



# DEBATES OF THE SENATE

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POINT OF ORDER  
Speaker's Ruling Reserved

Speech by:

The Honourable Claudette Tardif

Tuesday, March 19, 2013

## THE SENATE

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### POINT OF ORDER

#### SPEAKER'S RULING RESERVED

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, debate on this amendment has already begun. Senator Jaffer gave a very thoughtful speech on this amendment on March 7, and Senator Cools even rose to ask questions of Senator Jaffer at that time. Senator Cools has participated in debate on this matter and at that time did not raise a point of order. It is a startling revelation indeed to hear that the honourable senator now feels the debate she participated in is out of order.

Honourable senators, before us is a motion in amendment. Appendix 1 of the *Rules of the Senate* defines "amendment," and if you care to check, it is on page 109, as:

An alteration proposed to a motion, a clause of a bill or a committee report. It may attempt to modify the proposition under consideration or to provide an alternative to it.

The alternative I have proposed in this case is the referral to Committee of the Whole. Rule 5-7(b) of the *Rules of the Senate* states that:

Notice is not required for a motion:

(b) to refer a question under debate to a committee;

If we look at what our Rules say on page 120 as to the definition of a question, we define a question as:

The matter before the Senate or a committee for consideration and decision. A question is put by the Speaker or by the chair in the form of a motion for decision following any debate. The term "question" is distinct from Question Period or a Question of Privilege.

We have before us a motion that was under consideration. I moved a motion in amendment to it. Is Senator Cools suggesting that her motion was not a question? I guess so.

If anyone has any doubt that the motion of Senator Cools is a question, I would refer them to the decision of Speaker Allister Grosart on November 22, 1979, where he distinguished between an inquiry, which is never put to the Senate for decision, and a motion, which, because it is a proposal that is before the Senate for consideration and disposal, is a question that can be referred to committee without notice.

Honourable senators, I will give further examples.

On June 15, 1998, Bill C-6 was being debated at third reading. Senator Kinsella moved an amendment that the bill be not now read a third time but that it be referred to a Committee of the Whole for further consideration. No objection was raised to Senator Kinsella's motion because it was in order to refer the

question thus before the Senate, which was third reading of Bill C-6, to a Committee of the Whole for further consideration.

Another motion in amendment for a bill at third reading took place on April 27, 2004, when Senator Andreychuk moved that Bill C-7 be referred to our Standing Senate Committee on Legal and Constitutional Affairs for analysis on the constitutionality of Bill C-7. Again, we had a question before the Senate, which was being amended by referring it to a committee.

There are numerous examples over the years of senators moving motions to make changes to our Rules. These motions have almost always been amended to refer them to our Rules Committee for consideration.

Honourable senators, an interesting example of a question being referred to committee took place on November 7, 2002, on a motion moved by Senator Day to give the Standing Senate Committee on National Security and Defence authority "to adjourn from place to place within and outside Canada for the purposes of pursuing its study."

• (1720)

Senator Carstairs, the Leader of the Government at the time, moved that the question be referred to the Standing Committee on Rules, Procedures and the Rights of Parliament. Her amendment was further amended by Senator Kinsella to give the committee a reporting date. All of that was in order.

Rule 5-7(b) of the *Rules of the Senate of Canada* states:

Notice is not required for a motion:

(b) to refer a question under debate to a committee;

The rule provides for no exceptions. It does not say that any question can be referred to a committee without notice except a question that already proposes to refer a matter to committee. That is not what it says.

It says "a question under debate." The motion moved by Senator Cools was a question under debate. I moved a motion in amendment to her question.

There may be no precedent for such a motion, but there is no prohibition against moving any such motion.

If we do not like this result, we should ask the Rules Committee to modify rule 5-7(b) to provide such exclusion. However, for the time being, there is no such exception in the *Rules of the Senate of Canada*.

Honourable senators, my motion in amendment is in order, and it is already properly before us and in the process of being debated. The motion was moved to allow all senators to hear the Parliamentary Budget Officer before the question of privilege was referred to the Rules Committee.