

(iii) interfering with and frustrating the enjoyment and exercise of the said laws, immunities, and privileges;

(iv) inducing failure to observe and comply with the said laws, immunities, and privileges;

(v) impeaching proceedings in Parliament;

(vi) threatening sanctions on the vindication of the said laws, immunities, and privileges;

(vii) their conduct and behaviour generally relating to the Law of Parliamentary Privilege, the Constitution of Canada, the independence of the judiciary, constitutional comity, the dignity of the Senate, and the due administration of justice;

That the committee be further empowered to consider and report upon related matters which may concern the privileges of the Senate;

That the committee have power to send for persons, papers and records, to examine witnesses, to report from time to time and to print such papers and evidence from day to day as may be ordered by the committee;

That the committee be composed of seven members, four of whom shall constitute a quorum; and

That the Committee of Selection be instructed to decide and report upon the membership of the Special Committee.—(*Speaker's Ruling*)

**The Hon. the Speaker:** Honourable senators, Senator Robertson, who raised the point of order, and Senator Cools are both present in the chamber. I have taken considerable time in arriving at my ruling, as we are dealing with two very important matters. One is the privilege of the Senate and one is the independence of the judicial system.

My ruling is as follows: Honourable Senators, a point of order was raised on Wednesday, May 10, 1995, by the Honourable Senator Robertson with regard to the motion proposed by Honourable Senator Cools to establish a special committee to examine and report upon the conduct and behaviour of certain justices and barristers of the Ontario Court of Justice (General Division). The point of order questioned whether this motion is properly worded in that it seemed to include two distinct propositions and should therefore be divided. The point of order also questioned whether in the interests of parliamentary

decorum it is appropriate for the Senate to debate the conduct and behaviour of certain judges and other officers of the court whom our parliamentary authorities refer to as "protected persons."

Upon completing her statement, Senator Robertson asked for a ruling from the Chair. Both Senator Cools and Senator Grimard then commented on the point of order. I wish to thank all three senators for their contributions.

What is before the Chair is strictly the point of order and not the question of whether the privileges of the Senate have been breached in any way. I remind honourable senators that last November 16, my predecessor, the Honourable Senator LeBlanc, ruled on a question of privilege raised by Senator Cools on October 5 which involved many of the points raised in the motion now before us. At that time, the Speaker ruled that because the question was not brought forward at the earliest opportunity, it could not be priority debate. The Chair has therefore already made a decision on the matter and should not intervene a second time to determine if there is a *prima facie* case of privilege.

[*Translation*]

In her point of order, Senator Robertson referred to rule 43(2) which states that:

If the matter is not raised at the earliest opportunity, the Senator raising the matter may put it on notice, but the matter cannot be proceeded with under the terms of this rule.

Senator Robertson noted that it would appear that Senator Cools is availing herself of this alternative procedure and I would agree. Barring other procedural irregularities, rule 43(2) allows Senator Cools to put that matter referred to in her October 5 statement on notice and to proceed by way of a substantive motion.

On the first part of the point of order, dealing with the wording of the motion, there is a problem according to Senator Robertson in that Senator Cools' motion implies two different propositions. These are:

i) that a *bona fide* question of privilege been established; and

ii) that a special committee should be established to examine the conduct and behaviour of the justices and barristers involved in this alleged breach of privilege.