

## HOUSE OF COMMONS

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Thursday, March 27, 1969

The house met at 2 p.m.

### PRIVILEGE

MR. ROBERTS—REFUSAL TO PAY TERMINAL GRATUITY WHEN LEAVING PUBLIC SERVICE  
—REFERENCE TO STANDING COMMITTEE

**Mr. John Roberts (York-Simcoe):** Mr. Speaker, I rise on a question of privilege. It relates to the refusal of the government, upon my election to the House of Commons, to pay to me the terminal gratuity provided as a normal practice to those leaving the public service.

I received a letter from the government informing me of the refusal yesterday afternoon. I am therefore raising the matter at the earliest opportunity. It is one which affects not only myself but also several other members of the house. The facts are, basically, these. Members of the public service are normally given a termination payment upon leaving the public service equivalent to their accumulated vacation leave. To the best of my knowledge my predecessors as executive or special assistants at the Department of Forestry and Rural Development all received this payment.

The technique for payment normally used is a device, or what I would call a fiction. The former public servant is kept on the books even though he may be working on a full time basis for another employer. The government contends that to provide me with the usual payment could lead to a challenge to my right to hold a seat in the house, under section 16 of the Senate and House of Commons Act. I dispute that such would be the effect of section 16 to which I have referred. The government, though it admits that as a matter of justice I am fully entitled to the payment, has therefore refused to make payment to me.

I should emphasize that since the payment is discretionary on the part of the government I have no redress through court action, and no forum other than the House of Commons in which to raise this question.

Bourinot's fourth edition states in a relevant citation that the questions of privilege have a wide range and that they—

—refer to all matters affecting the rights and immunities of the house collectively, or to the position and conduct of members in their representative character.

And they include:

—motions touching the seat or election of members.

I submit this is a matter touching upon the seat or election of a member, for if the payment were made it is conceivable that my right to hold my seat would be challenged, in which case such a challenge would be dealt with by the Committee on Privileges and Elections. Here we have a question—a mixed one of law and privilege it may be—in which the legal aspect is not foremost, for it cannot be determined until the question of privilege has been decided. Moreover, it is well accepted that on questions concerning the application of section 16 of the Senate and House of Commons Act, final authority as to the eligibility of members to sit rests with the House of Commons.

I contend that since this matter would be considered by the Committee on Privileges and Elections if the payment were made, the germane facts are not changed by the government's refusal to make payment. To assert otherwise would be to argue that the government can, in effect, pre-empt the judgment of the house by refusing to meet an obligation to which it admits I am entitled.

Bourinot goes on to say that for a member to be entitled to bring up a question of privilege he must show that it affects him since he became a member of the house and consequently in his character of a member. It is admitted that had I not been elected to the House of Commons I would have received the payment. It is clear that refusal to pay stems from the fact that I have become a member. This conforms to Bourinot's description.

● (2:10 p.m.)

The fact is that I have not received the customary termination payment for my government service. That is a fact. This payment is a normal condition, though not legally protected, which stems from government service