

# HOUSE OF COMMONS

Monday, February 24, 1975

The House met at 2 p.m.

## ROUTINE PROCEEDINGS

[English]

### PRIVILEGE

#### MR. REID—ATTENDANCE OF MEMBERS OF HOUSE OF COMMONS BEFORE SENATE COMMITTEES

**Mr. John M. Reid (Parliamentary Secretary to President of the Privy Council):** Mr. Speaker, a few days ago I gave notice that I wished to raise a question of privilege concerning the practice that seems to be developing of members of this place appearing before emanations of the other place. I indicated at that time that I thought it was a fairly delicate and difficult subject with which to deal, and having had some time to look at it I am confirmed in my original estimate that it is indeed a difficult proposition for members to focus upon.

I have now had an opportunity to review the Standing Orders of the House of Commons that deal with the other place, and I find that the Standing Orders provide for a form of address and communication which is foremost, distinct and correct. These are found in Standing Orders 22(1), 22(2), 22(3) and 23, and they deal with conflicts between the House of Commons and the Senate.

Unlike the House of Commons, the Senate has a rule that regulates the way in which members of the other place may appear before committees of this place, and I should like to quote it to Your Honour. It is rule No. 104 of the Senate Standing Orders and it provides as follows:

(1) When the House of Commons requests that a senator or any of the officers, clerks, or servants of the Senate attend before the House of Commons to be examined or appear before any committee thereof, such request shall be by message from the House of Commons requesting that the Senate grant leave to such senator, officer, clerk or servant to attend.

(2) If the Senate grants leave, an officer, clerk or servant of the Senate shall attend before the House of Commons or a committee thereof, and a senator may attend if he thinks fit.

(3) Without such leave, a senator, officer, clerk or servant of the Senate shall not, on any account, under penalty of being committed to the Gentleman Usher of the Black Rod or to prison during the pleasure of the Senate, go down to the House of Commons, or send his answer in writing, or appear by counsel to answer any accusation there.

There is no such complementary rule in our Standing Orders and therefore, in order to find out just exactly what the traditions are, I had to go back and examine the *Journals* of the House of Commons and the Senate. In passing, I should also like to point out that rule 98 of the Senate provides as follows:

Any person whose interests may be affected by a private bill

(a) may appear before the committee to which such bill has been referred or may make comments to the committee in writing;

(b) if required to do so by the committee, shall appear before the committee.

Further, rule 18 deals with ministers of the Crown appearing before Senate committees and provides:

When a bill or other matter relating to any subject administered by a department of the Government of Canada is being considered by the Senate or in committee of the whole, a minister, not being a member of the Senate, may on invitation from the Senate enter the Senate chamber and, subject to the rules, orders, usages, forms and proceedings of the Senate, may take part in the debate.

Those are the rules of the other place that govern the appearance of members of this House before the other place. Since, as I say, there was no complementary rule in the Standing Orders of the Canadian House of Commons, I went back to investigate various authorities which we use in this House. The first, of course, is Beauchesne's Fourth Edition, and at page 247, citation 312 provides:

Whenever the evidence of a senator is required before a committee of the Commons, it is usual for the Chairman to move in the House that a message be sent to the Senate requesting Their Honours to give leave to . . . one of their members, to attend and give evidence before the select committee, etc.

A motion that a message be sent to the Senate requesting leave for a senator to give evidence before a select committee of the House of Commons cannot be entertained until a report thereon has been presented by the committee.

Since Beauchesne had no comment at all to make on the reverse procedure, which of course is the one in which we are interested, I went back to Bourinot's *Parliamentary Practice*, third edition, 1916, where at page 48, citation IX provides as follows:

● (1410)

In the Senate witnesses generally attend on a notice from the clerk of the committee. In case a witness will not attend, application must be made to the House for the necessary power to compel his attendance.

Whenever the evidence of a senator is required before a committee of the Commons, it is usual for the chairman to move in the House that a message be sent to the Senate requesting Their Honours to give leave to . . . one of their members, to attend and give evidence before the select committee, etc. The Senate will consider the message and give the required leave to the senator, "if he thinks fit". If the attendance of a member of the Commons is required before a committee of the Senate, the same procedure will be followed.

So far that is the only quotation I have been able to find in the documents which we have for our use in this House. However, in *May's Parliamentary Practice*, eighteenth edition, 1971, there are a number of quotations which relate to the going back and forth of members of the Commons to the Lords, and vice versa, and they are quite extensive in the way in which they deal with this. Briefly I quote from page 99 as follows:

As regards attendance in the other House, one House will not permit one of its members to be summoned by the other, without a message desiring his attendance, or without the consent of the member whose attendance is required.