

**The Hon. the Speaker:** It will take about five minutes to have the copies made.

**Senator Lynch-Staunton:** We will wait. We are cooperative.

**Hon. Noël A. Kinsella:** Out of respect for the Speaker, we will wait.

**Senator Graham:** Perhaps we can adjourn for five minutes.

**The Hon. the Speaker:** Is it your wish, honourable senators, to suspend the sitting for five minutes?

**Hon. Senators:** Agreed.

The sitting of the Senate was suspended.

• (1530)

The sitting of the Senate was resumed.

**The Hon. the Speaker:** Honourable senators, during Routine Proceedings yesterday, Senator Carstairs sought to give notice of a motion to require the Standing Senate Committee on Legal and Constitutional Affairs to report on the message from the House of Commons and the motion of Senator Graham of June 28 relating to the Electoral Boundaries Readjustment Bill, Bill C-69, no later than Monday, December 11, 1995. At the same time, the notice of motion also instructed the committee not to insist on the Senate amendments to which the House of Commons has disagreed.

On a point of order, Senator Phillips objected to the notice because, in his view, a similar question had already been proposed and voted on, and that to permit this motion to be debated would be contrary to our rules. Later in the sitting, I sought the advice of this house before considering a ruling.

In the exchanges which took place between the senators just before yesterday's adjournment, three basic issues were contended: The first is that Senator Carstairs does not have the right to propose this motion under the rubric "Government Notices of Motions." The second objection relates to the point of order raised by Senator Phillips, that a motion that has already been decided cannot be raised again. On this issue, specific reference was made to rule 64 and to several citations from Erskine May and Beauchesne.

The third point relates to the ability of the Senate to instruct or guide the deliberations of one of its committees. With respect to this issue, Senator Phillips suggested that I consult a decision of the Honourable Speaker Deschatelets regarding a case where an instruction to a committee had been proposed.

[Translation]

I want to thank those senators who participated in the debate on this point of order. I have had the opportunity to review the arguments that were made yesterday and to consult the

authorities and precedents that were mentioned, including that of Speaker Deschatelets. In order not to impede the house in its proceedings, I am prepared to rule now on an issue which has proved surprisingly complex. I propose to deal with each of the three objections that were raised.

[English]

With respect to the objection that Senator Carstairs, not being the Leader of the Government, the deputy leader or a designate of the government, should not be permitted to give a notice of motion under the rubric "Government Notices of Motions" I find that the objection is well founded.

Before 1991, the daily order of business did not recognize any distinction between government and private senators for the purpose of giving notice to a motion. Since 1991, however, the distinction has been recognized in our rules, and if it is to have any meaning, then it must be to limit the right of those who may give notice under "Government Notices of Motions" to those who are designated to speak for the government in this house.

Consequently, I find that Senator Carstairs does not have the right to propose a government notice of motion. This must be done by either the leader or deputy leader, or a designate in the absence of either. Alternatively, Senator Carstairs can propose the motion under "Notices of Motions."

As to the second objection that a motion ought not to be put to the Senate a second time during the same session, the issue is not as simple as it may seem. The advice provided by the British parliamentary authority Erskine May is not straightforward. While it states that a —

...motion or an amendment which is the same, in substance, as a question which has been decided during a session may not be brought forward again...

Erskine May goes on to explain that:

Whether the second motion is substantially the same is finally a matter for the judgment of the Chair.

It appears that the Senate's precedents for determining whether a question is the same in substance are not conclusive. I have examined the earlier motion of Senator Fairbairn, seeking to have the Committee on Legal and Constitutional Affairs report on the message of the House of Commons and the motion of Senator Graham that was defeated on division last week. That motion proposed that the committee report no later than Wednesday, November 22. This new motion orders the committee to report no later than Monday, December 11.

Given that we are soon approaching an extended adjournment and a possible prorogation of the parliamentary session, I am persuaded that, on the whole, there is sufficient difference in this motion, in comparison with the one that was proposed last week, to allow it.