

Besides the prohibitions contained in S.O. 35, it has been sanctioned by usage that a Member, while speaking, must not—

There are a number of subparagraphs, and subparagraph (i) is:

—reflect upon the past acts and proceedings of the House—

I have an old edition of the *Standing Orders of the House of Commons*. It is the October 1969 edition, and standing order 35, in part, reads:

No member may reflect upon any vote of the House, except for the purpose of moving that such vote be rescinded.

Finally, rule 1 of our own rules provides:

In all cases not provided for in these rules, the customs, usages, forms and proceedings of either House of the Parliament of Canada shall, so far as practicable, be followed in the Senate or in any committee thereof.

In this case, of course, His Honour the Speaker said he could find no rule in our rule book, but rule 1 refers us back to the rules and practices of Parliament as a whole.

● (1450)

Because of the importance of this matter in the conduct of this house of Parliament and to ensure that once having taken decisions, unless the Senate is asked to reconsider those decisions by motions for rescinding them, we do follow the rules of Parliament as they apply, I would simply ask His Honour the Speaker, with all deference, to take these references I have given, and any others he may wish to study, under consideration and perhaps give us a firm ruling so that this matter will not be left hanging.

The Hon. the Speaker: Honourable senators, I am afraid the intervention by Senator McElman puts the Chair in a very difficult position. I would be quite prepared to defend the ruling I made, or the comments I made, because it was a non-ruling. I would be quite prepared to discuss every one of the points made by Senator McElman and to take the position that he is incorrect in the disagreement that he has expressed with the comments of the Chair. However, I am not here to debate the matter, but merely to say that I will not make the mistake again of making a comment on a point referred to me by referring to my comments as a non-ruling.

Senator McElman: May I inquire, with all deference, of His Honour the Speaker if this matter is to be further considered?

The Hon. the Speaker: It would, of course, be further considered by the Chair if an honourable senator rose on a point of order and referred the matter to me. I believe that can only happen when a situation is before the house from which a point of order can arise. However, I leave it to honourable senators. I do not want to debate from the Chair the comments I made at that time, which were intended to be helpful, and which I believe were made in accordance with the rules of the Senate.

[Senator McElman.]

Senator McElman: With all due respect and deference, I understood from reading *Hansard* of Thursday last that His Honour had not given a ruling. I do feel that this is a very important matter in the proceedings of the Senate, and I thought I was directing not only to honourable senators but to the Chair my earlier comments and the references I made. I do now address this matter to the Chair as a continuing point of order which has not been disposed of by the house, and I ask His Honour the Speaker to take the matter under advisement.

Senator Flynn: I think Senator McElman is exaggerating a little. His Honour has made the point that he would deal with the problem if it were to arise, and it seems to me that that should be sufficient for Senator McElman.

Senator McElman: Honourable senators, I have made a specific request of the Chair.

Senator Flynn: But you heard the reply. You should be satisfied.

Senator McElman: And the point of order which was raised last week is still before the house because there has been no ruling. It has not been disposed of by a ruling.

Senator Roblin: Honourable senators, I would like to take some part in this discussion because I was here during the events to which reference has been made, and it seems to me that we have missed the point of the Speaker's ruling, or his comments, when he spoke about this matter.

I do not think His Honour, or, perhaps, anyone here, would seriously maintain that the points made by Senator McElman are not important or, indeed, that they are inaccurate with respect to the description of what takes place in the House of Commons and in other parliamentary institutions. But it seems to me that the issue that we were confronted with the other day really depended on quite another point altogether, and that was the question of leave. If leave is given, then obviously any rule that we have may be superseded, and, by reason of the leave being given, the senator concerned may proceed, as on that occasion Senator Bosa attempted to do.

I have to take some of the responsibility for the contretemps that arose, because when I was listening to Senator Bosa's remarks he asked for permission to do such and such, and I confess that I did not hear the magic word "leave," and I did not react in the way I should have reacted. If I had heard the magic word "leave," I can assure the Senate that I would have said that I would not give my leave to continue with the matter, and that would have disposed of Senator Bosa's point at the time.

So, I think the question is one of leave rather than one of the rules as we have discussed them this afternoon, and in that context I would be quite content to abide by His Honour's comments in the matter. It does raise the question, of course, that a senator may stand and ask for leave, and nobody has the faintest idea of what he wants leave for until he gets so far into his discussion as to explain it, which makes me rather leery, unless it is a *pro forma* leave which is quite clear to all of us such as when we require the suspension of the rules so that bills may be advanced, and matters of that sort—that kind of