

Obviously, it is not for me to suggest when that decision should be made. However, I do understand that Senator Kelly's point of order deals with the general principles of the right of the Senate to determine its own business. That does not mean it cannot be interpreted, viewed or seen in another context, a more restrictive one, that of Bill C-62.

As I understand it, the point of order put forward by Senator Kelly is on the general principles of the right of the Senate to organize its own business.

**Hon. John B. Stewart:** Honourable senators, may I ask the honourable senator a question? I have had a chance to glance at the letter dated December 10, to which reference was made earlier. The first paragraph states:

The events of the past two months in the Senate, and the need for the Senate to resolve the question now before it cause us to write in order that you may know our wishes concerning the conduct of matters in the Senate surrounding Bill C-62.

The second paragraph recites certain information respecting that bill.

Then on page 2, the following appears:

The Senate itself must decide this issue. We believe it is your duty to provide the Senate with the opportunity to decide.

The second last paragraph begins with the following:

We wish you to know that we would like the Senate to dispose of all questions related to Bill C-62 at 5:45 p.m. on Thursday, December 13, 1990 if they have not been earlier disposed of.

Senator Ottenheimer has said that the point of order Senator Kelly sought to raise earlier this afternoon does not deal with Bill C-62, but rather deals with a more general question, the general question of the right of the Senate to decide on all questions put before it.

That leads me to pick up our rule book. I suppose it still has some relevance in this place, although one at times begins to think that it is now an antiquarian document. Rule 44 states:

44.(1) Two days' notice shall be given of any of the following motions:

(a) to make a new rule or to repeal or amend an existing rule;

If in fact what Senator Kelly has said does not deal with Bill C-62, as the letter itself would lead one to believe, then what we have is a proposal to establish a new rule, a new rule dealing with how decisions in general will be made in the Senate. We already have a rule which lays down a rule of law stating how decisions are made by the Senate.

So I put it to Senator Ottenheimer that he is disguising an attempt to impose closure on Bill C-62 under the guise of dealing with a general principle. However, if he is bringing in a new rule incorporating a general principle, to use his words, and that if, indeed, this does deal with the general principles, the correct procedure would be to give notice under Rule 44.

So I ask Senator Ottenheimer, if this does deal with general principles and not with Bill C-62, why is he not following the rules of the Senate and why is he trying to duck the rules of the Senate?

**Senator Ottenheimer:** Honourable senators, briefly in reply to Senator Stewart—

**An Hon. Senator:** Take your time!

**Senator Ottenheimer:** I intend to.

Senator Stewart first dealt with the question of whether the point of order dealt with Bill C-62, or the more general question, which I call the Senate's right to organize its own affairs. He quoted from the letter signed by a number of senators and which refers to Bill C-62. No one disputes that Bill C-62 is relevant here. However, my submission and that of Senator Kelly's is that the point of order is founded on a larger, more general principle, and that Bill C-62 and the references thereto are instances thereof.

• (1450)

Senator Stewart read paragraphs of the letter that referred to Bill C-62. Allow me to read the third paragraph:

The rights to speak and to debate are not absolute. The right to debate ends where the right to vote begins. The right to dispose of a question in parliament is as essential as the right to speak.

I think that these are the general issues, and the point of order deals with those issues. Obviously, it has relevance to Bill C-62 as well, but I would maintain that the point of order has a grounding in these general issues.

Senator Stewart then said or asked a question to the effect that we were attempting to bring in a new rule and therefore it should be done in terms of a motion of which notice is given. My reply to that point is that there is no attempt here to bring in a new rule. However, there is an attempt, in a situation that is unprecedented—

**Senator Austin:** What a smoke screen! You must be embarrassed, Gerry.

**Senator Ottenheimer:** —to apply the rules and traditions as they presently exist. If the situation is unprecedented, then obviously the resolution or gestation of that situation will be unprecedented as well. It is like someone who has a cow. Perhaps that is not a good example.

**An Hon. Senator:** What is it?

**Senator Ottenheimer:** The example I was going to give relates to a cow and a bull. If they are together, the fruit of their union will be either a cow or a bull. The same would be the case if you had an elephant and an "elephantess". However, if you have a cow and an elephant, Lord knows what will develop, but that is not a particularly good simile, so allow me to put it another way. You can see that my knowledge of animal husbandry is quite limited. If we are in an unprecedented situation, then obviously the resolution of that situation will be unprecedented as well.