

Senator Kelly, in making his submission, as I recall, quite clearly stated that it was not a point of order exclusively or primarily on Bill C-62. It was not a point of order on Bill C-62, but a point of order dealing with—and these were perhaps not his exact words, but what I understood from them—the right of the Senate to order its own business.

Senator Corbin: It is obvious you cannot read your own letters.

Senator Ottenheimer: Senator Corbin tells me that I cannot read well. I will have to take my chances in trusting my ability to read without being corrected by him.

If the point of order deals with the more general, more universal, and I would suggest more important issue, which is the right of the Senate to determine and to organize its own business, then obviously it is an extremely important point of order. There is obviously a balancing of rights. What Senator Kelly has asked is not for the Speaker to decide on a substantive issue, but to provide an opportunity for the Senate to decide. It is not for the Speaker to decide, but for the Senate to decide with respect to its own organization.

That is what has been submitted to the Speaker. It may well be said, and I think it is true, that this procedure is unprecedented. I think that is probably the case. I doubt if any senator opposite will deny that the whole situation of the Senate during the past approximately two months has been an unprecedented situation—

Senator Frith: Senator Beaudoin tried it.

Senator Ottenheimer: —unprecedented in terms of the organization of business, unprecedented in terms of the way in which business has been conducted. Therefore, if one is in an unprecedented situation, then the solution or resolution itself is going to be unprecedented. It is practically impossible foresee that one would be in an unprecedented situation, and yet have a resolution full of precedents. That almost defies logic.

The Senate is in an unprecedented situation. Indeed the resolution of it, to establish or re-establish, confirm or enunciate, however you put it, the right of the Senate to conduct its own affairs and organize its own business is important. If the situation we are in is unprecedented, it may well be that the manner in which that principal is to be affirmed and made operative, may be unprecedented as well.

There is one other aspect. I think this has been canvassed and there is nothing original about it. Obviously, every parliamentary body has a right to debate, a right to speak. Every parliamentary body, I would suggest, has a right to decide, a right to come to a resolution. Therefore, there are times when these rights have to be balanced. I do not believe, although I do not know, if any honourable senators on the other side would say that the right to speak and debate is absolute, that it can go on and preempt any right to decide. I do not know if there are those who would maintain that. If so, it is obviously incorrect.

The Senate, whatever it is, is one of the Houses of Parliament. It is not a debating society. It is not like the Upper Canada Debating Society where people come to debate, to

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sharpen their oratorical skills, to learn to speak extemporaneously, even to train their bladder. It is none of those things. The Senate debates, but it must also decide. To argue that it can debate without an opportunity of coming within a reasonable period of time to a decision is, I think, contrary to the nature of a parliamentary institution.

● (1440)

Similarly, to require that a vote be held without a reasonable period of time for debate, is equally unacceptable. There has to be a balancing with respect to both the right to vote and the right to decide. What the Speaker is being asked to do is provide an opportunity for the Senate to decide its procedure in the particular circumstances in which we are, and that may well be unprecedented. However, the situation in which we are is unprecedented, and it is difficult to see that the solution can be anything but.

Before concluding, I should like to quote from the first five or six lines of paragraph 1 of *Beauchesne's Parliamentary Rules and Forms*, Fifth Edition, which state:

The principles that lie at the basis of English parliamentary law, have always been kept steadily in view by the Canadian Parliament; these are: To protect a minority and restrain the improvidence or tyranny of a majority; to secure the transaction of public business—

The transaction of public business obviously is related to voting; that is not simply related to debating.

Beauchesne's goes on to state:

to secure the transaction of public business in an orderly manner; to enable every Member to express his opinions within limits necessary to preserve decorum and prevent an unnecessary waste of time;

Some Hon. Senators: Hear, hear.

Senator Ottenheimer: Since honourable senators opposite liked that particular passage so much, I will read it again. It states:

—to enable every Member to express his opinions within limits necessary to preserve decorum and prevent an unnecessary waste of time; to give abundant opportunity for the consideration of every measure, and to prevent any legislative action being taken upon sudden impulse.

Senator Haidasz: I have not been able to speak on third reading yet.

Senator Ottenheimer: Honourable senators, it appears to me that those basic principles are, in the final analysis, the criteria which the Senate will wish to bear in mind.

In summary, the point of order put forward by Senator Kelly does not deal exclusively with Bill C-62. It deals with the general issue of the ability and right of the Senate to organize its own business. Within that context the Senate will need to bear in mind the balancing of rights to speak and to decide. It should use, as criteria in reflecting on that, what *Beauchesne's* calls the principles of parliamentary law. These principles make up the first paragraph of the Fifth Edition.