, October 17, 2011, p. 334.
3. *Journals*, October 18, 2011, p. 345.
4. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 504.

The motion providing for tonight's debate was adopted by the House on Monday, October 17, 2011.

Each Member speaking will be allotted 10 minutes for debate, followed by 10 minutes for questions and comments. The debate will end after four hours or when no Member rises to speak.

Pursuant to the Special Order adopted earlier today, the Chair will receive no dilatory motions, no quorum calls, and no requests for unanimous consent.

Pursuant to the rules used in the Committee of the Whole, Members are permitted to speak more than once provided that there is sufficient time.

At the conclusion of tonight's debate we will rise and the House will adjourn until tomorrow.

We will now begin tonight's take-note debate.

8 — COMMITTEES

8

COMMITTEES

INTRODUCTION

As with other deliberative assemblies, the House of Commons has taken advantage of the special characteristics of committees to carry out functions that can be better performed in smaller groups, including the hearing of witnesses and the detailed consideration of legislation, estimates and technical matters.

Committee work provides detailed information to parliamentarians on issues of concern to the electorate and often generates important public debate. In addition, because committees interact directly with the public, they provide an immediate and visible conduit between elected representatives and Canadians.

During the tenure of Speaker Scheer, committees experimented with new mechanisms to facilitate their work, specifically in relation to the study of legislation. For example, during the study of a particularly large budget bill, the Standing Committee on Finance adopted a motion inviting other standing committees to consider the subject matter of specific sections of the bill and to recommend amendments to the Committee. On another occasion, in an effort to facilitate the participation of independent Members at the committee stage of a bill, the Finance Committee adopted a motion by which independent Members could participate and present amendments during clause-by-clause study of the bill. In the Second Session of the Forty-First Parliament, all but two standing committees adopted a similar motion, formalizing a means by

which independent Members could participate in the legislative process in committee.

These new procedures were not unanimously supported and the Speaker was called upon to rule on their admissibility following points of order. Speaker Scheer made reference to the fluidity of practice in committee and, except in one case, declined to interfere in the internal affairs of committees unless a report from the committee in question was presented to the House, as per established practice.

This chapter also includes two other cases in which the Speaker was called upon to intervene in committee matters: one concerning the use of the "previous question" during debate on a bill being studied by the Standing Committee on Public Safety and National Security; and another concerning a motion adopted in the Standing Committee on Access to Information, Privacy and Ethics that, a Member argued, was beyond the committee's mandate and that violated the *sub judice* convention and the constitutional separation of the legislative and judicial branches. In each instance, Speaker Scheer again declined to interfere in the matter as no report from either committee was presented to the House. This chapter also includes a statement by the Chair of Committees of the Whole outlining the procedures for the consideration of a bill in Committee of the Whole since it would be the first occasion for the newer Members to participate in such a debate.

MANDATE

Scope of a standing committee's mandate: motion inviting other committees to study the subject matter of a bill

November 29, 2012
Debates, **pp. 12609–10**

Context

On November 26, 2012, Nathan Cullen (Skeena—Bulkley Valley) rose on a point of order regarding the Standing Committee on Finance's consideration of Bill C-45, *A second Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures*. Mr. Cullen suggested that the Committee went beyond its mandate by adopting a motion inviting other committees to study the subject matter of the Bill and to send motions in amendment back to the Committee, which would then be deemed moved. In his view, since only the House has authority to refer a bill to a committee and since the House had referred Bill C-45 to only the Standing Committee on Finance, a motion of instruction was required to allow other committees to submit amendments. He requested that the Speaker rule the Thirteenth Report of the Committee out of order. In response, Peter Van Loan (Leader of the Government in the House of Commons) argued that the practice adopted by the Committee was not unprecedented and that, in taking a flexible approach to its study, the Committee did not surrender its jurisdiction over the Bill. Scott Brison (Kings—Hants) then rose on a related point of order, noting that during consideration of Bill C-45, the Chair of the Standing Committee on Finance had ruled that once a deadline established by the Committee had been reached, the Committee could not vote on any motions in amendment which had not yet been moved. This ruling was overturned by the Committee and all motions in amendment which had been placed on notice were put to a vote, whether they had been moved or not. Mr. Brison contended that this practice usurped Members' right to move, or not move, motions placed on notice. Mr. Van Loan argued that the Committee did not break any rules in overturning the Chair's decision

or in proceeding with the votes on the amendments. The Speaker took both matters under advisement.[1]

Resolution

On November 29, 2012, the Speaker delivered his ruling. He noted that the Standing Committee on Finance had not exceeded its authority by inviting other committees to propose amendments and, even if they were invited to do so, the Committee decided how it was going to proceed with those suggested amendments and retained the ability to adopt or negative them as it saw fit. The Speaker also reminded the House that committee practice was of considerable flexibility and that, in the absence of a report from the Committee, the Chair was not in a position to intervene.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the points of order raised on November 26, 2012, by the hon. House Leader for the Official Opposition and the Member for Kings—Hants, both of which arose from proceedings in the Standing Committee on Finance during its consideration of Bill C-45, *A second Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures*.

I would like to thank the hon. House Leader of the Official Opposition and the hon. Member for Kings—Hants for having raised their concerns, as well as the hon. Leader of the Government in the House of Commons and the hon. Parliamentary Secretary to the Leader of the Government in the House of Commons for their interventions.

In raising his point of order, the Opposition House Leader asserted that the Standing Committee on Finance, through the adoption of a timetabling motion on October 31, 2012, regarding how it would conduct its proceedings on Bill C-45, went beyond its mandate and usurped the authority of the House when it invited other standing committees to study particular sections of Bill C-45 and to forward any proposed amendments back to the Finance Committee. He drew particular attention to that part of the Finance

1. *Debates*, November 26, 2012, pp. 12451–61, November 27, 2012, pp. 12534–5.

Committee's timetabling motion that provided for amendments to the Bill recommended by other committees to be deemed proposed to the Finance Committee and must be considered in its proceedings along with amendments proposed by Members of the Committee. He argued that, as the House had referred the Bill specifically and solely to the Finance Committee and had not adopted a motion of instruction authorizing other committees to study specific parts of the Bill and subsequently report back to the House in the usual manner, the Thirteenth Report of the Committee on Bill C-45 should be ruled out of order.

In replying to these arguments, the Leader of the Government in the House of Commons insisted that the Standing Committee on Finance had at no time relinquished any of its authority over the committee proceedings on Bill C-45, as it had simply invited other committees to offer suggested changes to the legislation. Further, he stated that there was an established practice whereby a committee charged with studying a bill [had] consulted other committees by inviting them to study a particular subject matter in the bill and then provide feedback.

The point of order raised by the Member for Kings—Hants centred on the manner in which the Committee dealt with the amendments to the Bill which he, as a Member of the Committee, had submitted. He pointed out that the motion adopted by the Committee on October 31, 2012, specified that once a specific time was reached, "the Chair shall put forthwith and successively, without further debate or amendment, each and every question necessary to dispose of clause-by-clause consideration of the Bill", and explained that, accordingly, the Chair of the Committee ruled that the Committee would not be voting on any amendments on notice which had not been moved prior to the deadline.

Because the Committee overturned that decision by the Chair, the Member for Kings—Hants argued that the Committee forced votes to be held on all amendments submitted, even those which had yet to be moved. He alleged that the removal of his discretion to decide which amendments he wanted to move, coupled with the overturning of the Chair's procedurally sound ruling, constituted an abuse of the committee process.

The Government House Leader began his remarks by pointing out that, as committees are masters of their own proceedings, such matters ought to be settled in committee. He then argued that a broader interpretation of the timetabling motion adopted by the Finance Committee was needed in order to have a consistent interpretation in committee and in the House of such practices. He asserted that, in overturning the Chair's decision, the Committee broke no rules, nor did the putting of the question on all amendments submitted result in the Member's rights being denied.

The Chair is therefore being asked to address two questions. First, did the Standing Committee on Finance overstep its authority when it adopted a timetabling motion, which, among other provisions, asked other standing committees to consider the subject matter of various parts of Bill C-45 and to offer suggestions as to possible amendments?

Second, do the actions of the Committee in overturning the Chair so as to have all amendments on notice, including all the amendments of the hon. Member for Kings—Hants, deemed moved during clause-by-clause consideration constitute a denial of his rights as a Member?

The Government House Leader and the Parliamentary Secretary have both argued that the approach taken by the Standing Committee on Finance, namely to seek the assistance of other standing committees in the consideration of the subject matter of a bill, is not extraordinary. In support of that contention, the Parliamentary Secretary referred to a motion of the Standing Committee on Finance on April 28, 2008, when it proceeded in a similar fashion by requesting that the Standing Committee on Citizenship and Immigration consider the subject matter of a part of Bill C-50, *An Act to implement certain provisions of the budget tabled in Parliament on February 26, 2008 and to enact provisions to preserve the fiscal plan set out in that budget*.

While it may be overstating matters that this is "established practice", it is true that committee practice is of considerable flexibility and fluidity. This is acknowledged by the Opposition House Leader himself who spoke of the need for committees to respect clear and distinct limits but declared to that, "when work is assigned to it by the House, it is largely up to the committee to decide how and when to tackle it".

It should be noted that in the present case, even though other committees were invited to suggest amendments, it is the Finance Committee itself that chose to do so. It also decided how to deal with any suggested amendments and it retained the ability to decide whether or not to adopt any such amendments.

This is not the first time proceedings in a committee have given rise to procedural questions in the House and concerns about precedents being created. The Chair is reminded of a ruling given by Speaker Fraser on March 26, 1990, which can be found at page 9757 of the *Debates of the House of Commons*, in relation to a particularly controversial committee proceeding. He said:

> I would caution Members, however, in referring to this as a precedent. What occurred was merely a series of events and decisions made by the majority in a committee. Neither this House nor the Speaker gave the incidents any value whatsoever in procedural terms. One must exercise caution in attaching guiding procedural flags to such incidents and happenings.

The case at hand is not necessarily analogous to the one before us now but, nevertheless, this quote from Speaker Fraser serves as a useful reminder that committee practice is in continuous flux and that it is important to place particular occurrences in context.

As all Members are aware, it is a long-established practice that committees are expected to report matters to the House before they can be considered by the Speaker. Speaker Milliken, in a ruling made on November 27, 2002, which can be found at pages 1949 and 1950 of the *Debates*, put it this way:

> As Speaker, I appreciate the responsibility that I have to defend the rights of all Members and especially those of Members who represent minority views in the House. At the same time, it is a long tradition in this place that committees are masters of their own proceedings. Ordinarily the House is only seized of a committee matter when the committee

> reports to the House outlining the situation that must be addressed.

In the same ruling, he added:

> … it is true as well that committees are permitted a greater latitude in the conduct of their proceedings than might be allowed in the House. It may not always be clear in a particular set of circumstances how best to proceed and so the ultimate decision is left to the committee itself.
>
> Even the rulings of the chair of a committee may be made the subject of an appeal to the whole committee. The committee may, if it thinks appropriate, overturn such a ruling.

Today, I am being asked to decide, in the absence of a report from the Committee whether, in this particular instance, the Committee exceeded the limits of its powers to such an extent as to warrant an intervention from the Chair. As I see this case, the House referred the Bill to the Committee for study. The Committee proceeded to study the Bill, as has been described, and then the Committee reported the Bill back to the House without amendment. The Report of the Committee returning to us the Bill is all this House has before it.

In other words, I cannot see how the Chair can reach into committee proceedings to somehow provide redress without a report to the House from the Finance Committee detailing particular grievances or describing a particular set of events. Accordingly, I cannot find sufficient evidence that the Standing Committee exceeded the limits of its mandate and powers in the manner in which it considered Bill C-45.

The Chair is fully aware that some Members are frustrated with the way in which the proceedings took place in Committee, particularly given that, as events unfolded there, they believe they were left without recourse. However much I might appreciate these frustrations, the fact remains that none of the

actions of the Standing Committee on Finance have been reported to the House for its consideration. Therefore, in keeping with the long-established practices of the House in that regard, the Chair is not in a position to delve into the matter further.

In conclusion, the Chair finds that the Thirteenth Report of the Standing Committee on Finance on Bill C-45 is properly before the House and, accordingly, that the Bill can proceed to the next steps in the legislative process.

I thank Members for their attention.

MANDATE

Scope of a standing committee's mandate: participation of independent Members

June 6, 2013
Debates, **pp. 17795–8**

Context

On May 29, 2013, Nathan Cullen (Skeena—Bulkley Valley) rose on a point of order regarding the Standing Committee on Finance's consideration of Bill C-60, *An Act to implement certain provisions of the budget tabled in Parliament on March 21, 2013 and other measures*. Mr. Cullen suggested that the Committee had exceeded its mandate by inviting Members who were not members of a caucus represented on the Committee to submit motions in amendment which would then be deemed moved. He argued that only the House could appoint Members, that only committee members were entitled to move motions and that a Member must be present to move a motion. Further, he suggested that the rules of committees as established by the House do not allow for Members of non-recognized parties to be designated as members of committees. In response, Peter Van Loan (Leader of the Government in the House of Commons) argued that the Committee had devised a mechanism within the rules which would allow independent Members to participate where an opportunity did not previously exist. He indicated that the *Standing Orders* contained many examples of motions being deemed moved, and that the process in the Committee was in direct response to a previous ruling of December 12, 2012.[1] Other Members also made comments. On May 30, 2013, Elizabeth May (Saanich—Gulf Islands) and André Bellavance (Richmond—Arthabaska) expressed dissatisfaction with the arrangement, noting that the Committee's invitation had not permitted independent Members to move the motions themselves, to

1. *Debates*, December 12, 2012, pp. 13223–5. The ruling can be found on page 311.

speak at length to them, or to vote on them. The Speaker took the matter under advisement.[2]

Resolution

On June 6, 2013, the Speaker delivered his ruling. Noting that the House had recently been faced with lengthy report stage proceedings, he referred to his ruling of December 12, 2012, in which he had invited the House to consider ways to involve independent Members in the committee process so that their motions could be considered in committee rather than at report stage. He stated that Standing Order 119[3] had not been violated by deeming the motions moved. Finally, while acknowledging that some Members may not have been satisfied with the mechanism developed by the Committee, the Speaker did, exceptionally, comment on committees' proceedings in the absence of a report. He concluded that Bill C-60 was properly before the House and that the Standing Committee on Finance had not violated any procedural practices.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on a point of order raised on May 29 by the hon. House Leader of the Official Opposition regarding the process followed by the Standing Committee on Finance with respect to its consideration of Bill C-60, *An Act to implement certain provisions of the budget tabled in Parliament on March 21, 2013 and other measures*.

I would like to thank the hon. House Leader of the Official Opposition for having raised this issue, and the hon. Leader of the Government in the House of Commons and the Members for Winnipeg North, Richmond—Arthabaska and Saanich—Gulf Islands for their interventions.

In raising this point of order, the Opposition House Leader claimed that the order adopted by the Standing Committee on Finance on May 7, respecting its consideration of Bill C-60, went beyond the Committee's authority as conferred by the House. Specifically, he explained that the Committee order

2. *Debates*, May 29, 2013, pp. 17258–63, May 30, 2013, pp. 17329–32, 17369–74.
3. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 537.

invited certain other standing committees to study different parts of the Bill and, along with independent Members, to submit amendments to the Standing Committee on Finance.

He explained further that the Committee order also provided that such amendments would be deemed moved so that the Committee could consider and vote on them. This, he argued, was an instance of a committee exceeding its prescribed authority, since the House had determined that the Bill was sent to the Finance Committee only and since House rules dictate that committee membership is determined solely by the House and cannot include Members of non-recognized parties. In addition, he noted that it contravened the rule that only committee members can move motions and that even they must, in fact, be present at the committee to do so.

The Leader of the Government in the House of Commons contended that it was an established practice that one standing committee could invite other standing committees to consider the subject matter of relevant sections of a bill it is studying with a view to submitting amendments. Furthermore, he suggested that the inclusion of independent Members in the Committee's proceedings was part of an evolutionary process, one that was in no way discriminatory since the deadline for submitting amendments was the same for all concerned: independent Members, other committees and even members of the Committee itself. He explained that, in effect, this process was simply an effort by the Committee to respond directly to the suggestion that I had made in a ruling on December 12, 2012, on a similar matter.

For her part, the hon. Member for Saanich—Gulf Islands questioned whether the Committee process was in procedural conformity with my ruling, as well as whether, as a result of the Committee order, her rights as a Member had somehow been restricted, even put aside. The hon. Member for Richmond—Arthabaska made similar arguments, highlighting what he perceived to have been an erosion of his rights with regard to the submission of amendments at report stage.

In the case before us, in many respects, is a logical evolution of procedural events that have unfolded in the last year, and indeed of events of over 10 years ago. In fact, to place the matter in its proper context, it is necessary to refer

to the March 21, 2001, statement by Speaker Milliken, found at page 1991 of the *Debates*, which set us on a path to where we are today with respect to the committee and report stages of the legislative process. That statement clearly established the guidelines that the Chair now uses to discharge its responsibility with respect to the selection of amendments at report stage. Indeed, the very process of selection was born out of a need to return report stage to its original purpose, that is, the consideration of only those amendments that could not have been moved in committee.

Speaker Milliken was clear in his intent when he urged:

> ... all Members and all parties to avail themselves fully of the opportunity to propose amendments during committee stage so that the report stage can return to the purpose for which it was created, namely for the House to consider the committee report and the work the committee has done ...

These guiding principles are embodied in the interpretive notes attached to Standing Orders 76(5) and 76.1(5),[4] which have allowed committees to a large extent to remain the central focus for the detailed study of bills, thereby ensuring that report stage not become a repetition of committee stage.

House of Commons Procedure and Practice, Second Edition, explains, at pages 783 and 784:

> As a general principle, the Speaker seeks to forestall debate on the floor of the House which is simply a repetition of the debate in committee … Furthermore, the Speaker will normally only select motions in amendment that could not have been presented in committee. A motion previously defeated in committee will only be selected if the Speaker judges it to be of such significance to Members as to warrant further consideration at report stage.

4. See Appendix A, p. 510, 513.

However, the strength of these guidelines has been tested in the recent past as the House faced voluminous report stage proceedings, first in June 2012 with Bill C-38, *An Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures*, and then in November 2012 with C-45, *A second Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures*.

These two cases brought into sharp relief the difficulties faced by independent Members with respect to committee proceedings on bills, specifically in reference to the provisions of Standing Order 119,[5] which do not permit a Member who is not a member of the committee to move any motion, nor to vote, nor to be part of any quorum. These circumstances cause some Members to call into question the ability of the House's rules and practices to safeguard the intended purpose of report stage.

They also gave rise to a ruling on December 12, 2012, in which I addressed the issue of the participation of independent Members in the process of amending bills, particularly in committee. In that ruling, I suggested that, until committees found a way to enable independent Members to have their amendments considered at the committee stage, the Chair would continue to allow them to do so at report stage. I stated at that time, at page 13224 of the House of Commons *Debates*:

> The *Standing Orders* currently in place offer committees wide latitude to deal with bills in an inclusive and thorough manner that would balance the rights of all Members.

and

> … there is no doubt that any number of procedural arrangements could be developed that would ensure that the amendments that independent Members wish to propose to legislation could be put in committee.

5. See Appendix A, p. 537.

To answer this fully would be to ask the Chair to reach into and adjudicate upon committee matters, a practice the House has long resisted, given that committees are masters of their own proceedings, as we are apt to say.

In my ruling of November 29, 2012 (**Editor's Note**: The ruling can be found on page 429.), on a similar case, consistent with these long-standing practices of the House, I informed Members that in the absence of a report from the Committee, the Chair would not delve further into committee matters. In doing so, I quoted Speaker Milliken, who on November 27, 2002, stated:

> As Speaker, I appreciate the responsibility that I have to defend the rights of all Members and especially those of Members who represent minority views in the House. At the same time, it is a long tradition in this place that committees are masters of their own proceedings. Ordinarily the House is only seized of a committee matter when the committee reports to the House outlining the situation that must be addressed.

He then added:

> That being said, it is true as well that committees are permitted a greater latitude in the conduct of their proceedings than might be allowed in the House. It may not always be clear in a particular set of circumstances how best to proceed and so the ultimate decision is left to the Committee itself.

At the same time, the Chair is also cognizant of its responsibility for the selection of report stage motions and the fact that what happened in the Finance Committee in this instance has had a direct bearing on my selection decisions in the case of the report stage of Bill C-60 and on independent Members. Accordingly, the Chair feels compelled to address some of the issues raised, particularly as they relate to their impact on independent Members.

As I understand it, the principal concern raised about the Committee process was the Committee's decision to deem moved any amendments

submitted by independent Members and certain other committees during the Committee's clause-by-clause consideration. The main concern expressed by the Opposition House Leader with this manner of proceeding is that in his view it exceeded the Committee's mandate. He argued that to deem motions to be moved is a clear violation of Standing Order 119,[6] which stipulates that only permanent members of a standing committee can move motions. The Opposition House Leader stated that as a result, the process adopted by the Finance Committee was fundamentally flawed.

It should come as no surprise to Members that the House and its committees frequently resort to procedural motions to facilitate the flow of business. Procedure in committee is particularly fluid and varied, and many committees routinely use a wide array of processes to organize their work. Deeming things to have taken place is part of that body of precedent.

In the House, this is often achieved by deciding to forgo the usual procedural steps and to assume that certain procedural transactions have taken place even if they have not. For example, it happens from time to time that the House will see fit to adopt a bill at all stages, deeming that each stage has been agreed to. No movers' names are attached to the motions for second reading, concurrence at report stage, or third reading.

Similarly, practically on a weekly basis, recorded divisions are deemed demanded and deferred. Again, no Members' names are attached to the motions that make this possible. In fact, the House has even been known to tinker with the time-space continuum by deeming it to be a certain time, even when it is not, and by making, say, a Tuesday to be a Monday, as was done a few weeks ago on May 21. Again, no names of Members are attached to the motions that make this possible.

Our House and committee annals are rife with examples of this kind. These commonly used procedural instruments are even provided for in some of our *Standing Orders*. What may be causing difficulty in this case is that while the practice of "deeming" is most often achieved through unanimous

6. See Appendix A, p. 537.

consent, it can also occur by majority decision, but of course at greater cost in House or committee time.

In the case before us, it appears that this is the approach that was used by the Finance Committee. A motion setting out the process to be followed was proposed, debated and ultimately agreed to. As far as the Chair can see, in the absence of a report from the Committee to the contrary, Standing Order 119[7] was not flouted in the process. Instead, it appears rather that a procedural instrument was devised to provide for the manner in which the Committee would conduct its business.

Turning to the issue of the rights of independent Members, the Chair can only observe that the decision of the Finance Committee permitted them to do something they could not do before: namely, to have their amendments considered in the Committee and, indeed, to be granted, pursuant to Standing Order 119,[8] an opportunity to speak in Committee. This is something that was not open to them before. In that sense, they succeeded in obtaining a form of participation in committee proceedings, as imperfect as it may have been in their eyes.

As Speaker, I can only speculate on whether other committees will emulate or, dare I say, perhaps even expand on the spirit of inclusion witnessed in the Standing Committee on Finance.

In summary then, while I am entirely sympathetic to the procedural consequence of this development for independent Members at report stage, I must remind the House again of my obligation to ensure that report stage not become a repeat of the committee stage.

As a guardian of the rights and privileges of all Members, it is also my duty in this case to ensure that the rules, practices and expectations of the House are upheld and, in so doing, ensure that Members are afforded an opportunity to participate in the legislative process. To protect the integrity of report stage,

7. See Appendix A, p. 537.
8. See Appendix A, p. 537.

the Chair would have to know that there was no mechanism at all, not just an unsatisfactory one, for a Member to move motions in committee.

It is true that the rules of the House may result in varying degrees of participation for Members, depending on the proceeding and depending on the status of that Member for that proceeding. For instance, members of committees enjoy opportunities that non-committee members do not, and even committee members have varying opportunities to participate.

What the Chair must protect is Members' rights to have some mechanism to put forward their ideas.

It is for these reasons that the Chair did not select any motions at report stage that could have been considered, or were considered, in committee.

Accordingly, for all these reasons, I cannot conclude that the rights of independent Members have been diminished as a result of the proceedings in the Standing Committee on Finance, particularly when scores of Members who were not members of the Finance Committee, and thus not in a position to propose amendments there, are likewise subjected to the very same report stage restrictions.

In addition, noting that this is a departure from the Chair's long-established practice of not commenting on committee proceedings, again in the absence of a report to the contrary on which to base its interventions, the Chair concludes that Bill C-60 is properly before the House and that it cannot find that a procedurally improper proceeding has taken place in the Standing Committee on Finance.

I would like to thank all hon. Members for their attention on this matter.

COMMITTEE PROCEEDINGS

Previous question inadmissible in committee; appealing the Chair's ruling

March 23, 2015
Debates, **pp. 12179–80**

Context

On February 27, 2015, Peter Julian (Burnaby—New Westminster) rose on a point of order with respect to the proceedings of the Standing Committee on Public Safety and National Security during its meeting of February 26, 2015, on Bill C-51, *An Act to enact the Security of Canada Information Sharing Act and the Secure Air Travel Act, to amend the Criminal Code, the Canadian Security Intelligence Service Act and the Immigration and Refugee Protection Act and to make related and consequential amendments to other Acts*. At this meeting, a motion for the previous question, which would put an end to debate, was moved and deemed out of order by the Chair of the Committee. The decision was appealed and the Chair's ruling was overturned, leading to the motion being passed, which put an end to the debate.[1] Mr. Julian charged that this inadmissible motion could not be moved in committee, thereby contravening the *Standing Orders*, nor could the Chair's ruling be overturned when it was in keeping with the *Standing Orders*. He also maintained that debate could not be cut short and that the Committee must continue debating until all those wishing to speak had had the opportunity to do so. Another Member made comments. In response, Peter Van Loan (Leader of the Government in the House of Commons) said that, faced with systematic obstruction, the Committee, as the master of its own proceedings, was free to make its own decisions and overturn the Chair's ruling. He contended that, in the absence of a Committee report on these events, an intervention from the Speaker would

1. Standing Committee on Public Safety and National Security, *Evidence*, February 26, 2015, Meeting 51, pp. 44–5.

go against the practices of the House. The Deputy Speaker (Joe Comartin) took the matter under advisement.[2]

Resolution

On March 23, 2015, the Speaker delivered his ruling. He reminded Members that committees enjoy considerable flexibility and latitude in their proceedings in order to foster greater co-operation among committee members so that they may find their own solutions to issues they face. He recognized that, while this latitude should not be used to thwart existing rules, it is also not desirable to have committee deliberations brought to a procedural standstill.

He then mentioned the reluctance of the Chair to intervene in a committee's proceedings, given that committees have the freedom to determine their own approaches to carrying out their work. For that reason, he indicated that the Chair must refrain from intervening unless the Committee has formally invited the Speaker to do so by way of a report. In the absence of a report, and given the circumstances, he concluded that he could not intervene and that the Committee would maintain its exclusive jurisdiction over the management of its proceedings; however, he reminded Members that the *Standing Orders* provide avenues to deal with situations where the parties have difficulty reaching an agreement.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the point of order raised by the House Leader of the Official Opposition regarding events which took place in the Standing Committee on Public Safety and National Security on February 26, 2015.

I would like to thank the House Leader of the Official Opposition for raising this matter, as well as the Leader of the Government in the House of Commons and the Member for Winnipeg North for their comments.

2. *Debates*, February 27, 2015, pp. 11777–9, 11800–4, March 9, 2015, pp. 11856–7, March 10, 2015, p. 11951.

The House Leader for the Official Opposition described the sequence of events at issue in the following manner. The Member for Northumberland—Quinte West having moved the previous question during debate on a subamendment to the motion regarding the schedule of meetings for the study of Bill C-51, *Anti-terrorism Act, 2015*, the Chair of the Standing Committee on Public Safety and National Security ruled it out of order. His ruling was then appealed and overturned by a vote of the Committee, effectively allowing a procedurally inadmissible motion to pass and ending debate on the matter. He considered this manner of proceeding to be unacceptable, one in which parliamentary rules, practices and precedents were ignored.

The Government House Leader, for his part, summarized the events somewhat differently. He claimed that it was in response to a filibuster that the Member for Northumberland—Quinte West asked the Chair to put the question to a vote, citing persistence, repetition and irrelevance on the part of certain members of the Committee. Furthermore, he noted that the Members were within their right to overturn the Chair's ruling pursuant to the rules of the House. He argued that the proceedings of the Standing Committee on Public Safety and National Security must remain the Committee's exclusive concern unless and until it reported this matter to the House, given that committees were masters of their own proceedings and that Speakers had resisted adjudicating committee matters in the absence of a report from the committee.

It is not unusual for issues related to committee proceedings to be raised in the House when, for whatever reason, Members feel that they have no other recourse. Needless to say, versions of events often differ significantly.

In the present circumstance, the Chair is concerned by the suggestion that the proceedings that took place in Committee on February 26 threatened to undermine the work of the Committee and that the Committee was unable to find its way to a mutually acceptable solution, even with both sides stating that they wished to proceed with committee consideration of Bill C-51.

Committees enjoy considerable flexibility and fluidity in their proceedings. It is one of the great advantages that they have in the organization of their work. In fact, it is one of the hallmarks of the committee system, since it not

only facilitates and fosters greater co-operation among committee members, but it also enables committee members to find their own solutions to the issues they face. Yet this latitude was certainly never intended as a means to thwart existing rules and practices wilfully.

On June 3, 2003, the then Deputy Speaker stated, at page 6775 of the *Debates*:

> I have said that committees are granted much liberty by the House but, along with the right to conduct their proceedings in a way that facilitates their deliberations, committees have a concomitant responsibility to see that the necessary rules and procedures are followed and the rights of Members and the Canadian public are respected.

Just as importantly, it has always been understood that bringing deliberations in committee to a procedural standstill is also not desirable.

The work of committees is an essential part of the legislative process; its integrity depends on Members remembering that the rules governing its proceedings matter. The rules adopted by the House exist for the benefit and protection of all Members as they carry out their parliamentary functions, both in the House and in committee.

It is perhaps useful in the circumstances to remind the House of the underlying principle, as stated on page 250 of O'Brien and Bosc, that:

> … parliamentary procedure is intended to ensure that there is a balance between the government's need to get its business through the House, and the opposition's responsibility to debate that business without completely immobilizing the proceedings of the House.

Faced with such a situation arising in committee, how is the Speaker to adjudicate? As has been noted, *House of Commons Procedure and Practice*, Second Edition, states at page 1046 that:

> The Speaker is reluctant to intervene in a committee's internal affairs unless the committee has previously reported on the matter to the House.

This is so because of the freedom that committees have to determine their own approaches to carrying out their work. For this reason, committees are commonly referred to as being "masters of their proceedings". This is why it is said that matters originating in committee which require the attention of the House must be brought forward by way of a report from the Committee itself. This is not merely a technicality. Rather, it is an indication of the breadth and importance of the powers delegated to committees by the House.

The approach taken by the Chair in cases brought to its attention has long been founded on respect for the authority of committees to manage their own affairs, even in times of difficulty. This requires the Chair to refrain from intervening until invited to do so formally by way of a report from the Committee itself on a given matter. Speakers have consistently and successively upheld this separation of authorities.

On June 10, 2010, Speaker Milliken stated, at page 3678 of *Debates*:

> Indeed, on numerous occasions, Speakers have restated the cardinal rule that committees are masters of their own proceedings and any alleged irregularities occurring in committees can be taken up in the House only following a report from the Committee itself. There have been very few exceptions to this rule.

On March 13, 2012, as Speaker, I had cause to state, at page 6199 of *Debates*:

> In the absence of a report from that Committee, I do not know what the Speaker can do about what is alleged to have happened. However, if such a report does end up coming to the House then the Speaker will consider it then.

Again, on June 5, 2012, at page 8860 of *Debates*, I stated:

> When events transpire at committee, it is up to the Committee to deal with anything that may have breached protocol or the rules at the Committee ... if there is a report presented to the House, it will be something that the Speaker can then weigh in on.

This is not to suggest that the Chair is left without any discretion to intervene in committee matters but, rather, it acknowledges that such intervention is exceedingly rare and justifiable only in highly exceptional procedural as opposed to political circumstances. For example, in a ruling delivered on June 20, 1994, *Debates* pages 5582 to 5584, Speaker Parent intervened in a committee matter involving two bills that had been reported to the House when the fundamental right of the House to establish the membership of a committee was not respected by a committee that had exceeded its powers.

On July 24, 1969, Speaker Lamoureux stated, at page 4183 of *Debates*:

> What hon. Members would like the Chair to do ... is to substitute his judgment for the judgment of certain hon. Members. Can I do this in accordance with the traditions of Canada ... where the Speaker is not the master of the House ...? The Speaker is a servant of the House. Hon. Members may want me to be the master of the House today but tomorrow, when, perhaps in other circumstances I might claim this privilege, they might have a different opinion .... It would make me a hero, I suppose, if I were to adopt the attitude that I could judge political situations

> such as this and substitute my judgment for that of certain hon. Members .... But I do not believe that this is the role of a Speaker under our system ....

In keeping with the overwhelming body of practice in adjudicating disputes of this kind, the Chair cannot find sufficient grounds in this case to supplant the Committee's authority by reaching into committee proceedings on this matter before the Committee has seen fit to report it to the House.

Thus, until such time as the Standing Committee on Public Safety and National Security decides to report this matter to the House, the management of its proceedings remains within its exclusive purview.

Before concluding, I would however be remiss if I did not point out that the *Standing Orders*, as they exist today, provide avenues to deal with difficulties in reaching agreements between the parties in circumstances such as those brought before the House in this case.

I thank all hon. Members for their attention in this matter.

COMMITTEE POWERS

Sending for documents: scope of a standing committee's mandate; *sub judice* convention; separation between branches of government

November 21, 2011
Debates, **pp. 3337–8**

Context

On November 14, 2011, Joe Comartin (Windsor—Tecumseh) rose on a point of order concerning a motion adopted by the Standing Committee on Access to Information, Privacy and Ethics.[1] As part of a study, the Committee adopted a motion ordering the production of certain documents from the Canadian Broadcasting Corporation (CBC) which were the subject of ongoing litigation. Mr. Comartin contended that the adoption of the motion and the study subsequently initiated by the Committee went beyond its mandate and violated the *sub judice* convention and the constitutional separation of the legislative and judicial branches. He asked that the Speaker direct that the study be either discontinued or suspended until the conclusion of court proceedings. Other Members made comments and the Speaker took the matter under advisement.[2] On November 15, 2011, Peter Van Loan (Leader of the Government in the House of Commons) argued that committees are masters of their own proceedings and that, in the absence of a report from the Committee, the circumstances did not merit the intervention of the Speaker. The Speaker took again the matter under advisement.[3]

Resolution

On November 21, 2011, the Speaker delivered his ruling, stating that the weight of precedent was in favour of not intervening in the absence of a

1. Standing Committee on Access to Information, Privacy and Ethics, *Minutes of Proceedings*, November 1, 2011, Meeting No. 12.
2. *Debates*, November 14, 2011, pp. 2997–3002.
3. *Debates*, November 15, 2011, pp. 3061–3.

committee report to respect and preserve the primacy of committees in their proceedings and that the role of the Speaker in such matters does not stray beyond what has been established over time. Furthermore, he noted that, since the documents in question had been provided in a sealed envelope pending further decisions from the Standing Committee on Access to Information, Privacy and Ethics, the Committee still had the opportunity to resolve the matter, and any intervention from the Chair would be premature.

DECISION OF THE CHAIR

The Speaker: I am now ready to rule on the point of order raised by the hon. Member for Windsor—Tecumseh on November 14 regarding proceedings in the Standing Committee on Access to Information, Privacy and Ethics, with respect to its study of access to information at the Canadian Broadcasting Corporation, the CBC.

I would like to thank the Member for Windsor—Tecumseh for having raised this matter and for having provided me with helpful background material. I would like as well to thank the Leader of the Government in the House of Commons, the Minister of State and Chief Government Whip, and the Members for Winnipeg North and Saanich—Gulf Islands for their interventions.

The matter raised by the Member for Windsor—Tecumseh revolves around a motion adopted by the Standing Committee on Access to Information, Privacy and Ethics ordering the Canadian Broadcasting Corporation to provide the Committee with certain documents which are currently the subject of court proceedings involving the CBC and the Information Commissioner.

While acknowledging the long-standing principle that committees are masters of their own proceedings, the hon. Member argued that the freedom committees enjoy is neither total nor absolute. More importantly, he argued that since the documents in question are already the subject of ongoing litigation before the Federal Court of Appeal, the Committee was effectively trying to substitute its decision for that of the courts and, in doing so, had offended the *sub judice* convention and the constitutional principle of the

separation of powers between the legislature and the judiciary. In other words, the Member for Windsor—Tecumseh is claiming that the Committee has gone beyond the scope of its mandate.

In seeking the Chair's intervention in this matter, the hon. Member presented this situation as just the kind of exceptional instance where my predecessors sanctioned the intervention of the Speaker, and so he seeks specific remedies from the Chair: he asks either that I direct the Committee to cease the study it has initiated or that I at least direct the Committee to suspend its study until litigation has run its course.

For his part, the hon. Leader of the Government in the House of Commons agreed that committees are masters of their own proceedings and acknowledged that there might be circumstances where the involvement of the Speaker in a committee matter might be justified. However, he stated that he had heard no compelling argument to warrant the Speaker's intervention in this particular case, notably in the absence of a report on the matter from the Committee.

With regard to the substantive arguments advanced, let me state at the outset that I acknowledge the seriousness and sincerity with which Members have approached this matter. It is evident to the Chair that the Member for Windsor—Tecumseh and other Members are deeply concerned with the turn of events thus far in the Standing Committee on Access to Information, Privacy and Ethics. At the same time, the Chair recognizes the persuasiveness of the arguments put forward by the Government House Leader in relation to the weight of precedent when it comes to intervening in the affairs of a committee without the benefit of a report relative to the activities that are being questioned.

In a ruling on May 10, 2007, regarding the alleged intimidation of witnesses in a committee, Speaker Milliken agreed that successive Speakers have been reluctant to intervene in committee proceedings. At that time, he stated at page 9288 of *Debates*:

> ... it would be highly inappropriate for the Speaker to break with our past practice and pre-empt any decision the

> committee may choose to make. The committee is seized of the issue and if a report is presented I will of course deal with any procedural questions which may be raised as a result. Until such a report is presented however, I must leave the matter in the hands of the committee.

In a similar ruling delivered on March 14, 2008, at page 4182 of *Debates*, in reference to the mandate of the same Standing Committee as the one at issue today, Speaker Milliken said:

> For the present, I cannot find sufficient grounds to usurp the role of committee members in regulating the affairs of the Standing Committee on Access to Information, Privacy and Ethics. However, if and when the committee presents a report, should Members continue to have concerns about the work of the Committee, they will have an opportunity to raise them in the House and I will revisit the question at that time.

The Chair does not wish to minimize the importance of the issues raised but rather to respect and preserve the primacy of committees in their proceedings, and to ensure that the role of the Speaker in such matters does not stray beyond what has been established over time.

On this point, the Chair wishes to remind the House that in the oft-cited Speaker Fraser ruling with regard to "extreme situations" in which the Chair might choose to intervene, Speaker Fraser was confronted with the likelihood that it might be months before the committee then in question could convene to resolve the matter. Obviously, the case before us today presents completely and significantly different circumstances.

In terms of the situation at hand, I am aware that the Chair of the Standing Committee on Access to Information, Privacy and Ethics has stated in a memorandum to members of the Committee that she believes that the Committee " ... should wait until the Speaker has ruled on this matter before proceeding with meetings on the study of access to information at the CBC".

For his part, the Government House Leader has implied that an intervention by the Speaker at this juncture " ... is premature because the Chair could have more relevant timing down the road to entertain these issues if and when this matter evolves through a report from the Ethics Committee".

It should also be noted that the Committee has received certain documents from the CBC, some of which are, as I understand it, still in a sealed envelope awaiting further decisions by the Committee.

This indicates to me that there remains room in further deliberations by the Committee for a thorough airing of the serious issues that have been raised and, potentially, for a satisfactory resolution of the current situation. In the interests of giving the Committee time to address the issues with which it is confronted, I am reluctant to insert myself into the substance of this matter at this early stage until events in Committee play themselves out.

Accordingly, given the circumstances I have just described, the Chair believes that it should not at this time presume to prejudge the direction and outcome of the Committee's deliberations. Therefore, the matter must rest with the Committee for the time being.

I thank all Members for their attention.

Postscript

On November 24, 2011, the Committee agreed to return the sealed documents to the CBC, and that the unsealed documents would be considered at an in camera meeting to ensure their confidentiality.[4]

4. Standing Committee on Access to Information, Privacy and Ethics, *Minutes of Proceedings*, November 24, 2011, Meeting No. 13.

COMMITTEES OF THE WHOLE HOUSE

Chair's statement: guidelines for the conduct of debate

June 23, 2011
Debates, **p. 1090**

Context

On June 23, 2011, the House adopted Government Business No. 3, a motion that provided for the consideration of Bill C-6, *An Act to provide for the resumption and continuation of postal services*.[1] The motion stipulated that the Bill would be referred to a Committee of the Whole. Noting that it would be the first time that many Members would be participating in such a debate, the Chair of Committees of the Whole (Denise Savoie) delivered a brief statement regarding the rules of debate for the proceedings.

STATEMENT OF THE CHAIR

The Chair of Committees of the Whole: Order, please. I would like to open this session of the Committee of the Whole on Bill C-6 by making a short statement about the proceedings.

This is the first time many hon. Members will be participating in a debate like this, and I would like to explain how we are going to proceed.

The rules of debate are as follows.

No Member shall speak for more than 20 minutes at a time. Speeches must be strictly relevant to the terms of the clause under consideration. There is no formal period for questions and comments. Members may use their time to speak or to ask questions, and the responses will be counted in the time allotted to that Member. Motions do not need a seconder, and Members may

1. *Journals*, June 23, 2011, p. 153.

speak more than once. Finally, Members need not be in their own seat to be recognized, just to make my job a little easier.

The committee will now proceed with the clause-by-clause study of the Bill.

Before we begin, I would like to ask those Members who have amendments to please bring them to the Table.

9 — PRIVATE MEMBERS' BUSINESS

9

PRIVATE MEMBERS' BUSINESS

INTRODUCTION

Private Members' Business consists of the consideration of bills and motions proposed in the House of Commons by Members of Parliament other than the Speaker, the Deputy Speaker, Ministers of the Crown and Parliamentary Secretaries. One hour of every sitting day is devoted to Private Members' Business.

The current rules relating to the conduct of Private Members' Business developed largely from recommendations of the Special Committee on the Reform of the House of Commons (the "McGrath Committee"), established in December 1984. Further modifications were implemented through succeeding decades in a continuing effort to enhance the opportunities for private Members to have their items considered.

An important change to Private Members' Business, which occurred during Speaker Scheer's tenure, was related to the substitution of items dropped from the *Order Paper* due to the fact that they were not preceded by a ways and means motion when one was needed. In February 2015, the Twenty-Eighth Report of the Standing Committee on Procedure and House Affairs was concurred in by the House and provided that the sponsor of such an item may, within five sitting days of the item being dropped, give written notice of his or her intention to have another item of Private Members' Business added to the Order of Precedence.

The rulings included in this chapter deal with three issues: financial restrictions; the management of Private Members' Business; and the admissibility of committee amendments.

Private Members' bills are subject to restrictions arising from the financial prerogatives of the Crown which are exercised exclusively by Ministers on behalf of the Crown. The power to impose or increase a tax rests solely with the Government and any legislation to do so must be preceded by a ways and means motion, moved by a Minister. Therefore, a private Member cannot introduce bills that impose taxes. Similarly, any bill containing provisions for the spending of public funds must be accompanied by a recommendation from the Governor General, obtained by a Minister of the Crown. In 1994, the *Standing Orders* were amended to permit private Members to introduce bills requiring royal recommendations. However, no such bill may come to a vote at third reading unless a royal recommendation has been produced. In a statement on October 19, 2011, the Speaker outlined a practice by which items added to the Order of Precedence would be assessed for their need for a royal recommendation and Members were advised accordingly. On a number of occasions, he was required to rule on restrictions to Private Members' Business arising from the financial prerogatives of the Crown.

In a statement on March 27, 2013, the Speaker invoked the authority of the Chair granted to manage Private Members' Business in allowing Private Members' Business to proceed despite it being 30 minutes past the time at which it would have ended pursuant to the *Standing Orders*.

Finally, on May 2, 2014, Speaker Scheer reaffirmed the authority of the Chair regarding the admissibility of amendments adopted at committee, finding that the amendments adopted with regard to Bill C-483, *An Act to amend the Corrections and Conditional Release Act (escorted temporary absence)*, were within the scope and principle of the Bill.

PRIVATE MEMBERS' BUSINESS

FINANCIAL LIMITATION

Establishment of first Order of Precedence: Speaker's statement regarding royal recommendation; forty-eight hours' notice requirement for exchange

October 19, 2011
Debates, **pp. 2220–1**

Context

On October 19, 2011, the Speaker made a statement regarding the management of Private Members' Business. He explained that all legislation that results in a public expenditure, including a private Member's bill, must be accompanied by a royal recommendation by a Minister of the Crown. However, he explained that a private Member's bill requiring a royal recommendation may be introduced in the House and considered up until third reading, at which time, if no royal recommendation has been provided, the Speaker must then decline to put the question. In accordance with practice, the Speaker identified three bills on the Order of Precedence which at first glance appeared to infringe the financial prerogative of the Crown. He then invited Members to make statements in relation to his observation at the earliest opportunity.

The Speaker added that the first Member on the Order of Precedence, Russ Hiebert (South Surrey—White Rock—Cloverdale), whose Bill C-317 was subject to a point of order,[1] had given notice that he would be unable to move his motion should Private Members' Business begin the following day. However, since no exchange can be requested prior to the tabling of the report of the Standing Committee on Procedure and House Affairs on votable items, only this Member was prevented from organizing an exchange that would meet the 48-hours' notice required. Thus, using the powers accorded to him by Standing Order 94(1)(*a*),[2] the Speaker

1. *Debates*, October 18, 2011, pp. 2170–2.
2. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 526.

allowed an exchange to proceed without the usual notice requirement. He also invited the Standing Committee on Procedure and House Affairs to examine the matter.

STATEMENT OF THE CHAIR

The Speaker: Order, please. The House will soon begin Private Members' Business for the first time in this Parliament. I would, therefore, like to make a brief statement regarding the management of Private Members' Business.

I want to remind all hon. Members about the procedures governing Private Members' Business and the responsibilities of the Chair in the management of this process.

As Members know, certain constitutional procedural realities constrain the Speaker and Members insofar as legislation is concerned. One such procedural principle concerns whether or not a private Member's bill requires a royal recommendation. The Speaker has underscored this principle in a number of statements over the course of preceding parliaments.

As noted on page 831 of *House of Commons Procedure and Practice*, Second Edition:

> 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 prerogative, referred to as the "financial initiative of the Crown", is the basis essential to the system of responsible government and is signified by way of the "royal recommendation".

The requirement for a royal recommendation is grounded in constitutional principles found in the *Constitution Act, 1867*. The language of section 54 of that *Act* is echoed in Standing Order 79(1),[3] which reads:

> This House shall not adopt or pass any vote, resolution, address or bill for the appropriation of any part of the public revenue, or of any tax or impost, to any purpose that has not been first recommended to the House by a message from the Governor General in the session in which such vote, resolution, address or bill is proposed.

Any bill that authorizes the spending of public funds for a new and distinct purpose or effects an appropriation of public funds must be accompanied by a message from the Governor General recommending the expenditure to the House. This message, known formally as the "royal recommendation", can only be transmitted to the House by a Minister of the Crown.

A private Member's bill that requires a royal recommendation may, however, be introduced and considered right up until third reading, on the assumption that a royal recommendation will be provided by a Minister. If none is produced by the conclusion of the third reading stage, the Speaker is required to decline to put the question on third reading.

Following the establishment or the replenishment of the order of precedence, the Chair has developed a practice of reviewing items so that the House can be alerted to bills which, at first glance, appear to impinge on the financial prerogative of the Crown. The aim of this practice is to allow Members the opportunity to intervene in a timely fashion to present their views about the need for those bills to be accompanied by a royal recommendation.

Accordingly, following the establishment of the Order of Precedence on October 5, 2011, I wish to draw the attention of the House to three bills that give the Chair some concern as to the spending provisions they contemplate. These are Bill C-215, *An Act to amend the Canadian Forces Superannuation Act and the Royal Canadian Mounted Police Superannuation*

3. See Appendix A, p. 516.

Act (deletion of deduction from annuity), standing in the name of the Member for Sackville—Eastern Shore.

There is also Bill C-291, *An Act to amend the Employment Insurance Act (waiting period and maximum special benefits)*, standing in the name of the Member for Bourassa.

The third bill is Bill C-308, *An Act respecting a Commission of Inquiry into the development and implementation of a national fishery rebuilding strategy for fish stocks off the coast of Newfoundland and Labrador*, standing in the name of the Member for St. John's South—Mount Pearl.

I would encourage hon. Members who would like to make arguments regarding the requirement of a royal recommendation for any of these bills, or with regard to any other bills now on the order of precedence, to do so at an early opportunity.

In addition, Members are likely aware that a point of order was raised yesterday by the Member for Windsor—Tecumseh regarding Bill C-317, *An Act to amend the Income Tax Act (labour organizations)*, standing in the name of the Member for South Surrey—White Rock—Cloverdale, arguing that this Bill should have been preceded by a ways and means motion. As Members know, limitations exist on the manner in which taxation measures may be amended in the absence of an accompanying ways and means motion. If a bill that requires a ways and means motion has not been preceded by one, our rules do not permit it to remain on the *Order Paper*.

As I stated in the House last night, should any other Members wish to provide additional information regarding Bill C-317, they are encouraged to raise them without unnecessary delay, as the Chair has taken note of the matter and would like to ensure the question is resolved as quickly as possible.

Finally, I should inform Members that earlier today I received written notice from the hon. Member for South Surrey—White Rock—Cloverdale that he would be unable to move his motion should Private Members' Business begin tomorrow.

As Members well know, Private Members' Business is set to start 24 hours following the presentation of the report of the Standing Committee on Procedure and House Affairs indicating those items which remain votable, and no exchange can be requested prior to the tabling of the said report.

The report was indeed tabled earlier today, and the Member now finds himself in the unforeseen situation of not being able to provide the 48 hours' notice required to proceed with an exchange.

In this particular case, and considering my role regarding the orderly and timely conduct of Private Members' Business pursuant to Standing Order 94(1)(*a*),[4] I will allow the exchange to proceed without the usual notice requirement.

The Standing Committee on Procedure and House Affairs may wish to examine this matter and consider whether our practices in relation to the application of Standing Orders 94(1)(*a*) and 94(2)(*a*)[5] continue to serve the House in an effective manner. As your Speaker, I see no reason why the Member occupying the first position on the Order of Precedence would not be afforded an opportunity to make an exchange, while all other Members can do so.

I thank hon. Members for their attention.

Editor's Note

See page 469 for a ruling concerning Bill C-317.

Postscript

The notice requirement having been waived, Mr. Hiebert proceeded with an exchange in the Order of Precedence such that Bill C-311, *An Act to amend the Importation of Intoxicating Liquors Act (interprovincial importation of wine for personal use)* in the name of Dan Albas (Okanagan—Coquihalla), was debated at second reading the following day.

4. See Appendix A, p. 526.
5. See Appendix A, p. 526–7.

During the Second Session of the Forty-First Parliament, the Standing Committee on Procedure and House Affairs recommended in its Twenty-Eighth Report that Standing Order 94(1)(*a*)[6] be amended so that, at the beginning of a Parliament, Private Members' Hour begin no earlier than 48 hours after the presentation in the House of its report on votable items. The Report was concurred in by the House on February 4, 2015, and the changes to the *Standing Orders* took effect at the beginning of the Forty-Second Parliament.[7]

6. See Appendix A, p. 526.

7. Twenty-Eighth Report, presented to the House on December 8, 2014 (*Journals*, p. 1915) and concurred in on February 4, 2015 (*Journals*, p. 2092).

PRIVATE MEMBERS' BUSINESS

FINANCIAL LIMITATION

Business of Ways and Means: motion required for bill seeking to prevent the alleviation of taxation

November 4, 2011
Debates, **pp. 2984–6**

Context

On October 18, 2011, Joe Comartin (Windsor—Tecumseh) rose on a point of order with respect to Bill C-317, *An Act to amend the Income Tax Act (labour organizations)*, standing in the name of Russ Hiebert (South Surrey—White Rock—Cloverdale). Mr. Comartin argued that the Bill should have been preceded by a ways and means motion because its application could lead to the termination of the tax-exempt status of certain labour organizations. He claimed that, as members of a labour organization are required to pay dues regardless of its tax-exempt status, the Bill could have the effect of removing an existing alleviation of taxation and potentially creating a new class of taxpayers, which is a prerogative of the Crown. He therefore requested that the Speaker find that the Bill was improperly before the House and declare all proceedings null and void. Another Member made a comment and the Speaker took the matter under advisement.[1] At subsequent sittings of the House, Mr. Hiebert and Mr. Comartin made additional submissions.[2]

Resolution

On November 4, 2011, the Speaker delivered his ruling, agreeing that Bill C-317 would have the effect of creating a new class of taxpayer who would be subject to the removal of an alleviation of taxation. Consequently, the Speaker ruled that Bill C-317 should have been preceded by a ways and means motion and that the proceedings on the

1. *Debates*, October 18, 2011, pp. 2170–2.
2. *Debates*, October 25, 2011, p. 2438, October 26, 2011, pp. 2537–9, November 1, 2011, pp. 2811–2.

Bill to date was null and void, that the order for second reading of the Bill be discharged, and that the Bill be withdrawn from the *Order Paper*. The Speaker concluded that, as that would likely be the only opportunity in the Forty-First Parliament for the Member to have an item in the Order of Precedence, he would use the powers granted to him by Standing Order 94(1)[3] and permit Mr. Hiebert to substitute another item onto the Order of Precedence within 20 calendar days[4] or, if not, have his name dropped from the *Order Paper*.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the point of order raised by the hon. Member for Windsor—Tecumseh concerning ways and means proceedings on Bill C-317, *An Act to amend the Income Tax Act (labour organizations)* standing in the name of the hon. Member for South Surrey—White Rock—Cloverdale.

I would like to thank the hon. Member for Windsor—Tecumseh for having raised this matter, as well as the Bill's sponsor, the hon. Member for South Surrey—White Rock—Cloverdale, for their interventions and the hon. Member for Kitchener—Conestoga for his comments.

The hon. Member for Windsor—Tecumseh pointed out in his remarks that the purpose of Bill C-317 is to require that labour organizations provide specific financial information to the Minister for public disclosure. The Member also pointed out that failure of a labour organization to comply with this new requirement could result in a labour organization losing its tax-exempt status, noting, as well, the subsequent impact this would have on dues-paying members of that organization.

3. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 526.
4. The Speaker stated 20 sitting days in his ruling, but corrected himself in a subsequent statement to the House. See postscript.

He characterized the effect of Bill C-317 in the *Debates*, on October 18, 2011, page 2171, as follows:

> … the income tax exemptions that apply to labour organizations and the reduction of taxable income as a result of writing off the dues paid by their members would easily qualify as alleviations of taxation. Further, the provisions of Bill C-317 would repeal those alleviations by terminating the labour organization's *Income Tax Act* exempt status.

The Member for Windsor—Tecumseh explained that any labour organization not in compliance with the financial disclosure requirements outlined in the Bill would no longer enjoy the tax-exempt status as provided for in section 149(1)(*k*) of the *Income Tax Act*. He argued that this would have the effect of taxing a person, or in this case an organization, that was not already a taxpayer. He concluded therefore that Bill C-317 should have been preceded by the adoption of a ways and means motion.

In his submission, the hon. Member for South Surrey—White Rock—Cloverdale in the *Debates*, on October 25, 2011, page 2438, contended that the purpose of Bill C-317 was limited simply to providing a mechanism for the public disclosure of union finances and only augmented the existing types of information that the Canada Revenue Agency was already empowered by its mandate to compel organizations or taxpayers to provide.

He also referred to a ruling from the Fortieth Parliament on Bill C-470, *An Act to amend the Income Tax Act (revocation of registration)*.[5] He found a parallel between Bill C-317 and Bill C-470. Where it had been argued that charitable donations were discretionary so that Bill C-470 did not affect any existing alleviation of tax, the hon. Member argued that in the case of Bill C-317, payers of union dues could exercise their discretion by opting to join a union or labour organization that adhered to the financial disclosure provisions of Bill C 317 and, thus, maintain the tax-exempt status of their dues.

5. The title of the bill was replaced by *An Act to amend the Income Tax Act (disclosure of compensation — registered charities)* on March 8, 2011.

Before analyzing the arguments presented, it is important to take into consideration the context of this discussion as it is worth noting that the financial procedures of the House are based on long-established and strictly observed rules of procedure, procedures that are based on the concept of the financial initiative of the Crown. This concept is clearly presented in Erskine May's *Parliamentary Practice*, Twenty-Third Edition, at page 848:

> … it is for the Commons, acting on the sole initiative of Ministers, first to authorize the relevant expenditure (or "Supply") and, second, to provide through taxes and other sources of public revenue the "Ways and Means" deemed necessary to meet the Supply so granted.

The role of the Speaker in the present situation is to determine if Bill C-317 is a legislative initiative which imposes a tax or other charge on the taxpayer and therefore would have required the prior adoption of a ways and means motion by the House.

In order to respond to that question, it may be useful to examine more closely the different precedents cited by the Members who intervened on the present case.

During his initial point of order, the Member for Windsor—Tecumseh referred the Chair to the ruling of November 28, 2007, on Bill C-418, *An Act to amend the Income Tax Act (deductibility of remuneration)*. In that ruling, at pages 1463 and 1464 of the *Debates*, the Chair made reference to Erskine May's *Parliamentary Practice*, Twenty-Third Edition at page 896, where it explains, "the repeal or reduction of existing alleviations of taxation" must be preceded by a ways and means motion.

The Chair concluded that Bill C-418 removed an existing tax exemption which then resulted in an increase in the tax payable by certain corporations. In the Chair's view, this constituted a reduction of an alleviation of taxation and therefore required that it be preceded by a ways and means motion. I would ask hon. Members to retain the phrase, "alleviation of taxation", as I will return to that concept shortly.

First, let me address the differing interpretations of how an individual union member's rights are affected by Bill C-317. The Member for Windsor—Tecumseh argued that union members do not have the automatic individual right to stop paying dues to an organization that no longer enjoys a tax-exempt status. The Member for South Surrey—White Rock—Cloverdale countered that, in his estimation, union members would have the ability to select a labour organization that complies with the provisions of Bill C-317 to ensure that they maintain their tax exemption. While this is more a question of labour law than procedure, the Chair is aware that members of a labour organization cannot easily change which union they belong to nor can they simply withhold paying their union dues except in extremely limited situations provided for in the law. As pointed out by the Member for Windsor—Tecumseh, this is in stark contrast to donors to a charity who may choose whether they wish to contribute, the organization they wish to contribute to and the timing of any such contribution.

The Chair must agree with the hon. Member for Windsor—Tecumseh that the non-compliance of the labour organization would also remove a current income tax deduction for the dues-paying members of the union. For the Chair, there can be no doubt that this also can be characterized as the removal of an existing alleviation. For this reason alone, Bill C-317 would need to be preceded by a ways and means motion.

Let us return to the larger context. The Chair appreciates the point made by the Member for South Surrey—White Rock—Cloverdale that the Canada Revenue Agency already enjoys the authority to compel the financial disclosure of certain financial information. However, it is not the power of the CRA to require the disclosure of certain information that is at issue.

It is true, as the Member for South Surrey—White Rock—Cloverdale claims, that Bill C-317 changes the reporting requirements for labour organizations. However, contrary to what the Member asserted, that is not all it does. In stating that non-compliance with these new requirements makes a labour organization ineligible for tax deductions available to labour organizations, Bill C-317 potentially removes an alleviation of taxation and in so doing, the Bill potentially creates a new statutory authority that removes what is currently an unqualified exemption.

Perhaps the distinction can be better understood by looking again at the example offered by Bill C-470 in the Third Session of the Fortieth Parliament. That Bill changed the definition of a class of taxpayers, specifically registered charities, but the alleviation of tax for registered charities as a class of taxpayer remained unchanged. By contrast, Bill C-317 does not change the definition of a labour organization. It demands disclosure of certain types of information, failing which disclosure, the Bill provides that the tax alleviation in place for labour organizations will no longer apply to non-complying labour organizations.

This is a subtle difference, but it is a crucial distinction for the Chair.

The ruling on Bill C-470 determined that the Bill altered the conditions and requirements for an organization to be classified by the Minister as a registered charity but did not alter the class of taxpayer. In more basic terms, Bill C-470 proposed to alter the definition of what constituted a registered charity but did not change the tax exemptions for registered charities. In the ruling on C-470, delivered on March 15, 2010, and found on pages 419 and 420 of the *Debates*, I stated:

> It seems to me that the Bill instead seeks to provide a new criterion that would allow the Minister to determine into which existing class of taxpayer an organization falls. The existing tax regimes and the existing tax rates are not affected.

However, unlike Bill C-470, Bill C-317 does not attempt to alter the conditions or requirements for an organization to be classified as a labour organization.

According to the provisions of Bill C-317, under the *Income Tax Act*, a labour organization would remain a labour organization, whether it complied with the proposed disclosure requirements or not. If enacted, Bill C-317 would thus create a situation whereby labour organizations can be differentiated into two distinct categories, those that comply with the financial reporting mechanism and those that do not.

In the Chair's opinion, this new category of labour organization would constitute a class of taxpayer that does not currently exist. Labour organizations in the newly created class, that is, those that do not meet the financial reporting requirements outlined in the Bill, would see the removal of their current tax-exempt status. Put simply, Bill C-470 did not alter the tax-exempt status of registered charities, whereas, in contrast, Bill C-317 proposes to alter the current tax-exempt status of labour organizations.

As a result of this determination, I find that Bill C-317, by distinguishing between certain labour organizations, creates a new class of taxpayer and that this new class of taxpayer would then be subject to a removal of an alleviation of taxation.

For the reasons stated, I must, therefore, rule that Bill C-317 should have been preceded by a ways and means motion. Consequently, I also rule that all proceedings on the Bill to date, namely introduction and first reading, have not respected the provisions of our *Standing Orders* and are, therefore, null and void. Accordingly, the Chair directs that the order for second reading of the Bill be discharged and the Bill be withdrawn from the *Order Paper*.

However, I am reluctant to deny the Member what is likely his only opportunity in this Parliament to have an item on the order of precedence.

As Members are well aware, Standing Order 94(1)[6] provides the Speaker with the authority to "make all arrangements necessary to ensure the orderly conduct of Private Members' Business".

In light of the unique nature of this particular situation, the Member for South Surrey—White Rock—Cloverdale will be permitted to substitute another item onto the Order of Precedence. The substitution shall be done pursuant to the spirit of Standing Order 92.1,[7] which allows a Member 20 sitting days to substitute another item of Private Members' Business for the item that has been discharged and withdrawn. Should the Member choose not to replace

6. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 526.
7. See Appendix A, p. 525.

the item within the next 20 sitting days, his name will then be dropped from the *Order Paper*.

I thank the House for its attention.

Editor's Note

See page 463 for a statement concerning Bill C-317.

Postscript

On November 14, 2011, the Speaker made a statement to provide clarification on his ruling delivered on November 4, 2011. He indicated that when linking the time provided to the Member to substitute his item to Standing Order 92.1,[8] he had inadvertently stated that Mr. Hiebert would have 20 sitting days. He explained that it was an error, as this Standing Order provides for 20 calendar days. He consequently gave Mr. Hiebert until December 9, 2011 to substitute his item.[9]

On December 5, 2011, Mr. Hiebert introduced Bill C-377, *An Act to amend the Income Tax Act (requirements for labour organizations)*, which was added to the Order of Precedence.[10]

8. See Appendix A, p. 525.
9. *Debates*, November 14, 2011, p. 2997.
10. A ruling concerning Bill C-377 can be found on page 477.

PRIVATE MEMBERS' BUSINESS

FINANCIAL LIMITATION

Royal recommendation: increase in operating costs

December 6, 2012
Debates, **pp. 12937–8**

Context

On November 22, 2012, Alexandre Boulerice (Rosemont—La Petite-Patrie) rose on a point of order with respect to Bill C-377, *An Act to amend the Income Tax Act (requirements for labour organizations)*, standing in the name of Russ Hiebert (South Surrey—White Rock—Cloverdale). Mr. Boulerice argued that the bill would require the Canada Revenue Agency (CRA) to produce new financial reports and acquire a new computer system, both of which would result in the expenditure of public funds in a manner not then authorized. Consequently, Mr. Boulerice argued, the Bill should be accompanied by a royal recommendation. Other Members made comments on that day and at subsequent sittings of the House. The Speaker took the matter under advisement.[1]

Resolution

On December 6, 2012, the Speaker delivered his ruling. He explained that, although the passage of Bill C-377 could result in an increased workload or operating costs for the CRA, the proposed changes fall within the mandate of the CRA and therefore do not require spending for a new function. Consequently, the Speaker concluded that Bill C-377 does not require a royal recommendation.

1. *Debates*, November 22, 2012, pp. 12356–8, November 27, 2012, pp. 12490–1, November 28, 2012, pp. 12585–9, November 29, 2012, pp. 12608–9, November 30, 2012, p. 12713.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the point of order raised on November 22, 2012, by the hon. Member for Rosemont—La Petite-Patrie regarding the need for a royal recommendation for Bill C-377, *An Act to amend the Income Tax Act (requirements for labour organizations)*, standing in the name of the hon. Member for South Surrey—White Rock—Cloverdale.

I would like to thank the Member for Rosemont—La Petite-Patrie for having raised the matter; as well as the hon. Parliamentary Secretary to the Leader of the Government in the House of Commons; the hon. House Leader of the Official Opposition; and the Members for Saint-Lambert, Cape Breton—Canso and South Surrey—White Rock—Cloverdale for their interventions.

In raising this matter, the Member for Rosemont—La Petite-Patrie explained that the provisions of clause 1 of the Bill would result in expenditures of public funds in a manner and for purposes not currently authorized. Specifically, he claimed that a new entity within the Canada Revenue Agency, CRA, would have to be created to administer and enforce the provisions contained in the Bill, and that there would be costs incurred in setting up a new computer system to meet the requirements of the legislation. These, he concluded, would constitute "new and distinct" costs, thereby creating a need for a royal recommendation.

Similarly, the Member for Cape Breton—Canso argued that the Bill envisioned a new function and purpose within the CRA and as such the terms and conditions of the Royal Recommendation that authorizes the agency's current spending would be altered. He also suggested that Bill C-377 would regulate the internal affairs of unions and the relationships with their members, thus giving the CRA a new labour relations function.

For his part, the Parliamentary Secretary to the Leader of the Government in the House of Commons rejected these arguments, claiming instead that the authority to spend for the purposes set out in the Bill would fall under the general authority of existing broader provisions of the *Income Tax Act*, as well as the Agency's general authorities under the *Canada Revenue Agency Act*. He illustrated this by referring to those portions of the *Income Tax Act* dealing

with reporting requirements for charity organizations. He also stated that, should additional funds be required, the Government would seek them from Parliament through an appropriation bill covering operating expenses.

The question before us is whether the implementation of Bill C-377 would constitute a new appropriation requiring a royal recommendation, or whether the costs would be administrative in nature and would fall under the ongoing mandate of the Canada Revenue Agency.

I would like to remind the House of the conditions under which a royal recommendation is required. As the Member for Rosemont—La Petite-Patrie noted in his presentation, bills which authorize new charges for purposes not anticipated in the estimates require royal recommendations. *House of Commons Procedure and Practice*, Second Edition, at page 833, further states:

> The charge imposed by the legislation must be "new and distinct"; in other words, not covered elsewhere by some more general authorization.

The Canada Revenue Agency already has the mandate to administer various tax and benefits regimes and to manage a broad range of other programs and activities. More specifically, section 5 of the *Canada Revenue Agency Act* mandates the Agency to support the administration and enforcement of program legislation. Furthermore, in reviewing the documentation provided by the Member for Saint-Lambert, which makes reference to specific cost information provided by the CRA in response to questions from the Standing Committee on Finance, the Chair notes the references made to section 220 of the *Income Tax Act*, which states:

> (1) The Minister shall administer and enforce this Act and the Commissioner of Revenue may exercise all the powers and perform the duties of the Minister under this Act.
>
> (2) Such officers, clerks and employees as are necessary to administer and enforce this Act shall be appointed or employed in the manner authorized by law.

In carefully reviewing this matter, it seems to the Chair that the provisions of the Bill, namely the requirements for the Agency to administer new filing requirements for labour organizations and making information available to the public, may result in an increased workload or operating costs but do not require spending for a new function per se. In other words, the Agency, as part of its ongoing mandate, already administers filing requirements and makes information available to the public. The requirements contained in Bill C-377 can thus be said to fall within the existing spending authorization of the Agency.

In a ruling given by Speaker Milliken on February 23, 2007, which can be found at page 7261 of *Debates*, he stated, in relation to the then Bill C-327, *An Act to amend the Broadcasting Act (reduction of violence in television broadcasts)*, that:

> Bill C-327 may or may not result in a greater workload for the CRTC, but the activities being proposed are within its mandate. If additional staff or resources are required to perform these activities then they would be brought forward in a separate appropriation bill for Parliament's consideration.

It appears to the Chair that a similar situation would arise should Bill C-377 be enacted and, thus, that this particular ruling is directly relevant and applicable to the current circumstance.

A second ruling by Speaker Milliken, this one on December 3, 2010, *Debates* page 6803, in reference to then Bill C-568, *An Act to amend the Statistics Act (mandatory long-form census)*, is also helpful. In that ruling it was apparent to the Speaker that the proposed legislation was not adding to or expanding upon the existing mandate of Statistics Canada and, thus, that the bill in question did not require a royal recommendation.

Accordingly, the Chair rules that Bill C-377 in its current form does not require a royal recommendation to proceed through the next stages of the legislative process.

I thank hon. Members for their attention.

Postscript

Bill C-377 completed all stages during subsequent sittings of the House and the Senate during the First Session of the Forty-First Parliament, was reinstated and received Royal Assent on June 30, 2015, in the Second Session of the Forty-First Parliament.

PRIVATE MEMBERS' BUSINESS

PRIVATE MEMBERS' HOUR

Rescheduling of debate: consideration despite it being 30 minutes past the time at which the hour should have ended

March 27, 2013
Debates, **p. 15312**

Context

On March 6, 2013, due to many recorded divisions having been taken that day, Private Members' Hour was cancelled pursuant to Standing Order 30(7).[1] As a result, the second hour of debate on motion M-412, standing in the name of Jay Aspin (Nipissing—Timiskaming), did not take place, and thus the Speaker was required to reschedule the debate, after consultation, to take place within 10 sitting days.

On March 27, 2013, the Speaker rose to make a statement that, notwithstanding the provisions in Standing Order 30(7),[2] the period for Private Members' Business would begin more than 30 minutes beyond the ordinary ending of Private Members' Hour. He then explained that this exception was required because the second hour of debate on motion M-412, which had been delayed on March 6, 2013, had to be rescheduled to no later than the following day, pursuant to the requirements of Standing Order 30(7).[3] However, an order of the House provided that the House would adjourn early on March 28, before Private Members' Hour. In accordance with his authority to ensure the orderly conduct of Private Members' Business, the Speaker stated that the House would immediately proceed to the consideration of that business, even if Private Members' Hour would normally have been cancelled.

1. See Appendix A, "Cited Provisions: *Standing Orders of the House of Commons*", p. 497.
2. See Appendix A, p. 497.
3. See Appendix A, p. 497.

STATEMENT OF THE CHAIR

The Speaker: On Wednesday, March 6, 2013, due to many recorded divisions taken that day, Private Members' Hour was cancelled pursuant to Standing Order 30(7).[4] For that reason, the second hour of debate on Motion No. 412, standing in the name of the Member for Nipissing—Timiskaming, did not take place.

Standing Order 30(7)[5] states that this business "shall be added to the business of the House on a day to be fixed, after consultation, by the Speaker". The *Standing Orders* then set out two conditions for the selection of the new date. First, the Speaker must attempt to "designate that day within the next 10 sitting days" and, second, the Speaker must not permit "the intervention of more than one adjournment period".

The debate therefore has to take place tomorrow at the latest, following Private Members' Hour. However, I would remind the House that pursuant to an order made on Monday, February 25, 2013, the House will adjourn at 2:30 p.m. I am reluctant to interfere with that schedule, as it precedes an adjournment period for which Members will no doubt have already made their travel plans.

Since we are now past 7 p.m., the House would normally be faced with having to reschedule the item, an option that is clearly not possible for the reasons I have just outlined.

Last week I was informed that there were consultations and that it was agreed that the second hour of debate on Motion No. 412 would be added to today's proceedings.

Being now faced with an unforeseen situation and bound by the provisions of Standing Order 30(7),[6] I wish to inform the House that Private Members' Business will indeed take place today, with the two items scheduled for debate

4. See Appendix A, p. 497.
5. See Appendix A, p. 497.
6. See Appendix A, p. 497.

as indicated on the *Notice Paper*. In doing so, the Chair is mindful of his obligations to "make all arrangements necessary to ensure the orderly conduct of Private Members' Business", as set out in Standing Order 94.[7]

I thank hon. Members for their collaboration.

It being 7:12 p.m., the House will now proceed to the consideration of Private Members' Business as listed on today's *Order Paper*.

7. See Appendix A, p. 526.

PRIVATE MEMBERS' BUSINESS

CONSIDERATION IN COMMITTEE

Committee amendments: consistency with principle and scope of bill

May 2, 2014
Debates, **pp. 4880–1**

Context

On April 9, 2014, Wayne Easter (Malpeque) rose on a point of order with respect to Bill C-483, *An Act to amend the Corrections and Conditional Release Act (escorted temporary absence)*, standing in the name of Dave MacKenzie (Oxford). He explained that the purpose of the Bill was to transfer to the National Parole Board the power to grant or cancel temporary escorted absences to inmates convicted of first- or second-degree murder. By adopting amendments that would allow institutional heads to retain that power in certain instances, Mr. Easter reasoned, the Standing Committee on Public Safety and National Security had gone beyond the principle of the Bill. Other Members made submissions to the Speaker on that day and on April 28, 2014. The Speaker took the matter under advisement.[1]

Resolution

On May 2, 2014, the Speaker delivered his ruling. He explained that it was his authority to determine the admissibility of amendments. The Speaker concluded that Bill C-483, as amended by the Committee, did not alter the aims and intent of the Bill, namely limiting the power of institutional heads to grant escorted temporary absences and providing a role for the National Parole Board in the granting of such absences. He therefore found that the amendments adopted by the Committee were in keeping with the scope and principle of the Bill as adopted at second reading. Consequently, the Speaker deemed the amendments admissible.

1. *Debates*, April 9, 2014, pp. 4477–8, 4484–6, April 28, 2014, pp. 4611–2.

DECISION OF THE CHAIR

The Speaker: I am now prepared to rule on the point of order raised by the hon. Member for Malpeque on April 9, 2014, concerning amendments contained in the Third Report from the Standing Committee on Public Safety and National Security on Bill C-483, *An Act to amend the Corrections and Conditional Release Act (escorted temporary absence)*, presented in the House on April 2, 2014.

I would like to thank the Member for Malpeque for having raised this important matter. I would also like to thank the Government House Leader and the House Leader of the Official Opposition for their contributions.

In raising his point of order, the Member for Malpeque argued that the amendments adopted by the Committee had significantly altered the intent of the Bill and that these amendments were not in keeping with the principle of the Bill as adopted at second reading. In making his argument, the Member referred to the second reading debate, during which the sponsor of the Bill had indicated its intent as being to provide the National Parole Board of Canada with the authority to grant or cancel escorted temporary absences for offenders convicted of first- or second-degree murder. The Member asserted that the Bill's main purpose was to remove the ability of institutional heads to grant escorted temporary absences for such offenders.

It was the Member's contention that the amendments adopted by the Committee, specifically in allowing institutional heads to grant escorted temporary absences once the Parole Board had granted an initial absence, were contrary to the principle of the Bill. The Member is asking the Chair to declare the amendments in question null and void and to direct that they no longer form part of the Bill. The House Leader of the Official Opposition rose in support of the Member's point of order.

In his intervention, the Government House Leader contended that the amendments in question were both consistent with the principle of the Bill and within its scope. Several procedural authorities were cited to bolster this opinion. He also noted that the Chair of the Standing Committee had ruled that the amendments were in order and that this ruling should be respected.

The Government House Leader pointed out that the intent of the Bill was to involve the National Parole Board of Canada in granting the escorted temporary absences, which would, in turn, involve the victims by providing them with an opportunity to participate in the hearings during such a process. The new provision, in his view, meets that requirement.

Before addressing the particulars of this point of order, I would like to remind the House of the Speaker's authority in dealing with a report on a bill containing inadmissible amendments. *House of Commons Procedure and Practice*, Second Edition, states at page 775:

> The admissibility of ... amendments ... may therefore be challenged on procedural grounds when the House resumes its consideration of the bill at report stage. The admissibility of the amendments is then determined by the Speaker of the House, whether in response to a point of order or on his or her own initiative.

I have examined the Third Report of the Standing Committee, as well as Bill C-483, both in its first reading version and in the reprint containing the committee's amendments. The intent of Bill C-483, as stated in the summary to the first reading copy of the Bill, is as follows:

> This enactment amends the *Corrections and Conditional Release Act* to limit the authority of the institutional head to authorize the escorted temporary absence of an offender convicted of first or second degree murder.

The amendment to clause 1 of the Bill restructures the Bill so that the provisions with regard to the National Parole Board of Canada are removed and later inserted in the subsequent new clause 1.1.

New clause 1.1 of the Bill provides that the National Parole Board of Canada is involved in the granting of the initial escorted temporary absence. This process would be very similar to the original provisions previously contained in clause 1. The key difference is a new paragraph that the amendment also added, which provides that:

> If the Parole Board of Canada authorizes the temporary absence of an inmate under subsection (1) for community service, family contact, including parental responsibilities, or personal development for rehabilitative purposes and the temporary absence is not cancelled because the inmate has breached a condition, the institutional head may authorize that inmate's subsequent temporary absences with escort ...

This would mean that once the authority is granted by the National Parole Board of Canada for an escorted temporary absence, it remains in place unless it is cancelled. The institutional head may grant subsequent escorted temporary absences only if the original authority from the National Parole Board remains in place. If conditions are breached and the absence is cancelled, authority must be sought anew from the National Parole Board of Canada.

This appears to me to limit the authority of the institutional head in this regard. Escorted temporary absences must still be authorized by the National Parole Board of Canada. What appears to be different in this new provision is the frequency with which authorization must be sought. I can see nothing in the Bill as amended by the Committee which would alter the aims and intent of the Bill, namely the limiting of the power of institutional heads to grant escorted temporary absences and providing a role for the National Parole Board in the granting of such absences. Therefore, I find that the amendments adopted by the Committee are indeed in keeping with the scope and principle of the Bill as adopted at second reading and are, therefore, admissible.

Accordingly, the House may proceed with its study of the bill as reported from the Standing Committee on Public Safety and National Security.

I thank the House for its attention.

APPENDIX A — CITED PROVISIONS

STANDING ORDERS OF THE HOUSE OF COMMONS

(VERSION EFFECTIVE MAY 2011)

CONFLICT OF INTEREST CODE FOR MEMBERS OF THE HOUSE OF COMMONS

(VERSION EFFECTIVE MAY 2011)

STANDING ORDERS OF THE HOUSE OF COMMONS

(VERSION EFFECTIVE MAY 2011)

UNPROVIDED CASES

1.1

Participation of Members with disabilities.

The Speaker may alter the application of any Standing or special Order or practice of the House in order to permit the full participation in the proceedings of the House of any Member with a disability.

CHAPTER I / Presiding Officers / Order and Decorum

13

When motion is contrary to rules and privileges of Parliament.

Whenever the Speaker is of the opinion that a motion offered to the House is contrary to the rules and privileges of Parliament, the Speaker shall apprise the House thereof immediately, before putting the question thereon, and quote the Standing Order or authority applicable to the case.

CHAPTER II / Members

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Decorum.

(1) When the Speaker is putting a question, no Member shall enter, walk out of or across the House, or make any noise or disturbance.

(2) When a Member is speaking, no Member shall pass between that Member and the Chair, nor interrupt him or her, except to raise a point of order.

(3) No Member may pass between the Chair and the Table, nor between the Chair and the Mace when the Mace has been taken off the Table by the Sergeant-at-Arms.

(4) When the House adjourns, Members shall keep their seats until the Speaker has left the Chair.

CHAPTER II / Members

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When a Member shall withdraw.

If anything shall come in question touching the conduct, election or right of any Member to hold a seat, that Member may make a statement and shall withdraw during the time the matter is in debate.

CHAPTER III / Sittings of the House

27

Extension of sitting hours in June.

(1) On the tenth sitting day preceding June 23, a motion to extend the hours of sitting to a specific hour during the last ten sitting days may be proposed, without notice, by any Minister during routine proceedings.

When question put.

(2) Not more than two hours after the commencement of proceedings thereon, the Speaker shall put every question necessary to dispose of the said motion.

CHAPTER IV / Daily Program

30

Prayers.

(1) The Speaker shall read prayers every day at the meeting of the House before any business is entered upon.

Commencement of business.

(2) Not more than two minutes after the reading of prayers, the business of the House shall commence.

Routine Proceedings.

(3) At 3:00 p.m. on Mondays and Wednesdays, at 10:00 a.m. on Tuesdays and Thursdays, and at 12:00 noon on Fridays, the House shall proceed to the ordinary daily routine of business, which shall be as follows:

Tabling of Documents (pursuant to Standing Orders 32 or 109)
Introduction of Government Bills
Statements by Ministers (pursuant to Standing Order 33)
Presenting Reports from Interparliamentary Delegations (pursuant to Standing Order 34)
Presenting Reports from Committees (pursuant to Standing Order 35)
Introduction of Private Members' Bills
First Reading of Senate Public Bills
Motions
Presenting Petitions (pursuant to Standing Order (36(6))
Questions on the *Order Paper*

When introduction of Government Bills not completed before statements by Members.

(4)(*a*) When proceedings under "Introduction of Government Bills" are not completed on a Tuesday or Thursday prior to statements by Members, the ordinary daily routine of business shall continue immediately after oral questions are taken up, notwithstanding section (5) of this Standing Order, until the completion of all items under "Introduction of Government Bills", suspending as much of Private Members' Business as necessary.

Before ordinary hour of daily adjournment.

(*b*) When proceedings under "Introduction of Government Bills" are not completed before the ordinary hour of daily adjournment, the House shall continue to sit to complete the ordinary daily routine of business up to and including "Introduction of Government Bills", whereupon the Speaker shall adjourn the House.

Time for statements by Members, Oral Question period and Orders of the Day.

(5) At 2:00 p.m. on Mondays, Tuesdays, Wednesdays and Thursdays, and at 11:00 a.m. on Fridays, Members, other than Ministers of the Crown, may make statements pursuant to Standing Order 31. Not later than 2:15 p.m. or 11:15 a.m., as the case may be, oral questions shall be taken up. At 3:00 p.m. on Tuesdays and Thursdays, and after the ordinary daily routine of business has been disposed of on Mondays, Wednesdays and Fridays, the Orders of the Day shall be considered in the order established pursuant to section (6) of this Standing Order.

Day by day order of business.

(6) Except as otherwise provided in these Standing Orders, the order of business shall be as follows:

(MONDAY)

(BEFORE THE DAILY ROUTINE OF BUSINESS)

Private Members' Business – from 11:00 a.m. to 12:00 noon: Public Bills, Private Bills, Notices of Motions and Notices of Motions (Papers).

Government Orders.

(AFTER THE DAILY ROUTINE OF BUSINESS)

Government Orders.

(TUESDAY AND THURSDAY)

(AFTER THE DAILY ROUTINE OF BUSINESS)

Government Orders.

Private Members' Business – from 5:30 to 6:30 p.m.: Public Bills, Private Bills, Notices of Motions and Notices of Motions (Papers).

(WEDNESDAY)

(AFTER THE DAILY ROUTINE OF BUSINESS)

Notices of Motions for the Production of Papers.

Government Orders.

Private Members' Business – from 5:30 to 6:30 p.m.: Public Bills, Private Bills, Notices of Motions and Notices of Motions (Papers).

(FRIDAY)

(BEFORE THE DAILY ROUTINE OF BUSINESS)

Government Orders.

(AFTER THE DAILY ROUTINE OF BUSINESS)

Government Orders.

Private Members' Business – from 1:30 to 2:30 p.m.: Public Bills, Private Bills, Notices of Motions and Notices of Motions (Papers).

Delay or interruption of Private Members' Hour.

(7) If the beginning of Private Members' Hour is delayed for any reason, or if the Hour is interrupted for any reason, a period of time corresponding to the time of the delay or interruption shall be added to the end of the Hour suspending as much of the business set out in section (6) of this Standing Order as necessary. If the beginning of Private Members' Hour is delayed or the interruption continues past thirty minutes after the time at which the Hour would have ordinarily ended, Private Members' Hour for that day and the business scheduled for consideration at that time, or any remaining portion thereof, shall be added to the business of the House on a day to be fixed, after consultation, by the Speaker, who shall attempt to designate that day within the next ten sitting days, but who, in any case, shall not permit the intervention of more than one adjournment period provided for in Standing Order 28(2). In cases where the Speaker adjourns the House pursuant to Standing Orders 2(3), 30(4)(*b*) or 83(2), this section shall not apply.

CHAPTER IV / Daily Program

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Statements by Members.

A Member may be recognized, under the provisions of Standing Order 30(5), to make a statement for not more than one minute. The Speaker may order a Member to resume his or her seat if, in the opinion of the Speaker, improper use is made of this Standing Order.

CHAPTER IV / Daily Program

32

Documents deposited pursuant to statutory or other authority.

(1) Any return, report or other paper required to be laid before the House in accordance with any Act of Parliament or in pursuance of any resolution or Standing Order of this House may be deposited with the Clerk of the House on any sitting day or, when the House stands adjourned, on the Wednesday following the fifteenth day of the month. Such return, report or other paper shall be deemed for all purposes to have been presented to or laid before the House.

Messages from the Senate deposited with the Clerk.

(1.1) When the House stands adjourned, any message from the Senate concerning bills to be given Royal Assent may be deposited with the Clerk of the House and such message shall be deemed for all purposes to have been received by the House on the day on which it is deposited with the Clerk of the House.

Tabling of documents in the House.

(2) A Minister of the Crown, or a Parliamentary Secretary acting on behalf of a Minister, may, in his or her place in the House, state that he or she proposes to lay upon the Table of the House, any report or other paper dealing with a matter coming within the administrative responsibilities of the government, and, thereupon, the same shall be deemed for all purposes to have been laid before the House.

Recorded in *Journals.*

(3) In either case, a record of any such paper shall be entered in the *Journals*.

In both official languages.

(4) Any document distributed in the House or laid before the House pursuant to sections (1) or (2) of this Standing Order shall be in both official languages.

Permanent referral to committee.

(5) Reports, returns or other papers laid before the House in accordance with an Act of Parliament shall thereupon be deemed to have been permanently referred to the appropriate standing committee.

Referral to committees in other cases.

(6) Papers required to be laid upon the Table pursuant to Standing Order 110 shall be deemed referred to the appropriate standing committee during the period specified in laying the same upon the Table.

CHAPTER V / Questions / Written Questions

39

Questions on the *Order Paper*.

(1) Questions may be placed on the *Order Paper* seeking information from Ministers of the Crown relating to public affairs; and from other Members, relating to any bill, motion or other public matter connected with the business of the House, in which such Members may be concerned; but in putting any such question or in replying to the same no argument or opinion is to be offered, nor any facts stated, except so far as may be necessary to explain the same; and in answering any such question the matter to which the same refers shall not be debated.

Responsibilities of the Clerk.

(2) The Clerk of the House, acting for the Speaker, shall have full authority to ensure that coherent and concise questions are placed on the *Notice Paper* in accordance with the practices of the House, and may, on behalf of the Speaker, order certain questions to be posed separately.

Starred questions. Limit of three.

(3)(*a*) Any Member who requires an oral answer to his or her question may distinguish it by an asterisk, but no Member shall have more than three such questions at a time on the daily *Order Paper.*

Reply printed in Hansard.

(*b*) If a Member does not distinguish his or her question by an asterisk, the Minister to whom the question is addressed hands the answer to the Clerk of the House who causes it to be printed in the official report of the *Debates*.

Limit of four questions on the *Order Paper*.

(4) No Member shall have more than four questions on the *Order Paper* at any one time.

Request for ministerial response.

(5)(*a*) A Member may request that the Ministry respond to a specific question within forty-five days by so indicating when filing his or her question.

After forty-five days, question deemed referred to committee; can be transferred to adjournment proceedings.

(*b*) If such a question remains unanswered at the expiration of the said period of forty-five days, the matter of the failure of the Ministry to respond shall be deemed referred to the appropriate Standing Committee. Within five sitting days of such a referral the Chair of the committee shall convene a meeting of the committee to consider the matter of the failure of the Ministry to respond. The question shall be designated as referred to committee on the *Order Paper* and, notwithstanding Standing Order 39(4), the Member may submit one further question for each question so designated. The Member who put the question may rise in the House under "Questions on the *Order Paper*" and give notice that he or she intends to transfer the question and raise the subject-matter thereof on the adjournment of the House, and the order referring the matter to committee is thereby discharged.

Transfer of question to Notices of Motions.

(6) If, in the opinion of the Speaker, a question on the *Order Paper* put to a Minister of the Crown is of such a nature as to require a lengthy reply, the Speaker may, upon the request of the government, direct the same

to stand as a notice of motion, and to be transferred to its proper place as such upon the *Order Paper*, the Clerk of the House being authorized to amend the same as to matters of form.

Question made order for return.

(7) If a question is of such a nature that, in the opinion of the Minister who is to furnish the reply, such reply should be in the form of a return, and the Minister states that he or she has no objection to laying such return upon the Table of the House, the Minister's statement shall, unless otherwise ordered by the House, be deemed an order of the House to that effect and the same shall be entered in the *Journals* as such.

CHAPTER VII / Special Debates **/** Emergency Debates

52

Leave must be requested.

(1) Leave to make a motion for the adjournment of the House for the purpose of discussing a specific and important matter requiring urgent consideration must be asked for after the ordinary daily routine of business as set out in sections (3) and (4) of Standing Order 30 is concluded.

Written statement to Speaker.

(2) A Member wishing to move, "That this House do now adjourn", under the provisions of this Standing Order shall give to the Speaker, at least one hour prior to raising it in the House, a written statement of the matter proposed to be discussed.

Making statement.

(3) When requesting leave to propose such a motion, the Member shall rise in his or her place and present without argument the statement referred to in section (2) of this Standing Order.

Speaker's prerogative.

(4) The Speaker shall decide, without any debate, whether or not the matter is proper to be discussed.

Speaker to take into account.

(5) In determining whether a matter should have urgent consideration, the Speaker shall have regard to the extent to which it concerns the administrative responsibilities of the government or could come within the scope of ministerial action and the Speaker also shall have regard to the probability of the matter being brought before the House within reasonable time by other means.

Conditions.

(6) The right to move the adjournment of the House for the above purposes is subject to the following conditions:

(*a*) the matter proposed for discussion must relate to a genuine emergency, calling for immediate and urgent consideration;

(*b*) not more than one matter can be discussed on the same motion;

(*c*) not more than one such motion can be made at the same sitting;

(*d*) the motion must not revive discussion on a matter which has been discussed in the same session pursuant to the provisions of this *Standing Order*;

(*e*) the motion must not raise a question of privilege; and

(*f*) the discussion under the motion must not raise any question which, according to the *Standing Orders* of the House, can only be debated on a distinct motion under notice.

Speaker not bound to give reasons.

(7) In stating whether or not the Speaker is satisfied that the matter is proper to be discussed, the Speaker is not bound to give reasons for the decision.

Reserving decision.

(8) If the Speaker so desires, he or she may defer the decision upon whether the matter is proper to be discussed until later in the sitting, when the proceedings of the House may be interrupted for the purpose of announcing his or her decision.

Motion to stand over.

(9) If the Speaker is satisfied that the matter is proper to be discussed, the motion shall stand over until the ordinary hour of daily adjournment on that day, provided that the Speaker, at his or her discretion, may direct that the motion shall be set down for consideration on the following sitting day at an hour specified by the Speaker.

Motion to be taken up at the ordinary hour of daily adjournment.

(10) Notwithstanding any Standing or Special Order, when a request to make such a motion has been made on any day, except Friday, and the Speaker directs that it be considered the same day, the motion shall be taken up at the ordinary hour of daily adjournment.

When moved on Friday.

(11) When a request to make such a motion has been made on any Friday, and the Speaker directs that it be considered the same day, it shall be considered forthwith.

Time limit on debate.

(12) The proceedings on any motion being considered, pursuant to sections (9) or (11) of this Standing Order, may continue beyond the ordinary hour of daily adjournment but, when debate thereon is concluded prior to that hour in any sitting, it shall be deemed withdrawn. Subject to any motion adopted pursuant to Standing Order 26(2), at 12:00 midnight on any sitting day except Friday, and at 4:00 p.m. on Friday, the Speaker shall declare the motion carried and forthwith adjourn the House until the next sitting day. In any other case, the Speaker, when satisfied that the debate has been concluded, shall declare the motion carried and forthwith adjourn the House until the next sitting day.

Time limit on speeches. Period of debate divided in two.

(13) No Member shall speak longer than twenty minutes during debate on any such motion, provided that a Member may indicate to the Speaker that he or she will be dividing his or her time with another Member.

Debate not to be interrupted by Private Members' Business.

(14) Debate on any such motion shall not be interrupted by "Private Members' Business."

Debate to take precedence. Exception.

(15) The provisions of this Standing Order shall not be suspended by the operation of any other Standing Order relating to the hours of sitting or in respect of the consideration of any other business; provided that, in cases of conflict, the Speaker shall determine when such other business shall be considered or disposed of and the Speaker shall make any consequential interpretation of any Standing Order that may be necessary in relation thereto.

CHAPTER VII / Special Debates **/** Take-note Debates

53.1

Motion by Minister decided without debate or amendment.

(1) A Minister of the Crown, following consultation with the House Leaders of the other parties, may propose a motion at any time, to be decided without debate or amendment, setting out the subject-matter and designating a day on which a take-note debate shall take place, provided that the motion may not be proposed less than forty-eight hours before the said debate is to begin.

Debate to begin at the ordinary hour of daily adjournment.

(2) A take-note debate ordered by the House pursuant to section (1) of this Standing Order shall begin at the ordinary hour of daily adjournment and any proceedings pursuant to Standing Order 38 shall be suspended on that day.

Rules for take-note debate.

(3) The rules to apply to a debate under the present Standing Order shall be those applied during a Committee of the Whole except that:

(*a*) the Speaker may preside;

(*b*) no Member may speak for longer than ten minutes and each speech may be followed by a period of not more than ten minutes for questions and comments;

(*c*) the Speaker shall not accept any motions except a motion "That the Committee do now rise";

(*d*) when no Member rises to speak or after four hours of debate, whichever is earlier, the Committee shall rise; and

(*e*) when the Committee rises, the House shall immediately adjourn to the next sitting day.

CHAPTER VIII / Motions

56.1

When unanimous consent denied, routine motion by Minister.

(1)(*a*) In relation to any routine motion for the presentation of which unanimous consent is required and has been denied, a Minister of the Crown may request during Routine Proceedings that the Speaker propose the said question to the House.

(*b*) For the purposes of this Standing Order, "routine motion" shall be understood to mean any motion, made upon Routine Proceedings, which may be required for the observance of the proprieties of the House, the maintenance of its authority, the management of its business, the arrangement of its proceedings, the establishing of the powers of its committees, the correctness of its records or the fixing of its sitting days or the times of its meeting or adjournment.

Question put forthwith.

(2) The question on any such motion shall be put forthwith, without debate or amendment.

Objection by twenty-five or more Members.

(3) When the Speaker puts the question on such a motion, he or she shall ask those who object to rise in their places. If twenty-five or more Members then rise, the motion shall be deemed to have been withdrawn; otherwise, the motion shall have been adopted.

CHAPTER IX / Public Bills **/** Introduction and Readings

68

Motion for introduction of bills.

(1) Every bill is introduced upon motion for leave, specifying the title of the bill; or upon motion to appoint a committee to prepare and bring it in.

Brief explanation permitted.

(2) A motion for leave to introduce a bill shall be deemed carried, without debate, amendment or question put, provided that any Member moving for such leave may be permitted to give a succinct explanation of the provisions of the said bill.

Imperfect or blank bills.

(3) No bill may be introduced either in blank or in an imperfect shape.

Motion by a Minister to prepare and bring in a bill.

(4) A motion by a Minister of the Crown to appoint or instruct a standing, special or legislative committee to prepare and bring in a bill, pursuant to section (1) of this Standing Order, shall be considered under Government Orders. During debate on any such motion no Member shall be permitted to speak more than once or for more than ten minutes. After not more than ninety minutes debate on any such motion, the Speaker shall interrupt debate and put all questions necessary to dispose of the

motion without further debate or amendment. A motion by a Minister of the Crown to concur in the report of a committee pursuant to this section shall also be taken up under Government Orders and shall, for the purposes of Standing Order 78, be considered to be a stage of a public bill.

Committee's report.

(5) A committee appointed or instructed to prepare and bring in a bill shall, in its report, recommend the principles, scope and general provisions of the said bill and may, if it deems it appropriate, but not necessarily, include recommendations regarding legislative wording.

Order to bring in a bill.

(6) The adoption of a motion to concur in a report made pursuant to section (5) of this Standing Order shall be an order to bring in a bill based thereon.

Second reading stage of the bill. Minister's motion.

(7) When a Minister of the Crown, in proposing a motion for first reading of a bill, has stated that the bill is in response to an order made pursuant to section (6) of this Standing Order, notwithstanding any Standing Order, the bill shall not be set down for consideration at the second reading stage before the third sitting day after having been read a first time. The second reading and any subsequent stages of such a bill shall be considered under Government Orders. When a motion for second reading of such a bill is proposed, notwithstanding any Standing Order, the Speaker shall immediately put all questions necessary to dispose of the second reading stage of the bill without debate or amendment.

CHAPTER IX / Public Bills **/** Introduction and Readings

70

Printed in English and French before second reading.

All bills shall be printed before the second reading in the English and French languages.

73

Motion to refer a government bill to a committee before second reading.

(1) Immediately after the reading of the Order of the Day for the second reading of any government bill, a Minister of the Crown may, after notifying representatives of the opposition parties, propose a motion that the said bill be forthwith referred to a standing, special or legislative committee. The Speaker shall immediately propose the question to the House and proceedings thereon shall be subject to the following conditions:

(a) the Speaker shall recognize for debate a Member from the party forming the government, followed by a Member from the party forming the Official Opposition, followed by a Member from each officially recognized party in the House, in order of the number of Members in that party, provided that, if no Member from the party whose turn has been reached rises, a Member of the next party in the rotation or a Member who is not a Member of an officially recognized party may be recognized;

(b) the motion shall not be subject to any amendment;

(c) no Member may speak more than once nor longer than ten minutes; and

(d) after not more than five hours of debate, the Speaker shall interrupt the debate and the question shall be put and decided without further debate.

Referral before amendment.

(2) Every public bill, except for bills referred to a committee before being read a second time pursuant to section (1) of this Standing Order, shall be read twice and referred to a committee before any amendment may be made thereto.

Referral to a committee.

(3) Unless otherwise ordered and except for bills referred to a committee before being read a second time pursuant to section (1) of this Standing Order, in giving a bill second reading, the same shall be referred to a standing, special or legislative committee.

Supply bills.

(4) Any bill based on a Supply motion shall, after second reading, stand referred to a Committee of the Whole.

Second reading of borrowing authority bills: two days' consideration.

(5) When an Order of the Day is read for the consideration of any bill respecting borrowing authority, a maximum of two sitting days shall be set aside for the consideration of the bill at second reading. On the second of the said days, at fifteen minutes before the expiry of the time provided for Government Orders, the Speaker shall interrupt the proceedings then in progress and shall put forthwith and successively, without further debate or amendment, every question necessary for the passage of the second reading stage of the bill.

CHAPTER IX / Public Bills **/** Report Stage at Second Reading

76

Not before third sitting day.

(1) The report stage of any bill reported by any standing, special or legislative committee before the bill has been read a second time shall not be taken into consideration prior to the third sitting day following the presentation of the said report, unless otherwise ordered by the House.

Notice to amend.

(2) If, not later than the second sitting day prior to the consideration of the report stage of a bill that has not yet been read a second time, written notice is given of any motion to amend, delete, insert or restore any clause in a bill, it shall be printed on the *Notice Paper*. When the same amendment is put on notice by more than one Member, that notice shall be printed once, under the name of each Member who has submitted it. If the Speaker decides that an amendment is out of order, it shall be returned to the Member without having appeared on the *Notice Paper*.

Recommendation of Governor General.

(3) When a recommendation of the Governor General is required in relation to any amendment of which notice has been given pursuant to section (2)

of this Standing Order, notice shall be given of the said Recommendation no later than the sitting day before the day on which the report stage is to commence and such notice shall be printed on the *Notice Paper* along with the amendment to which it pertains.

Amendment as to form only.

(4) An amendment, in relation to form only in a government bill, may be proposed by a Minister of the Crown without notice, but debate thereon may not be extended to the provisions of the clause or clauses to be amended.

NOTE: The purpose of this section is to facilitate the incorporation into a bill of amendments of a strictly consequential nature flowing from the acceptance of other amendments. No waiver of notice would be permitted in relation to any amendment which would change the intent of the bill, no matter how slightly, beyond the effect of the initial amendment.

Speaker's power to select amendments.

(5) The Speaker shall have the power to select or combine amendments or clauses to be proposed at the report stage and may, if he or she thinks fit, call upon any Member who has given notice of an amendment to give such explanation of the subject of the amendment as may enable the Speaker to form a judgement upon it. If an amendment has been selected that has been submitted by more than one Member, the Speaker, after consultation, shall designate which Member shall propose it.

NOTE: The Speaker will not normally select for consideration any motion previously ruled out of order in committee, unless the reason for its being ruled out of order was that it required a recommendation of the Governor General, in which case the amendment may be selected only if such Recommendation has been placed on notice pursuant to this Standing Order. The Speaker will normally only select motions that were not or could not be presented in committee. A motion, previously defeated in committee, will only be selected if the Speaker judges it to be of such exceptional significance as to warrant a further consideration at the report stage. The Speaker will not normally select for separate debate a repetitive series of motions which are interrelated and, in making the selection, shall consider whether individual Members will be able to express their concerns during the debate on another motion.

For greater certainty, the purpose of this Standing Order is, primarily, to provide Members who were not members of the committee with an opportunity to have the House consider specific amendments they wish to propose. It is not meant to be a reconsideration of the committee stage.

For greater clarity, the Speaker will not select for debate a motion or series of motions of a repetitive, frivolous or vexatious nature or of a nature that would serve merely to prolong unnecessarily proceedings at the report stage and, in exercising this power of selection, the Speaker shall be guided by the practice followed in the House of Commons of the United Kingdom.

Debate on the amendments.

(6) When the Order of the Day for the consideration of a report stage is called, any amendment proposed pursuant to this Standing Order shall be open to debate and amendment.

Limits on speeches.

(7) When debate is permitted, the first Member from each of the recognized parties speaking during proceedings on the first amendment proposed at report stage may speak for not more than twenty minutes, and no other Member shall speak more than once or longer than ten minutes during proceedings on any amendment at that stage.

Division deferred.

(8) When a recorded division has been demanded on any amendment proposed during the report stage of a bill, the Speaker may defer the calling in of the Members for the purpose of recording the "yeas" and "nays" until more or all subsequent amendments to the bill have been considered. A recorded division or divisions may be so deferred from sitting to sitting.

NOTE: In cases when there are an unusually great number of amendments for consideration at the report stage, the Speaker may, after consultation with the representatives of the parties, direct that deferred divisions be held before all amendments have been taken into consideration.

Motion when report stage concluded.

(9) When proceedings at the report stage on any bill that has not been read a second time have been concluded, a motion "That the bill, as amended, be concurred in and be read a second time" or "That the bill be

concurred in and read a second time" shall be put and forthwith disposed of, without amendment or debate.

Third reading.

(10) The report stage of a bill pursuant to this Standing Order shall be deemed to be an integral part of the second reading stage of the bill. When a bill has been concurred in and read a second time in accordance with the procedures set forth in this Standing Order, it shall be set down for a third reading and passage at the next sitting of the House.

CHAPTER IX / Public Bills / Report Stage after Second Reading

76.1

Not before second sitting day.

(1) The report stage of any bill reported by any standing, special or legislative committee after the bill has been read a second time shall not be taken into consideration prior to the second sitting day following the presentation of the said report, unless otherwise ordered by the House.

Notice to amend.

(2) If, not later than the sitting day prior to the consideration of the report stage of a bill that has been read a second time, written notice is given of any motion to amend, delete, insert or restore any clause in a bill, it shall be printed on the *Notice Paper*. When the same amendment is put on notice by more than one Member, that notice shall be printed once, under the name of each Member who has submitted it. If the Speaker decides that an amendment is out of order, it shall be returned to the Member without having appeared on the *Notice Paper*.

Recommendation of Governor General.

(3) When a recommendation of the Governor General is required in relation to any amendment to be proposed at the report stage of a bill that has been read a second time, at least twenty-four hours' written notice shall be given of the said Recommendation and proposed amendment.

Amendment as to form only.

(4) An amendment, in relation to form only in a government bill, may be proposed by a Minister of the Crown without notice, but debate thereon may not be extended to the provisions of the clause or clauses to be amended.

NOTE: The purpose of the section is to facilitate the incorporation into a bill of amendments of a strictly consequential nature flowing from the acceptance of other amendments. No waiver of notice would be permitted in relation to any amendment which would change the intent of the bill, no matter how slightly, beyond the effect of the initial amendment.

Speaker's power to select amendments.

(5) The Speaker shall have power to select or combine amendments or clauses to be proposed at the report stage and may, if he or she thinks fit, call upon any Member who has given notice of an amendment to give such explanation of the subject of the amendment as may enable the Speaker to form a judgement upon it. If an amendment has been selected that has been submitted by more than one Member, the Speaker, after consultation, shall designate which Member shall propose it.

NOTE: The Speaker will not normally select for consideration by the House any motion previously ruled out of order in committee and will normally only select motions which were not or could not be presented in committee. A motion, previously defeated in committee, will only be selected if the Speaker judges it to be of such exceptional significance as to warrant a further consideration at the report stage. The Speaker will not normally select for separate debate a repetitive series of motions which are interrelated and, in making the selection, shall consider whether individual Members will be able to express their concerns during the debate on another motion.

For greater certainty, the purpose of this Standing Order is, primarily, to provide Members who were not members of the committee, with an opportunity to have the House consider specific amendments they wish to propose. It is not meant to be a reconsideration of the committee stage of a bill.

For greater clarity, the Speaker will not select for debate a motion or series of motions of a repetitive, frivolous or vexatious nature or of a nature that would serve merely to prolong unnecessarily proceedings at the report stage and, in exercising this power of selection, the Speaker shall be guided by the practice followed in the House of Commons of the United Kingdom.

Debate on the amendments.

(6) When the Order of the Day for the consideration of a report stage is called, any amendment of which notice has been given in accordance with this Standing Order shall be open to debate and amendment.

Limits on speeches.

(7) When debate is permitted, no Member shall speak more than once or longer than ten minutes during proceedings on any amendment at that stage.

Division deferred.

(8) When a recorded division has been demanded on any amendment proposed during the report stage of a bill, the Speaker may defer the calling in of the Members for the purpose of recording the "yeas" and "nays" until more or all subsequent amendments to the bill have been considered. A recorded division or divisions may be so deferred from sitting to sitting.

NOTE: In cases when there are an unusually great number of amendments for consideration at the report stage, the Speaker may, after consultation with the representatives of the parties, direct that deferred divisions be held before all amendments have been taken into consideration.

Motion when report stage concluded.

(9) When proceedings at the report stage on any bill that has been read a second time have been concluded, a motion "That the bill, as amended, be concurred in" or "That the bill be concurred in" shall be put and forthwith disposed of, without amendment or debate.

Third reading after debate or amendment.

(10) When a bill that has been read a second time has been amended or debate has taken place thereon at the report stage, the same shall be set down for a third reading and passage at the next sitting of the House.

Third reading when no amendment or after Committee of the Whole.

(11) When a bill that has been read a second time has been reported from a standing, special or legislative committee, and no amendment has been proposed thereto at the report stage, and in the case of a bill reported

from a Committee of the Whole, with or without amendment, a motion, "That the bill be now read a third time and passed", may be made in the same sitting.

Report stage of bill from a Committee of the Whole.

(12) The consideration of the report stage of a bill from a Committee of the Whole shall be received and forthwith disposed of, without amendment or debate.

CHAPTER IX / Public Bills **/** Time Allocation

78

Agreement to allot time.

(1) When a Minister of the Crown, from his or her place in the House, states that there is agreement among the representatives of all parties to allot a specified number of days or hours to the proceedings at one or more stages of any public bill, the Minister may propose a motion, without notice, setting forth the terms of such agreed allocation; and every such motion shall be decided forthwith, without debate or amendment.

Qualified agreement to allot time.

(2)(*a*) When a Minister of the Crown, from his or her place in the House, states that a majority of the representatives of the several parties have come to an agreement in respect of a proposed allotment of days or hours for the proceedings at any stage of the passing of a public bill, the Minister may propose a motion, without notice, during proceedings under Government Orders, setting forth the terms of the said proposed allocation; provided that for the purposes of this section of this Standing Order an allocation may be proposed in one motion to cover the proceedings at both the report and the third reading stages of a bill if that motion is consistent with the provisions of Standing Order 76.1(10). The motion shall not be subject to debate or amendment, and the Speaker shall put the question on the said motion forthwith. Any proceeding interrupted pursuant to this section of this Standing Order shall be deemed adjourned.

(b) If a motion pursuant to this section regarding any bill is moved and carried at the beginning of Government Orders on any day and if the order for the said bill is then called and debated for the remainder of the sitting day, the length of that debate shall be deemed to be one sitting day for the purposes of paragraph (*a*) of this section.

Procedure in other cases to allot time.

(3)(*a*) A Minister of the Crown who from his or her place in the House, at a previous sitting, has stated that an agreement could not be reached under the provisions of sections (1) or (2) of this Standing Order in respect of proceedings at the stage at which a public bill was then under consideration either in the House or in any committee, and has given notice of his or her intention so to do, may propose a motion during proceedings under Government Orders, for the purpose of allotting a specified number of days or hours for the consideration and disposal of proceedings at that stage; provided that the time allotted for any stage is not to be less than one sitting day and provided that for the purposes of this paragraph an allocation may be proposed in one motion to cover the proceedings at both the report and the third reading stages on a bill if that motion is consistent with the provisions of Standing Order 76.1(10). The motion shall not be subject to debate or amendment, and the Speaker shall put the question on the said motion forthwith. Any proceedings interrupted pursuant to this section of this Standing Order shall be deemed adjourned.

(b) If a motion pursuant to this section regarding any bill is moved and carried at the beginning of Government Orders on any day and if the order for the said bill is then called and debated for the remainder of the sitting day, the length of that debate shall be deemed to be one sitting day for the purposes of paragraph (*a*) of this section.

CHAPTER X / Financial Procedures / Recommendations

79

Recommendation of Governor General.

(1) This House shall not adopt or pass any vote, resolution, address or bill for the appropriation of any part of the public revenue, or of any tax or

impost, to any purpose that has not been first recommended to the House by a message from the Governor General in the session in which such vote, resolution, address or bill is proposed.

Recommendation to be printed.

(2) The message and recommendation of the Governor General in relation to any bill for the appropriation of any part of the public revenue or of any tax or impost shall be printed on the *Notice Paper*, printed in or annexed to the bill and recorded in the *Journals*.

Message on Estimates.

(3) When estimates are brought in, the message from the Governor General shall be presented to and read by the Speaker in the House.

CHAPTER X / Financial Procedures **/** Supply

81

Order for Supply.

(1) At the commencement of each session, the House shall designate, by motion, a continuing Order of the Day for the consideration of the Business of Supply.

Business of Supply takes precedence over government business.

(2) On any day or days appointed for the consideration of any business under the provisions of this Standing Order, that order of business shall have precedence over all other government business in such sitting or sittings.

Business of Supply defined.

(3) For the purposes of this Order, the Business of Supply shall consist of motions to concur in interim supply, main estimates and supplementary or final estimates; motions to restore or reinstate any item in the estimates; motions to introduce or pass at all stages any bill or bills based thereon; and opposition motions that under this order may be considered on allotted days.

Main estimates referred to and reported by standing committees.

(4) In every session the main estimates to cover the incoming fiscal year for every department of government shall be deemed referred to standing committees on or before March 1 of the then expiring fiscal year. Each such committee shall consider and shall report, or shall be deemed to have reported, the same back to the House not later than May 31 in the then current fiscal year, provided that:

Consideration in Committee of the Whole.

(a) not later than May 1, the Leader of the Opposition, in consultation with the leaders of the other opposition parties, may give notice during the time specified in Standing Order 54 of a motion to refer consideration of the main estimates of no more than two named departments or agencies to committees of the whole, and the said motion shall be deemed adopted and the said estimates shall be deemed withdrawn from the standing committee to which they were referred. Notwithstanding the provisions of Standing Orders 28(2) or 38(5), on any day appointed for the consideration of any business under the provisions of this section, but in any case not later than May 31, consideration of the main estimates of the said department or agency shall be taken up by a Committee of the Whole House at the conclusion of the adjournment proceedings or, if taken up on a Friday, at the conclusion of Private Members' Business, for a period of time not exceeding four hours. During the time provided for consideration of estimates pursuant to this paragraph, no Member shall be recognized for more than fifteen minutes at a time and the Member shall not speak in debate for more than ten minutes during that period. The fifteen minutes may be used both for debate and for posing questions to the Minister of the Crown or a Parliamentary Secretary acting on behalf of the Minister. When the Member is recognised he or she shall indicate how the fifteen minutes is to be apportioned. At the conclusion of the time provided for the consideration of the business pursuant to this section, the Committee shall rise, the estimates shall be deemed reported and the House shall immediately adjourn to the next sitting day;

Extension of consideration by a committee.

(b) not later than the third sitting day prior to May 31, the Leader of the Opposition may give notice during the time specified in Standing Order 54

of a motion to extend consideration of the main estimates of a named department or agency and the said motion shall be deemed adopted when called on "Motions" on the last sitting day prior to May 31;

Report by the committee.

(*c*) on the sitting day immediately preceding the final allotted day, but in any case not later than ten sitting days following the day on which any motion made pursuant to paragraph (*b*) of this section is adopted, at not later than the ordinary hour of daily adjournment, the said committee shall report, or shall be deemed to have reported, the main estimates for the said department or agency; and

Reverting to "Presenting Reports from Committees".

(*d*) if the committee shall make a report pursuant to paragraph (*b*) of this section, the Chair or a member of the committee acting for the Chair may so indicate, on a point of order, prior to the hours indicated in paragraph (*c*) of this section, and the House shall immediately revert to "Presenting Reports from Committees" for the purpose of receiving the said report.

Supplementary estimates referred to and reported by standing committees.

(5) Supplementary estimates shall be deemed referred to a standing committee or committees immediately [after] they are presented in the House. Each such committee shall consider and shall report, or shall be deemed to have reported, the same back to the House not later than three sitting days before the final sitting or the last allotted day in the current period.

(6) Deleted *(October 15, 2001).*

Future expenditure plans and priorities.

(7) When main estimates are referred to a standing committee, the committee shall also be empowered to consider and report upon the expenditure plans and priorities in future fiscal years of the departments and agencies whose main estimates are before it.

Presentation of report.

(8) Any report made in accordance with section (7) of this Standing Order may be made up to and including the last normal sitting day in June, as set forth in Standing Order 28(2), and shall be deemed to be subject to the provisions of section (9) of this Standing Order.

Motion to concur in a report.

(9) There shall be no debate on any motion to concur in the report of any standing committee on estimates which have been referred to it except on an allotted day.

Supply periods. Allotted days.

(10)(*a*) In any calendar year, seven sitting days shall be allotted to the Business of Supply for the period ending not later than December 10; seven additional days shall be allotted to the Business of Supply in the period ending not later than March 26; and eight additional days shall be allotted to the Business of Supply in the period ending not later than June 23; provided that the number of sitting days so allotted may be altered pursuant to paragraph (*b*) or (*c*) of this section. These twenty- two days are to be designated as allotted days. In any calendar year, no more than one fifth of all the allotted days shall fall on a Wednesday and no more than one fifth thereof shall fall on a Friday.

(b) Notwithstanding paragraph (*a*), if the House does not sit on days designated as sitting days pursuant to Standing Order 28(2), the total number of allotted days in that supply period shall be reduced by a number of days proportionate to the number of sitting days on which the House stood adjourned, provided that the number of days of the said reduction shall be determined by the Speaker and announced from the Chair.

(c) Notwithstanding paragraph (*a*), if the House sits, for purposes other than those set out in Standing Order 28(4), on days designated as days on which the House shall stand adjourned pursuant to Standing Order 28(2), the total number of allotted days in that supply period shall be increased by one day for every five such days during which the House sits.

Unused days added to allotted days.

(11) When any day or days allotted to the Address Debate or to the Budget Debate are not used for those debates, such day or days may be added to the number of allotted days in the period in which they occur.

Final supplementary estimates after close of fiscal year.

(12) When concurrence in any final supplementary estimates relating to the fiscal year that ended on March 31 is sought in the period ending not later than June 23, three days for the consideration of the motion that the House concur in those estimates and for the passage at all stages of any bill to be based thereon shall be added to the days for the Business of Supply in that period.

Opposition motions.

(13) Opposition motions on allotted days may be moved only by Members in opposition to the government and may relate to any matter within the jurisdiction of the Parliament of Canada and also may be used for the purpose of considering reports from standing committees relating to the consideration of estimates therein.

Notice.

(14)(*a*) Forty-eight hours' written notice shall be given of opposition motions on allotted days, motions to concur in interim supply, main estimates, supplementary or final estimates, to restore or reinstate any item in the estimates. Twenty-four hours' written notice shall be given of a notice to oppose any item in the estimates, provided that for the supply period ending not later than June 23, forty-eight hours' written notice shall be given of a notice to oppose any item in the estimates.

Speaker's power of selection.

(*b*) When notice has been given of two or more motions by Members in opposition to the government for consideration on an allotted day, the Speaker shall have power to select which of the proposed motions shall have precedence in that sitting.

Opposition motions have precedence on allotted days.

(15) Opposition motions shall have precedence over all government supply motions on allotted days and shall be disposed of as provided in sections (16), (17), (18) and (19) of this Standing Order.

All motions votable unless designated otherwise.

(16)(*a*) Every opposition motion is votable unless the sponsor of such a motion designates it as non-votable.

Duration of proceedings.

(*b*) The duration of proceedings on any opposition motion moved on an allotted day shall be stated in the notice relating to the appointing of an allotted day or days for those proceedings.

(*c*) Except as provided for in section (18) of this Standing Order, on the last day appointed for proceedings on a motion that shall come to a vote, at fifteen minutes before the expiry of the time provided for Government Orders, the Speaker shall interrupt the proceedings and forthwith put, without further debate or amendment, every question necessary to dispose of the said proceedings.

When question put in December and March periods.

(17) On the last allotted day in the supply periods ending December 10 and March 26, but, in any case, not later than the last sitting day in each of the said periods, at fifteen minutes before the expiry of the time provided for Government Orders, the Speaker shall interrupt the proceedings then in progress and,

Non-votable motions. Putting of questions seriatim.

(*a*) if those proceedings are not in relation to a motion that shall come to a vote, the Speaker shall put forthwith and successively, without debate or amendment, every question necessary to dispose of any item of business relating to interim supply and supplementary estimates, the restoration or reinstatement of any item in the estimates or any opposed item in the estimates and, notwithstanding Standing Order 71, for the passage at all stages of any bill or bills based thereon; or

Votable motions. Putting of questions seriatim.

(*b*) if those proceedings are in relation to a motion that shall come to a vote, the Speaker shall first put forthwith, without further debate or amendment, every question necessary to dispose of that proceeding, and forthwith thereafter put successively, without debate or amendment, every question necessary to dispose of any item of business relating to interim supply and supplementary estimates, the restoration or reinstatement of any item in the estimates, or of any opposed item in the estimates and, notwithstanding the provisions of Standing Order 71, for the passage at all stages of any bill or bills based thereon.

Ordinary hour of adjournment suspended if necessary.

The Standing Orders relating to the ordinary hour of daily adjournment shall remain suspended until all such questions have been decided.

Opposition motion and Main Estimates to be considered on last day of June period.

(18) On the last allotted day in the period ending June 23, the House shall consider an opposition motion and any motion or motions to concur in the Main Estimates, provided that:

Non-votable motion. Expiration of proceedings.

(*a*) if the opposition motion is not a motion that shall come to a vote, proceedings on the motion shall expire when debate thereon has been concluded or at 6:30 p.m., as the case may be, notwithstanding Standing Order 33(2) and the House shall proceed to consider a motion or motions relating to the Main Estimates; or

Votable motions. Deferral of divisions.

(*b*) if the opposition motion is a motion that shall come to a vote, unless previously disposed of, at 6:30 p.m. the Speaker shall interrupt the proceedings and put forthwith, without further debate or amendment, every question necessary to dispose of the proceedings and any recorded division requested shall be deferred to the conclusion of consideration of a motion or motions relating to the Main Estimates as set out in section (18)(*c*); and

When question put in June period.

(c) when proceedings on the opposition motion have been concluded, but in any case not later than 6:30 p.m., the House shall proceed to the consideration of a motion or motions to concur in the Main Estimates, provided that, unless previously disposed of, at not later than 10:00 p.m., the Speaker shall interrupt any proceedings then before the House, and the House shall proceed to the taking of any division or divisions necessary to dispose of the opposition motion deferred pursuant to paragraph (*b*) of this Standing Order, and the Speaker shall then put forthwith and successively, without further debate or amendment, every question necessary to dispose of the motion or motions to concur in the Main Estimates, and forthwith thereafter put successively, without debate or amendment, every question necessary to dispose of any business relating to the final estimates for the preceding fiscal year or for any supplementary estimates, the restoration or reinstatement of any item in the final or supplementary estimates or any opposed item in the final or supplementary estimates and, notwithstanding Standing Order 71, for the passage at all stages of any bill or bills based on the final, main or supplementary estimates; and

Ordinary hour of adjournment suspended.

(d) the Standing Orders relating to the ordinary hour of daily adjournment shall remain suspended until all such questions pursuant to paragraph (*c*) have been decided.

Expiration of proceedings.

(19) Proceedings on an opposition motion, which is not a motion that shall come to a vote, shall expire when debate thereon has been concluded or at the expiry of the time provided for Government Orders, as the case may be, provided that the expiry of the said time may be delayed pursuant to Standing Order 33(2) or 45(7.1).

Unopposed items.

(20) The adoption of all unopposed items in any set of estimates may be proposed in one or more motions.

Order to bring in a bill.

(21) The adoption of any motion to concur in any estimate or estimates or interim supply shall be an Order of the House to bring in a bill or bills based thereon.

Time limit on speeches.

(22) During proceedings on any item of business under the provisions of this Standing Order, no Member may speak more than once or longer than twenty minutes.

CHAPTER XI / Private Members' Business / Order of Precedence

92.1

Intention to substitute item.

(1) Where a report pursuant to Standing Order 92(3)(*a*) has been presented to the House, the sponsor of the item that has been designated non-votable may, within five sitting days of the presentation of the said report, give written notice of his or her intention to substitute another item of Private Members' Business for the item designated non-votable.

Sponsor to specify another item on *Order Paper* or *Notice Paper*.

(2) When notice has been given pursuant to section (1) of this Standing Order, the sponsor of the item who has other notices of motion on the *Order Paper* or *Notice Paper* or bills on the *Order Paper* set down for consideration at the second reading stage shall, when forwarding that notice, inform the Clerk which of his or her items is to replace the non-votable item in the order of precedence and, notwithstanding any other Standing Order, that item shall retain its place in the order of precedence and shall remain subject to the application of Standing Orders 86 to 99.

If no item, Sponsor to submit one within 20 days.

(3) When notice has been given pursuant to section (1) of this Standing Order, the sponsor of the item who does not have a notice of motion on the *Order Paper* or *Notice Paper* or a bill on the *Order Paper* set down for consideration at the second reading stage shall, within 20 days of the deposit of the report pursuant to Standing Order 92(3)(*a*), have another notice of motion on the *Order Paper* or *Notice Paper* or a bill on the

Order Paper set down for consideration at the second reading stage and, notwithstanding any other Standing Order, that item shall be placed at the bottom of the order of precedence and shall remain subject to the application of Standing Orders 86 to 99.

No item submitted. Name dropped.

(4) If at the end of the time provided for in section (3) of this Standing Order, the Member whose name is in the order of precedence does not have a notice of motion on the *Order Paper* or *Notice Paper*, or a bill set down on the *Order Paper* for consideration at second reading stage, then the name of the Member shall be dropped from the *Order Paper*.

CHAPTER XI / Private Members' Business **/** Order of Precedence

94

Speaker's responsibility.

(1)(*a*) The Speaker shall make all arrangements necessary to ensure the orderly conduct of Private Members' Business including:

Notice of items to be considered.

(i) ensuring that all Members have not less than twenty-four hours' notice of items to be considered during "Private Members' Hour"; and

Publication of notice.

(ii) ensuring that the notice required by subparagraph (i) of this paragraph is published in the *Notice Paper*.

Private Members' Hour suspended when notice not published.

(*b*) In the event of it not being possible to provide the twenty-four hours' notice required by subparagraph (i) of this section, "Private Members' Hour" shall be suspended for that day and the House shall continue with or revert to the business before it prior to "Private Members' Hour" until the ordinary hour of daily adjournment.

Forty-eight hours' notice required when Member unable to move his or her item. Speaker to arrange an exchange.

(2)(*a*) When a Member has given at least forty-eight hours' written notice that he or she is unable to be present to move his or her motion under Private Members' Business on the date required by the order of precedence, the Speaker, with permission of the Members involved, may arrange for an exchange of positions in the order of precedence with a Member whose motion or bill has been placed in the order of precedence, provided that, with respect to the Member accepting the exchange, all of the requirements of Standing Order 92 necessary for the Member's item to be called for debate have been complied with.

When no arrangement can be made, business before House to continue.

(*b*) In the event that the Speaker has been unable to arrange an exchange, the House shall continue with the business before it prior to "Private Members' Hour".

Limitation on exchanges.

(*c*) When an item is placed at the bottom of the order of precedence pursuant to Standing Order 42(2) or 94(2)(*b*), that shall be indicated on the *Order Paper* by marking the item with an asterisk and

(i) the sponsor shall be prohibited from requesting an exchange pursuant to Standing Order 94(2)(*a*); and

(ii) notwithstanding the provisions of Standing Order 42(2), if the item is not proceeded with when next called, it shall be dropped from the *Order Paper*.

CHAPTER XI / Private Members' Business / Order of Precedence

97.1

Committee Report.

(1) A standing, special or legislative committee to which a Private Member's public bill has been referred shall in every case, within sixty sitting days from the date of the bill's reference to the committee, either report the bill to the House with or without amendment or present to the House a report containing a recommendation not to proceed further with the bill and giving the reasons therefor or requesting a single extension of thirty

sitting days to consider the bill, and giving the reasons therefor. If no bill or report is presented by the end of the sixty sitting days where no extension has been approved by the House, or by the end of the thirty sitting day extension if approved by the House, the bill shall be deemed to have been reported without amendment.

Report recommending not to proceed further with a bill. Motion placed on *Notice Paper*.

(2)(*a*) Immediately after the presentation of a report containing a recommendation not to proceed further with a bill pursuant to section (1) of this Standing Order, the Clerk of the House shall cause to be placed on the *Notice Paper* a notice of motion for concurrence in the report, which shall stand in the name of the Member presenting the report. No other notice of motion for concurrence in the report shall be placed on the *Notice Paper*.

(*b*) When a notice given pursuant to paragraph (*a*) of this Standing Order is transferred to the *Order Paper* under "Motions", it shall be set down for consideration only pursuant to paragraph (*c*) of this Standing Order.

Debate on the motion.

(*c*) Debate on the motion to concur in a report containing a recommendation not to proceed further with a bill shall be taken up at the end of the time provided for the consideration of Private Members' Business on a day fixed, after consultation, by the Speaker. The motion shall be deemed to be proposed and shall be considered for not more than one hour, provided that:

Time limit on speeches.

(i) during consideration of any such motion, no Member shall speak more than once or for more than ten minutes;

Voting.

(ii) unless previously disposed of, not later than the end of the said hour of consideration, the Speaker shall interrupt the proceedings and put forthwith and successively, without further debate or amendment, every question necessary to dispose of the motion; and

Deferral of recorded divisions.

(iii) any recorded division demanded pursuant to Standing Order 45(1) shall be deemed deferred to the next Wednesday, immediately before the time provided for Private Members' Business.

Motion adopted and proceedings on bill come to an end.

(d) When a motion to concur in a report containing a recommendation not to proceed further with a bill is adopted, all proceedings on the bill shall come to an end.

Motion negatived and bill deemed reported.

(e) When a motion to concur in a report containing a recommendation not to proceed further with a bill is negatived, the bill shall be deemed to have been reported without amendment.

Proceedings on a motion not concluded by 60th sitting day.

(f) If proceedings on a motion to concur in a report of a committee containing a recommendation not to proceed further with a bill have not been concluded by the sixtieth sitting day following the date of the referral of the bill to the committee, or by the end of the thirty day extension, if one has been granted pursuant to sections (1) and (3) of this Standing Order, the said bill shall remain before the committee until proceedings on the motion to concur in the report have been concluded.

Request for an extension.

(3)(*a*) Upon presentation of a report requesting an extension of thirty sitting days to consider a bill referred to in section (1) of this Standing Order, a motion to concur in the report shall be deemed moved, the question deemed put, and a recorded division deemed demanded and deferred to the next Wednesday, immediately before the time provided for Private Members' Business.

Proceedings on report requesting an extension not concluded by 60th sitting day.

(b) If proceedings on any motion to concur in a report of a committee requesting an extension of thirty sitting days to consider a bill have not been concluded by the sixtieth sitting day following the date of the referral of the bill to the committee, the said bill shall remain before the committee until proceedings on the motion to concur in the report have been concluded, provided that:

(i) should the motion to concur in the report be adopted, the committee shall have an extension until the ninetieth sitting day following the date of the referral of the bill to the committee; or

(ii) should the motion to concur in the report be negatived, the bill shall be deemed to have been reported without amendment.

CHAPTER XI / Private Members' Business / Order of Precedence

98

Bill to be placed at bottom of the order of precedence after committee stage.

(1) When a Private Member's bill is reported from a standing, special or legislative committee or a Committee of the Whole House, or is deemed to have been reported pursuant to Standing Orders 86.1 or 97.1, the order for consideration of the bill at report stage shall be placed at the bottom of the order of precedence notwithstanding Standing Order 87.

Two-day debate at certain stages of a bill.

(2) The report and third reading stages of a Private Member's bill shall be taken up on two sitting days, unless previously disposed of, provided that once consideration has been interrupted on the first such day the order for the remaining stage or stages shall be placed at the bottom of the order of precedence and shall be again considered when the said bill reaches the top of the said order.

Extension of sitting hours. Limited to five hours.

(3) When the report or third reading stages of the said bill are before the House on the first of the sitting days provided pursuant to section (2) of this Standing Order, and if the said bill has not been disposed of prior to the end of the first thirty minutes of consideration, during any time then remaining, any one Member may propose a motion to extend the time

for the consideration of any remaining stages on the second of the said sitting days during a period not exceeding five consecutive hours, which shall begin at the end of the time provided for Private Members' Business, except on a Monday when the period shall begin at the ordinary hour of daily adjournment, on the second sitting day, provided that:

Support of twenty Members.

(a) the motion shall be put forthwith without debate or amendment and shall be deemed withdrawn if fewer than twenty Members rise in support thereof; and

No subsequent motion unless intervening proceeding.

(b) a subsequent such motion shall not be put unless there has been an intervening proceeding.

When question put.

(4)*(a)* On the second sitting day provided pursuant to section (2) of this Standing Order, unless previously disposed of, at the end of the time provided for the consideration thereof, any proceedings then before the House shall be interrupted and every question necessary to dispose of the then remaining stage or stages of the said bill shall be put forthwith and successively without further debate or amendment.

Recorded division.

(b) Any recorded division on an item of Private Members' Business demanded pursuant to Standing Order 45(1) shall be deemed deferred to the next Wednesday, immediately before the time provided for Private Members' Business.

Suspension of adjournment hour in certain cases.

(5) If consideration has been extended pursuant to section (3) of this Standing Order, the Standing Orders relating to the ordinary hour of daily adjournment shall be suspended until all questions necessary to dispose of the said bill have been put.

CHAPTER XIII / Committees / Mandate

108

Powers of standing committees.

(1)(*a*) Standing committees shall be severally empowered to examine and enquire into all such matters as may be referred to them by the House, to report from time to time and to print a brief appendix to any report, after the signature of the Chair, containing such opinions or recommendations, dissenting from the report or supplementary to it, as may be proposed by committee members, and except when the House otherwise orders, to send for persons, papers and records, to sit while the House is sitting, to sit during periods when the House stands adjourned, to sit jointly with other standing committees, to print from day to day such papers and evidence as may be ordered by them, and to delegate to subcommittees all or any of their powers except the power to report directly to the House.

Power to create subcommittees.

(b) Standing Committees shall be empowered to create subcommittees of which the membership may be drawn from among both the list of members and the list of associate members provided for in Standing Order 104, who shall be deemed to be members of that committee for the purposes of this Standing Order.

Additional powers of standing committees.

(2) The standing committees, except those set out in sections (3)(*a*), (3)(*f*), (3)(*h*) and (4) of this Standing Order, shall, in addition to the powers granted to them pursuant to section (1) of this Standing Order and pursuant to Standing Order 81, be empowered to study and report on all matters relating to the mandate, management and operation of the department or departments of government which are assigned to them from time to time by the House. In general, the committees shall be severally empowered to review and report on:

(a) the statute law relating to the department assigned to them;

(*b*) the program and policy objectives of the department and its effectiveness in the implementation of same;

(*c*) the immediate, medium and long-term expenditure plans and the effectiveness of implementation of same by the department;

(*d*) an analysis of the relative success of the department, as measured by the results obtained as compared with its stated objectives; and

(*e*) other matters, relating to the mandate, management, organization or operation of the department, as the committee deems fit.

Mandate of certain standing committees.

(3) The mandate of the Standing Committee on:

Procedure and House Affairs.

(*a*) Procedure and House Affairs shall include, in addition to the duties set forth in Standing Order 104, and among other matters:

(i) the review of and report on, to the Speaker as well as the Board of Internal Economy, the administration of the House and the provision of services and facilities to Members provided that all matters related thereto shall be deemed to have been permanently referred to the Committee upon its membership having been established;
(ii) the review of and report on the effectiveness, management and operation, together with the operational and expenditure plans of all operations which are under the joint administration and control of the two Houses except with regard to the Library of Parliament and other related matters as the Committee deems fit;
(iii) the review of and report on the *Standing Orders*, procedure and practice in the House and its committees;
(iv) the consideration of business related to private bills;
(v) the review of and report on the radio and television broadcasting of the proceedings of the House and its committees;
(vi) the review of and report on all matter relating to the election of Members to the House of Commons;

(vii) the review of and report on the annual report of the Conflict of Interest and Ethics Commissioner with respect to his or her responsibilities under the *Parliament of Canada Act* relating to Members of Parliament, which shall be deemed permanently referred to the Committee immediately after it is laid upon the Table; and
(viii) the review of and report on all matters relating to the Conflict of Interest Code for Members of the House of Commons.

Citizenship and Immigration.
(*b*) Citizenship and Immigration shall include, among other matters, the monitoring of the implementation of the principles of the federal multiculturalism policy throughout the Government of Canada in order:

(i) to encourage the departments and agencies of the federal government to reflect the multicultural diversity of the nation; and
(ii) to examine existing and new programs and policies of federal departments and agencies to encourage sensitivity to multicultural concerns and to preserve and enhance the multicultural reality of Canada;

Government Operations and Estimates.
(*c*) Government Operations and Estimates shall include, among other matters:

(i) the review of and report on the effectiveness, management and operation, together with operational and expenditure plans of the central departments and agencies;
(ii) the review of and report on the effectiveness, management and operation, together with operational and expenditure plans relating to the use of new and emerging information and communications technologies by the government;
(iii) the review of and report on the effectiveness, management and operation of specific operational and expenditure items across all departments and agencies;
(iv) the review of and report on the Estimates of programs delivered by more than one department or agency;

(v) with regard to items under consideration as a result of Standing Orders 108(3)(*c*)(i), (ii) or (iii), in coordination with any affected standing committee and in accordance with Standing Order 79, the committee shall be empowered to amend Votes that have been referred to other standing committees;

(vi) the review of and report on reports of the Public Service Commission which shall be deemed permanently referred to the Committee immediately after they are laid upon the Table;

(vii) the review of and report on the process for considering the estimates and supply, including the format and content of all estimates documents;

(viii) the review of and report on the effectiveness, management and operation, together with operational and expenditure plans arising from supplementary estimates;

(ix) the review of and report on the effectiveness, management and operation, together with operational and expenditure plans of Crown Corporations and agencies that have not been specifically referred to another standing committee; and

(x) in cooperation with other committees, the review of and report on the effectiveness, management and operation, together with operational and expenditure plans of statutory programs, tax expenditures, loan guarantees, contingency funds and private foundation that derive the majority of their funding from the Government of Canada;

and any other matter which the House shall, from time to time, refer to the Standing Committee.

Human Resources, Skills, and Social Development and the Status of Persons with Disabilities.

(*d*) Human Resources, Skills and Social Development and the Status of Persons with Disabilities shall include, among other matters, the proposing, promoting, monitoring and assessing of initiatives aimed at the integration and equality of disabled persons in all sectors of Canadian society;

Justice and Human Rights.

(*e*) Justice and Human Rights shall include, among other matters, the review and report on reports of the Canadian Human Rights Commission,

which shall be deemed permanently referred to the Committee immediately after they are laid upon the Table;

Official Languages.

(*f*) Official Languages shall include, among other matters, the review of and report on official languages policies and programs, including Reports of the Commissioner of Official Languages, which shall be deemed permanently referred to the Committee immediately after they are laid upon the Table;

Public Accounts.

(*g*) Public Accounts shall include, among other matters, review of and report on the Public Accounts of Canada and all reports of the Auditor General of Canada, which shall be severally deemed permanently referred to the Committee immediately after they are laid upon the Table;

Access to Information, Privacy and Ethics.

(*h*) Access to Information, Privacy and Ethics shall include, among other matters:

(i) the review of and report on the effectiveness, management and operation together with the operational and expenditure plans relating to the Information Commissioner;
(ii) the review of and report on the effectiveness, management and operation together with the operational and expenditure plans relating to the Privacy Commissioner;
(iii) the review of and report on the effectiveness, management and operation together with the operational and expenditure plans relating to the Conflict of Interest and Ethics Commissioner;
(iv) the review of and report on reports of the Privacy Commissioner, the Information Commissioner and the Conflict of Interest and Ethics Commissioner with respect to his or her responsibilities under the *Parliament of Canada Act* relating to public office holders and on reports tabled pursuant to the *Lobbyists Registration Act*, which shall be severally deemed permanently referred to the Committee immediately after they are laid upon the Table;

(v) in cooperation with other committees, the review of and report on any federal legislation, regulation or Standing Order which impacts upon the access to information or privacy of Canadians or the ethical standards of public office holders;

(vi) the proposing, promoting, monitoring and assessing of initiatives which relate to access to information and privacy across all sectors of Canadian society and to ethical standards relating to public office holders;

and any other matter which the House shall from time to time refer to the Standing Committee.

Mandate of Standing Joint Committees.

(4) So far as this House is concerned, the mandates of the Standing Joint Committee on

Library of Parliament.

(*a*) the Library of Parliament shall include the review of the effectiveness, management and operation of the Library of Parliament;

Scrutiny of Regulations.

(*b*) Scrutiny of Regulations shall include, among other matters, the review and scrutiny of statutory instruments which are permanently referred to the Committee pursuant to section 19 of the *Statutory Instruments Act*;

Provided that both Houses may, from time to time, refer any other matter to any of the aforementioned Standing Joint Committees.

CHAPTER XIII / Committees / Meetings

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Only members may vote or move motion.

Any Member of the House who is not a member of a standing, special or legislative committee, may, unless the House or the committee concerned otherwise orders, take part in the public proceedings of the committee, but may not vote or move any motion, nor be part of any quorum.

CONFLICT OF INTEREST CODE FOR MEMBERS OF THE HOUSE OF COMMONS

(VERSION EFFECTIVE MAY 2011)

RULES OF CONDUCT

8

Furthering private interests.

When performing parliamentary duties and functions, a Member shall not act in any way to further his or her private interests or those of a member of the Member's family, or to improperly further another person's or entity's private interests.

RULES OF CONDUCT

9

Using influence.

A Member shall not use his or her position as a Member to influence a decision of another person so as to further the Member's private interests or those of a member of his or her family, or to improperly further another person's or entity's private interests.

INQUIRIES

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Report to the House.

(1) Forthwith following an inquiry, the Commissioner shall report to the Speaker, who shall present the report to the House when it next sits.

Report to the public.

(2) The report of the Commissioner shall be made available to the public upon tabling in the House, or, during a period of adjournment or prorogation, upon its receipt by the Speaker.

Report after dissolution.

(3) During the period following a dissolution of Parliament, the Commissioner shall make the report public.

No contravention.

(4) If the Commissioner concludes that there was no contravention of this Code, the Commissioner shall so state in the report.

Mitigated contravention.

(5) If the Commissioner concludes that a Member has not complied with an obligation under this Code but that the Member took all reasonable measures to prevent the noncompliance, or that the non-compliance was trivial or occurred through inadvertence or an error in judgment made in good faith, the Commissioner shall so state in the report and may recommend that no sanction be imposed.

Sanctions.

(6) If the Commissioner concludes that a Member has not complied with an obligation under this Code, and that none of the circumstances in subsection (5) apply, or is of the opinion that a request for an inquiry was frivolous or vexatious or was not made in good faith, the Commissioner shall so state in the report and may recommend appropriate sanctions.

Reasons.

(7) The Commissioner shall include in the report reasons for any conclusions and recommendations.

General recommendations.

(8) The Commissioner may include in his or her report any recommendations arising from the matter that concern the general interpretation of this Code and any recommendations for revision of this Code that the Commissioner considers relevant to its purpose and spirit.

Right to speak.

(9) Within 10 sitting days after the tabling of the report of the Commissioner in the House of Commons, the Member who is the subject of the report shall have a right to make a statement in the House immediately following Question Period, provided that he or she shall not speak for more than 20 minutes.

Deemed concurrence.

(10) A motion to concur in a report referred to in subsection (4) or (5) may be moved during Routine Proceedings. If no such motion has been moved and disposed of within 30 sitting days after the day on which the report was tabled, a motion to concur in the report shall be deemed to have been moved and adopted at the expiry of that time.

Report to be considered.

(11) A motion respecting a report referred to in subsection (6) may be moved during Routine Proceedings, when it shall be considered for no more than two hours, after which the Speaker shall interrupt any proceedings then before the House and put forthwith and successively, without further debate or amendment, every question necessary to dispose of the motion. During debate on the motion, no Member shall speak more than once or longer than ten minutes.

Vote.

(12) If no motion pursuant to subsection (11) has been previously moved and disposed of, a motion to concur in the report shall be deemed to have been moved on the 30th sitting day after the day on which the report was tabled, and the Speaker shall immediately put every question necessary to dispose of the motion.

Referral back.

(13) At any point before the House has dealt with the report, whether by deemed disposition or otherwise, the House may refer it back to the Commissioner for further consideration, with instruction.

APPENDIX B — CHRONOLOGICAL TABLE

APPENDIX B – CHRONOLOGICAL TABLE

FOURTY-FIRST PARLIAMENT, FIRST SESSION

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PRIVILEGE... Continued

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STATEMENTS BY CHAIR OCCUPANTS AND MEMBERS' INDEX