

The explanation as to why these shares were allowed to remain in Ebbs' name is simple. Until certain as to the soundness of the enterprise, Senator McDougald did not wish his name connected with it, as thereby others might possibly be induced to invest. These, we may add, were also the reasons of other members of the Syndicate who did likewise and whose names we need not mention.

ARGUMENT

It should be remembered that no charges of any sort have been made against Senator McDougald. In his opening address Mr. Mann states at page 22:—

These gentlemen, sir, do not stand charged before this Committee; they stand named in a report of the Committee of the House of Commons which this Committee has thought fit to act upon. They do not stand impeached before this committee in any way. They are here for the purpose of an inquiry into matters which have been mentioned and with which their names have been connected throughout the evidence given before the House of Commons Committee.....

I think it is for you gentlemen to consider that this is not a trial of individuals; this is a matter for consideration as to whether the dignity and privileges of the Senate have been assailed,.....

And this attitude of counsel was frequently concurred in both by the Chairman and by the other members of the Honourable Committee.

Under the terms of the Order of Reference of the 11th of February, 1932, it would seem that the only point for this Committee to determine is as to how and to what extent the privileges and rights of the Senate have been affected by the Report of the Committee of the Commons which has been under investigation "insofar as said Report relates to any Honourable Members of the Senate."

Under reserve, therefore, we respectfully submit on behalf of Senator McDougald, the following points for the consideration of this Honourable Committee:—

(1) Under the terms of *The British North America Act* the jurisdiction of the House of Commons is entirely distinct from the jurisdiction of the Senate. It therefore follows that no special committee of the Commons nor the House of Commons itself has, in accordance with constitutional practice, any authority to pass a resolution or adopt a report censuring or reflecting upon the conduct of a member of the Senate. This is a matter exclusively within the jurisdiction of the Senate.

Thus Bourinot Parliamentary Procedure, Fourth Edition, at page 40 says:

Each house, however, exercises and vindicates its own privileges independently of the other..... Each house declares for itself what cases are breaches of privilege but the grounds for their action are based upon the same principles and precedents.

And again the same author, at page 69, quoting from *May's Constitutional History*, Ninth Edition, volume 2, pages 26 and 27, says:—

Both Houses of Parliament "must act within the limits of their jurisdiction, and in strict conformity with the laws. An abuse of privilege is even more dangerous than an abuse of prerogative. In the one case the wrong is done by an irresponsible body; in the other, the ministers who advised it are open to censure and punishment. The judgment of offences especially should be guided by the severest principles of law."

The reflections and charges against Senator McDougald as a member of this Honourable House, which are contained in the Report of the Commons Com-