### ENGLISH VERSION

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**RULING ON THE QUESTION OF PRIVILEGE**

**RAISED ON SEPTEMBER 15, 2014,**

**BY THE MEMBER FOR SAANICH—GULF ISLANDS**

**(MS. MAY)**

**REGARDING THE USE OF TIME ALLOCATION**

**November 26, 2014**

I am now prepared to rule on the question of privilege raised on September 15, 2014, by the Member for Saanich—Gulf Islands (Ms. May) regarding the use of time allocation.

I would like to thank the hon. Member for having raised this matter, as well as the hon. Leader of the Government in the House of Commons (Mr. Van Loan) and the House Leader for the Official Opposition (Mr. Julian) for their interventions.

In raising this matter, the Member for Saanich—Gulf Islands contended that the limitation of debate occasioned by the Government’s frequent use of time allocation deprived Members of the ability to debate issues adequately, thereby impairing their fundamental right and indisputable privilege, if not obligation, to hold the Government to account. She claimed that this undermined and obstructed Members’ ability to perform their parliamentary duties and that this consequence was disproportionately felt by Members of smaller parties and independent Members.

The Government House Leader replied that, as the rules of the House had been properly followed in the application of time allocation, the privileges of Members had not been offended, nor did the Chair have the authority to intervene unilaterally with regard to the use of this procedure. Furthermore, he argued that the Government’s use of time allocation was merely a “*tool for the orderly and predictable management of the legislative agenda.*” He also referred to my ruling of April 23, 2013, to point out that catching the Speaker’s eye to be recognized to speak during any proceeding remained the ultimate and individual right of each Member.

For his part, the House Leader for the Official Opposition supported the views expressed by the Member for Saanich—Gulf Islands that the present use of the time allocation procedure violated the rights of MPs to speak and represent their constituents.

As early as 1993, Speaker Fraser spoke of the limits of the Speaker’s authority in relation to the use by the Government of Standing Order 78. On page 17861 of the *Debates* of
March 31, 1993, he said:

(quote) *“I have to advise the House that the rule is clear. It is within the government’s discretion to use it. I cannot find any lawful way that I can exercise a discretion which would unilaterally break a very specific rule.”(*unquote)

On March 1, 2001, Speaker Milliken confirmed that interpretation, stating at page 1415 of the *Debates*:

(quote) *“The rules and practices of the House established by this House with respect to time allocation leave the Speaker with no alternative in this matter.”* (unquote)

Members of the House are also aware that it is not for the Speaker to judge whether an issue has been sufficiently debated. As recently as June 12 of this year, on page 6717 of the *Debates*,
I stated:

(quote) “*With respect to the amount of debate a bill must receive before notice of a time allocation motion can be given, the Chair is being asked to render a decision on a matter over which there are no explicit procedural rules or practices and, thus, over which it has no authority. Rather, it is the House that retains that authority and, therefore, must continue to make that determination as to when and if a bill has received adequate consideration.”* (unquote)

The body of precedents available to me all point in the same direction. *House of Commons Procedure and Practice*, Second Edition, succinctly sums up the jurisprudence on the matter when it states, at page 648:

(quote) “*When asked to determine the acceptability of a motion to limit debate, the Speaker does not judge the importance of the issue in question or whether a reasonable time has been allowed for debate, but strictly addresses the acceptability of the procedure followed. Speakers have therefore ruled that a procedurally acceptable motion to limit the ability of Members to speak on a given motion before the House does not constitute* prima facie *a breach of parliamentary privilege.*” (unquote)

As the Chair can find no evidence that the ability of Members, even the Independent Members, to perform their parliamentary functions has been compromised, I cannot find that this matter constitutes a *prima facie* case of privilege.

That said, the Chair does however intend to return to the House at a later date with a separate statement to address other elements raised by the honourable Member for Saanich—Gulf Islands.

I thank the House for its attention.