

HOUSE OF COMMONS

Monday, December 9, 1974

The House met at 2 p.m.

ROUTINE PROCEEDINGS

[English]

TRANSPORT AND COMMUNICATIONS

MOTION FOR CONCURRENCE IN SECOND REPORT OF
STANDING COMMITTEE—RULING BY MR. SPEAKER

Mr. Speaker: Order, please. The motion of the hon. member for LaSalle-Émard-Côte Saint-Paul (Mr. Campbell) for concurrence in the second report of the Standing Committee on Transport and Communications came into question some time ago, and, a time having been set aside for discussion thereof, the Chair has now had an opportunity to consider all the worthwhile contributions which have been made as to its procedural acceptability.

Hon. members will want to understand clearly that the difficulty arises from the fact that the committee had before it Bill S-11, a private bill dealing with the recapitalization of the British Columbia Telephone Company. Standing Order 91 requires the payment of fees prior to any consideration of such a bill by a standing committee. The fee varies according to the capital structure of the company and in this case involves some \$200,000. In compliance with the Standing Order 91 the said sum was paid to the Clerk of the House while the bill was under consideration at second reading, and in further compliance with the Standing Order the Clerk of the House transferred the funds to the Receiver General upon the passage of the motion for second reading in order that the committee stage could proceed. The committee thereupon considered the bill and reported to the House in its third report the passage of the bill without amendment. On November 28, with one amendment upon unanimous consent, the bill was given third reading by the House.

Because there is a measure before the House to change the procedures applicable to this kind of recapitalization—Bill C-29, an act respecting Canadian business corporations—which would alter or eliminate such fees, the committee considered the question of the refund of the fees to the applicant corporation and in its second report, the subject matter of the motion under discussion, unanimously recommended that the fees be held in abeyance. The question, of course, is whether it is within the competence of a standing committee to make such a recommendation when its order of reference is a bill.

The governing citation is citation 304, Beauchesne's Fourth Edition. There is, in the view of the Chair, no room for doubt or question about this citation and it has been reinforced on numerous occasions both in respect to bills and the study of estimates. A committee may only consid-

er those matters which have been committed to it by the House and is bound by, and does not have liberty to depart from, the order of reference. It is equally clear that the recommendation contained in the report under discussion deals with the application of a Standing Order of the House and is totally outside the terms of the bill, and therefore, unless the arguments put forward by the distinguished chairman, the hon. member for LaSalle-Émard-Côte Saint-Paul, can persuade me otherwise, I would have to hold the report out of order.

● (1410)

I have carefully reread both citations referred to by the hon. member, Beauchesne's Fourth Edition, citation 304, and Bourinot's Fourth edition, at page 469, with particular attention to the two sentences emphasized by the hon. member, the first being:

Consequently, if a bill be referred to a select committee it will not be competent for that committee to go beyond the subject matter of its provision.

This first sentence seems to me directly to contradict the hon. member's argument and to support the principle outlined in Beauchesne's citation 304. The second sentence, "No such restrictions apply to committees on private bills . . .", refers not to the authority of the committee but to limitations by way of direction which may be contained in an order of reference, and therefore not applicable to the present circumstances.

The hon. member's reference to Bourinot at page 603 relates to a number of cases prior to the turn of the century, in which the committee to which the bill was referred, recommended the refund of the fee. Quite a number of examples were cited and I have taken the time to examine each one individually. The following conditions existed in every case which do not apply to the present circumstances. First, the Standing Order in respect to fees had been fully complied with. Second, the committee had completed consideration of the bill. Some special facts had come to light during committee stage, so that the bill was withdrawn or materially altered, or, in the alternative, the committee became aware of special circumstances in relation to the introduction of the bill; for example, the fact that the bill was not to the advantage of the proponent, but rather that it had been required by the operation of law. Then, and only then, did the committee recommend the refund on the basis of an existing circumstance or condition.

None of these relates to the present bill, and to hold that, by analogy, a committee could, prior to the passage of a bill, recommend the suspension of the Standing Orders as opposed to compliance with them on the basis of possible passage in the future of other legislation would, in my opinion, in the existing circumstances be a totally unwarranted distortion of these precedents. I should also add that these distinctions are consistent with present day