



Tory senators take unusual steps to force vote on controversial union bill

Bill Curry, The Globe and Mail, June 26, 2015

Conservative senators took the highly unusual step of overruling their own Speaker Friday in an effort to force a controversial union disclosure bill into law before Parliament shuts down.

Conservative Senator Leo Housakos – who was appointed Speaker last month – ruled Friday morning that the latest tactics of the government side aimed at blocking an opposition filibuster were against the rules of the Senate.

Government Senate leader Claude Carignan says the auditor general's recommendations on expense claims will be addressed swiftly. Michael Ferguson is calling for independent oversight of senators' spending.

But government leader Claude Carignan challenged the ruling and won.

The challenge succeeded in a 32-to-17 vote. Five Conservative Senators abstained.

“In our rules, the final arbitrator of the rules is the Senate,” Mr. Carignan told reporters in defending his move. The senator said the step was necessary because the opposition was using “archaic procedural tactics” to prevent a vote.

The bill is now expected to come to a final vote early next week. Mr. Carignan predicted Friday that the bill will be approved and become law.

Bill C-377 is a private member's bill from Conservative MP Russ Hiebert that would force unions to publicly disclose a wide range of financial information including salaries and expenses.

Supporters say it addresses concerns from union members who say they face intimidation if they ask for too much information from their leadership.

Unions strongly oppose the law and argue that only union members should be able to view such information. Critics of the bill warn it will place unions at an unfair disadvantage during collective bargaining because management will have new insight into the financial situation of unions.

The bill was previously blocked by the Senate two years ago and had not received much attention since.

However in recent weeks, the Conservatives in the Senate have indicated that passing the bill is a priority.

Opposition and some Conservative senators had been trying to talk out the clock, hoping to block the bill from passing before Parliament rises. Any bills that are not passed by that point will die because of the October federal election.

Conservative Senator Don Plett chided the Liberal Senators, accusing them of wanting to block the bill so that Liberal Leader Justin Trudeau can promote himself as the “protector of big union bosses.”

Several unions have indicated they will run advertising against the Conservative Party in the runup to the federal election campaign.

The fact that the bill is now poised to become law came as an unpleasant shock to unions that have been following the debate closely.

Christopher Smillie, a senior adviser with Canada’s Building Trades Unions, said the organization plans to fight the bill in court should it become law.

“We are extremely disappointed the Conservative government fundamentally changed the rules of the Senate to try and pass an offensive and unconstitutional bill,” said Mr. Smillie in an e-mail.

The larger issue behind Friday’s dust up is the future of a long standing practice in the Senate that the government is only allowed to shut down debate on government bills, not private members bills like C-377.

“A proposal of this type could in the long term distort the basic structure of Senate business,” the Speaker said in his ruling, which warned against establishing a “far-reaching precedent.”

Liberal Senator James Cowan, the leader of the opposition in the Senate, said it is highly unusual – if not unprecedented – the government side in the Senate to overrule a Speaker from the same party.

Mr. Cowan claimed that Prime Minister Stephen Harper is pushing the bill behind the scenes.

“The last act of this Parliament was Mr. Harper, the Prime Minister of Canada, directing his Senators to break the rules of the Senate,” he said. “That’s the message: That Mr. Harper makes the rules and if he doesn’t like the rules that are there, he changes them.”

PROJET DE LOI SYNDICAL

Les conservateurs défient le président du Sénat

Le Devoir, La Presse canadienne, le 26 juin 2015

Le bras de fer entourant un projet de loi controversé sur la transparence syndicale se poursuivait vendredi au Sénat.

Les sénateurs conservateurs sont allés jusqu'à renverser une décision du président Leo Housakos qui prévoyait la poursuite du débat sur le projet de loi C-377.

Ils souhaitent adopter avant la dissolution de la Chambre cette mesure législative d'initiative parlementaire qui obligerait les syndicats de travailleurs à rendre publiques leurs dépenses.

Le comportement des sénateurs conservateurs a subjugué le leader de l'opposition libérale au Sénat, James Cowan, ainsi que son collègue Serge Joyal.

Selon le sénateur libéral, la majorité conservatrice est prête « à faire fi de toutes les règles pour imposer un projet de loi [...] anticonstitutionnel » — même si cela l'oblige à adopter « une motion de censure contre son propre président », a-t-il déploré.

Tout cela, pour un projet de loi que « sept provinces canadiennes vont attaquer devant les tribunaux » et que « tous les syndicats au Canada dénoncent », a soutenu M. Joyal en point de presse dans le foyer du Sénat, vendredi.

Dissidente, la sénatrice conservatrice Diane Bellemare a voté avec les libéraux en défaveur de la motion qui renversait la décision du président Housakos.

Car il était de son « devoir » de continuer à discuter d'un projet de loi avec lequel « le Québec n'est pas d'accord » et qui n'a pas été suffisamment bien ficelé, a-t-elle plaidé.

« On n'est pas là pour faire de l'obstruction au gouvernement », a insisté Mme Bellemare en mêlée de presse.

« Mais dans le contexte des projets de loi de membres individuels, ils n'ont pas la même rigueur, ils n'ont pas été préparés avec la même rigueur », a fait valoir celle qui a été applaudie par les libéraux lorsqu'elle a voté avec eux.

Réactions partagées

Le leader du gouvernement au Sénat, Claude Carignan, estime pour sa part que la population appuie l'idée d'imposer aux syndicats davantage de transparence.

« Chaque Québécois, chaque Canadien, quand je lui demande s'il est en faveur que les syndicats publient leurs dépenses et qu'ils démontrent plus de transparence, tout le monde me dit oui », a-t-il affirmé.

Et cela est « particulièrement » vrai au Québec, a ajouté M. Carignan.

La démarche des sénateurs conservateurs a été jugée nécessaire par le ministre d'État à la Petite entreprise, Maxime Bernier, qui souhaite l'adoption du projet de loi.

Et celui-ci n'est pas antisyndical, comme le soutiennent ses détracteurs, mais bien « pro-syndiqué », a lancé le député beauceron en entrevue téléphonique avec La Presse canadienne.

Selon M. Bernier, les travailleurs qui paient leurs cotisations l'appuient, car ils veulent savoir « ce que les chefs syndicaux font avec cet argent-là ».

L'opposition à C-377 viendrait plutôt de ces derniers, à son avis : « Moi, je trouve un peu bizarre l'acharnement des chefs syndicaux contre la transparence. Ils ont certainement quelque chose à cacher. »

La sénatrice Bellemare a de son côté supputé sur le réel objectif du projet de loi, qui a été déposé par Russ Hiebert, un député conservateur de la Colombie-Britannique.

« Officiellement, c'est la transparence [...] », mais comme « c'est trop, comme transparence, on peut se poser la question qu'effectivement, c'est un projet de loi antisyndical », a-t-elle laissé tomber.

Les libéraux se disaient prêts à continuer à débattre de C-377 jusqu'à ce que le Parlement soit dissous pour les élections générales cet automne, si nécessaire.



Senate using strong arm of majority to pass controversial Bill C-377

Rachel Aiello, The Hill Times, June 29, 2015

An attempted Liberal filibuster in the Senate to prevent controversial union disclosure Bill C-377 from passing was “shameful,” the bill’s sponsor, Conservative backbench MP Russ Hiebert, said last week. But the bill will likely pass anyway after the Conservative majority in the Senate muscled it through to a vote that will likely take place early this week.

After a week of posturing from Senate Liberals, promising to keep the /Upper Chamber held up all summer long in an attempt to prevent the controversial bill from becoming law, all efforts were deflated after the Conservatives in the Senate made an unprecedented procedural move. They used their majority to overrule Speaker Leo Housakos and proceed with a motion to limit debate and block any further motions to be put forward on Bill C-377, a procedural tactic usually reserved for government business.

Senator Housakos ruled Friday that shutting down debate on a private member’s bill would violate Senate principles. But Government Leader in the Senate Claude Carignan appealed to the Senate as a whole to overrule the Speaker’s decision and won by a 32-17 vote.

Senator Housakos and Senator Diane Bellemare voted in favour of the Speaker’s ruling and five other Conservatives abstained, but the rest supported Senator Carignan.

The final vote on the bill is expected to come early this week, and so far the Conservative bench has been united—with the exception of Senator Bellemare—in voting against any motion on the bill, indicating they have the numbers to vote and pass it.

Senator Carignan denied the vote was being whipped, and said Senators would be able to vote with their consciences.

But already one of the Conservative Senators who voted to amend the bill last time it was before the Senate is saying he’ll vote for the bill to pass this week.

Senator Stephen Green told The Hill Times that he doesn’t think it’s the Senate’s role to deny the House’s will, even though he said he thinks the concerns about the bill’s constitutionality may be accurate.

“It’s on the Order Paper, it’s a good bill, well, it’s not a great bill,” he said. “But in my view and in the view of many when we sent the bill back to the House of Commons amended we were doing our sober second thought, and we’ve done that now.”

Liberal Leader James Cowan told reporters in the Senate foyer immediately after the Conservatives moved to proceed with their motion that he’s hopeful some of the same “brave soul” Senators that voted against the bill the first time will again, but he’s convinced it’s not a free vote.

He was outraged with the Conservatives’ move.

“We all have political pressures on us all the time but we have rules and if we stop respecting the rules and we start changing the rules because we can’t win within them then we have chaos,” he said.

Prior to Speaker Housakos’ ruling that recommended a solution that would avoid setting a far-reaching precedent, he told The Hill Times that he would be okay with sitting until all remaining bills are dealt with. He called it “abominable” and “disrespectful to the legislative process” that the House and Senate can rise before dealing with all matters, but said it’s up to the will of the majority.

Sen. Carignan told reporters after the decision that the rules were “very clear” that the Senate as whole is the last arbitrator, and it’s within the government’s purview to determine how to apply the rules.

Conservative Senate staffers circulated a handout in the Senate foyer Friday that read: “Two Senate Committees, 21 hours in front of committee, 72 witnesses, 925 days in Senate. Bill C-377 is the epitome of a bill that has received its due diligence by Senators. It is now time for a democratic vote on Bill C-377.”

In an interview with The Hill Times about the procedural battle that took over the Senate’s deliberations ahead of Friday’s developments, Mr. Hiebert (South Surrey-White Rock-Cloverdale, B.C.) said the Liberal Senators shouldn’t be able to kill a bill that was passed by the House of Commons.

He said those opposed can use the final vote on the bill to democratically express their opinion.

“It deserves to get a final vote in the Senate as opposed to being obstructed to death” he said. “At a time when the Senate is under tremendous scrutiny and pressure and probably at a low in its history in terms of the Canadian public’s view of it, to have the Liberals [try to] prevent a final vote on a piece of legislation ... it’s shocking.”

Mr. Hiebert said he had been speaking with his allies in the Senate throughout the week and there was “tremendous support” and encouragement coming from within the Conservative caucus to have their Senators fight to push the bill to a vote. He and other Conservative Senators The Hill Times spoke with denied any influence or instruction coming from the Prime Minister’s Office.

The private member’s bill—formally titled an Act to amend the Income Tax Act (requirements for labour organizations)—has been back and forth between the House and Senate for four years. It was the first private member’s bill to proceed to the Senate this session, and could possibly be the last. Since picking it back up in April, the bill has been slowly rolling toward Royal Assent.

As it neared the last leg of the legislative process, the Senate Liberals and one dissenting Conservative Senator, Diane Bellemare, began to put forward motions to amend the bill.

If one had passed, it would have forced the bill to be sent back to the House, effectively killing it with Parliament not expected to return before it's dissolved for the federal election.

Ms. Bellemare told The Hill Times she didn't put forward her amendment for strategic reasons and wouldn't comment on the "internal politics." She just thinks it's a bad bill that oversteps provincial jurisdiction.

So far, seven provinces have spoken out against the bill. She's been the only dissenting vote on the government side.

Before the Conservatives made their move Friday, the opposition was under the impression the government wouldn't have the ability to force closure on debate on private member's bill, and they were ready to sit all summer long, unless they got the Conservatives to agree to end the session without a vote on the bill.

The bill will force unions to file financial statements with the Canada Revenue Agency, disclosing spending details for public expenses over \$5,000 and salaries of employees earning more than \$100,000. It also would require spending on political activities like lobbying to be reported and posted publicly.

For the Conservatives, the measures within the bill play directly to their base, and supporters argue that it's about fairness and transparency. Opponents argue that it goes too far and that the wording is too broad, saying it could ultimately face a charter challenge because it would apply to non-union labour groups like the Writers Guild of Canada or the NHL Players Association.

The bill came back to the Senate at the start of the session but had been sitting on the Order Paper for 11 months before being called forward for debate.

It was the second time the Senate studied the bill. The first time, in 2013, the amendments championed by now retired Conservative Senator Hugh Segal were made redundant when Mr. Harper prorogued Parliament.

According to the Library of Parliament and the Senate Journals Branch, the Senate has not in recent history sat past the House to continue to deal exclusively with private member's bills.

Mr. Cowan said he's sure there was some frustration about continuing to sit after passing all the bills on the government's "must list" but there's an understanding that they have a job to do.

"Our choice is do we say we're not going to do our job and go home for the summer? Or do we stay and do our job? For me and for colleagues of mine in our caucus that's an easy choice," he said.

Mr. Cowan criticized the government Senators for not doing theirs.

While the chamber continues to deal with Bill C-377 next week, it's unlikely there will be much time for other business. It's possible the Senate could vote on Bill C-377 and then decide to rise before Canada day.



Conservative Senators Just Made A Shocking Move To Allow Themselves To Break The Rules

By rewriting the rules they can force passage of a controversial bill.

Paul McLeod, BuzzFeed Canada, June 26, 2015

A surprising scene played out in the Canadian Senate Friday. The Speaker, essentially the referee of the Senate, told the government it was breaking the rules, so the government ignored him and wrote its own rules.

A surprising scene played out in the Canadian Senate Friday. The Speaker, essentially the referee of the Senate, told the government it was breaking the rules, so the government ignored him and wrote its own rules.

As BuzzFeed Canada previously reported, Liberal Senators had been filibustering what they call a union-busting bill. In response, government Senate Leader Claude Carignan pushed a motion that would give his party the power to force the Liberals to stop talking, killing the filibuster.

But Speaker Leo Housakos, who is also a Conservative, rejected his own party's motion. He ruled it was against the rules and violates "the long-term interests of the Senate to maintain the integrity of its traditions... especially open debate."

The forceful ruling stated the government plan is "not consistent with the basic principles of rule."

Seconds after Housakos delivered his ruling, Carignan announced the government was going to overturn it.

In an extremely rare move, Carignan challenged the speaker's ruling and had the Conservative majority vote it down.

This opens the door for Conservatives to shut down debate as early as next week.

Liberals had been filibustering Bill C-377, a heavily criticized bill that would force unions and other groups to open up their books to the public.

The Liberals knew they didn't have the votes to kill the bill, so instead they just kept debating it. As long as they kept talking, the bill couldn't come to a vote. The Liberals had vowed to keep this filibuster going all summer if necessary.

The government has powerful tools to push forward on "government business" — important legislation such as budgets. But C-377 falls under "other business" because it is a private member's bill from a Conservative backbench MP.

Carignan wanted to have C-377 declared a government bill so that he could force it to a vote. The problem is that it clearly isn't government business. The government itself introduced it as "other business."

A government motion would have retroactively redefined C-377 as a government bill. This was the motion Speaker Housakos declared was against the rules and undermined the traditions of the Senate.

By overruling Housakos, government senators can now use tools intended for government bills to push forward a private member's bill that many have warned is unconstitutional.

"We have rules," Liberal Senate Leader James Cowan said about overturning the ruling. "If we stop respecting the rules, if we start changing the rules because we can't win within the rules, then we have chaos."

Seven provinces representing more than four-fifths of the population oppose Bill C-377. Groups ranging from medical associations to NHL players have warned they would be unfairly swept up in the scope of the bill.

"Not one province has written in support of this legislation. It invades privacy in an unprecedented way. It's just a bad law," said Cowan.

Carignan defended the move to reporters by saying it's within the rules to challenge a speaker's ruling.

He also insisted it should be up to him to decide what is and is not government business. "It's up to the leader of the government to determine what is a government (bill)," he said.

"It's a dangerous precedent to review the discretion of the leader of the government to determine what is a government (bill)."

Speaker Housakos expressed disappointment but said there was nothing he could do about being overruled.

"I wish they would have supported the ruling," he said. "But it's their choice. We live in a democracy."

Challenging a speaker's ruling is not unprecedented but it is normally not done on such serious matters. Cowan said he can remember a speaker being overturned twice in the 10 years he's been a senator, and both times were for much smaller matters.

By forcing the motion through, Carignan can now call time allocation on debate. This means the bill will likely go to a vote next week.

Despite some Conservative senators opposing C-377, there appears to be a majority willing to pass the bill. The bill was already passed by Conservatives in the House of Commons, so once it is approved by the Senate it will receive royal assent and become law.