

*Points of Order*

The expenditure involves in the last clause of the bill a retroactive provision in the case of payments that involve the payment by the Government of Canada of a tax credit for anybody who was subjected to the estate tax in the United States. If people who had property of over \$600,000 in the U.S. are subjected to the estate tax, Canada will provide a tax credit to offset that on their foreign based income. That is dated back to November 10, 1988, which would impose an immediate expenditure on the Government of Canada. The rest of it would impose an expenditure, a loss in tax expenditures for all time to come.

Mr. Speaker, it is not that the bill would be defeated by your ruling, because all of the political parties in this Chamber support the bill. I am saying this violates the privileges of the Canadian House of Commons as seen in precedent and as seen in our standing orders. This should come back and be presented in the correct manner.

**Mr. Peter Milliken (Parliamentary Secretary to Leader of the Government in the House of Commons, Lib.):** Mr. Speaker, with great respect to the hon. member's very able argument, I think he has misconstrued the point in Standing Orders 79 and 80 of the House of Commons.

Standing order 79(1) reads:

This House shall not adopt or pass any vote, resolution, address or bill for the appropriation of any part of the public revenue, or of any tax or impost, to any purpose that has not been first recommended to the House by a message from the Governor General in the session in which such vote, resolution, address or bill is proposed.

He is quite correct in stating that is the case.

Bill S-9, an act to amend the Canada-U.S. tax convention, is not a bill for appropriating any part of the public revenue or for any tax or impost. What it does is change the effect of the taxation laws of Canada through the application of various rules under this tax convention, which may result in the refund of revenues already received by the Government of Canada. This is not an expenditure of government funds; this is a refund of money that was collected from Canadian citizens pursuant to the tax laws of Canada, which are being amended by this tax convention because similar moneys were taken from these persons as a result of the application of the tax laws of the United States.

Everyone in the House is aware that tax conventions exist for the purpose of avoiding double taxation on the citizens of the two countries involved in the convention.

The hon. member has misconstrued the repayment of tax revenues already received as appropriations of public money. That was not the intention either of the standing order or of the constitutional practice in this regard. In support of that submission I refer Your Honour to citation 599 of Beauséne's sixth edition:

If any motion, whether in the House or in a committee, requires, but fails to receive, the recommendation of the Crown, it is the duty of the Speaker to announce that no question can be proposed upon the motion, or declare the bill out of order, or to say that the problem may be rectified by the proposer obtaining a Royal Recommendation.

• (1515)

I do not disagree with that. Citation 600 states:

The principle that the sanction of the Crown must be given to every grant of money drawn for the public revenue applies equally to the taxation levied to provide that revenue.

In other words, a royal recommendation is required on a bill to impose a tax on the subject—and this bill does not; there is no dispute on that—and any bill to authorize the expenditure of public funds.

There is no expenditure authorized. What is authorized here is different. It is a refund of taxation which has been taken from the subject that is being changed by virtue of the application of the tax treaty. The tax treaty was ratified in the other place in the form of this bill which has been sent to the House for concurrence and the committee was very properly studying concurrence in the bill.

In my experience, and I have watched this kind of procedure for some time, tax conventions are almost invariably introduced as bills in the other place. Many of those tax conventions as a result of their passage involve repayment of money to Canadian citizens. In my experience there has not been a royal recommendation attached to any of those bills. There could not have been, or they would not have been introduced in the other place first.

They are introduced there because it is permissible to introduce technical bills of that kind in the Senate, the ones that do not require royal recommendation. That has been done in this case. In my experience it has been the invariable practice with respect to tax convention implementation legislation. I submit there is nothing irregular in this procedure. The hon. member has simply misconstrued the notion of refund of taxation as an expenditure of public funds. I submit they are not the same.

**Mr. Jim Peterson (Willowdale, Lib.):** Mr. Speaker, I rise on the same point of order.

The hon. member for Gander—Grand Falls referred to Standing Order 80 which would preclude a Senate bill coming to the finance committee if it dealt with aids and supplies. This is not an aid or supply.

As the hon. parliamentary secretary has indicated, it has been the custom of the House for as long as I can recall to have tax treaty amendments of which there have been probably 70 or 80 in the past decade and a half originate in the Senate. I commend the Senate for the excellent job it has done in dealing with these very complicated and detailed pieces of legislation. It is not an