Speaker's Ruling

Private bills versus public bills, House of Commons, April 15, 1985.

Background: Different rules pertain to the introduction and debate of private, as opposed to public bills. In most cases the distinction is clear; however, in some instances the Speaker may be asked to make a ruling as to the status of a particular bill. On April 2, the Minister of Communications moved the second reading of Bill C-19, an *Act respecting the reorganization of Bell Canada*. The Minister gave a detailed explanation of the history and purposes of the bill. The member for Humboldt-Lake Centre (Mr. Althouse) asked the Chair to examine the bill to see if it should not properly be classed as a private bill.

The Ruling (Speaker John Bosley): Private bills are defined on page 891 of Erskine May's Twentieth Edition in the following terms: "Private bills are bills for the particular interest or benefit of any person or persons. Whether they be for the interest of an individual, of a public company or corporation, or of a county, district or other locality, they are equally distinguished from measures of public policy; and this distinction is marked in the very manner of their introduction."

This definition is confirmed in Citation 700 from Beauchesne's Fifth Edition which states: "A public bill relates to matters of public policy while a private bill relates to matters of a particular interest or benefit to a person or persons."

The same citation indicates that the British hybrid bill—that is, a public bill affecting private interests—is not recognized in Canadian practice. It also indicates that a bill containing provisions which are essentially a feature of a private bill cannot be introduced as a public bill.

Citation 836 states: "Private legislation is legislation of a special kind for conferring particular powers or benefits on any person or body of persons, including individuals and private corporations, in excess of or in conflict with the general law."

Citation 838 sets out four principles which have been followed in determining whether a private bill should not be allowed to proceed as such, but should be introduced as a public bill. The first of these principles is the essential one, namely that public policy is affected.

Given these definitions and principles the determination as to whether a bill is a private bill or a public bill should be fairly straightforward. However, the Canadian practice, both in the federal Parliament and the provincial Legislatures, has not always been consistent. I do not propose to go into any detail with regard to these inconsistencies, because the immediate duty of the Chair is to make a determination in respect of Bill C-19, an *Act respecting the reorganization of Bell Canada*.

This bill deals with a company incorporated under the *Canada Business Corporation Act* in 1982 but it is a company which was first incorporated by private legislation in 1880. The present bill makes provision for duties and obligations which the company must follow but it goes on to place restrictions on the company obviously not found elsewhere. Thus the bill at once provides for exceptions to the general law and at the same time it imposes obligations on the company. The bill also goes on to give the Canadian Radio-Television and Telecommunications Commission authority over the company, and the right to make certain orders towards it, as well as to demand certain information from it.

The first ten clauses of this bill, including the declaration that the works of the company are works for the general advantage of Canada, are, in effect, a reformulation of the provisions of the private bills or statutes under which Bell was established and continued since 1880. These statutes are listed in Clause 14 of the bill. While the question whether a bill is properly characterized as private or public does not arise frequently, there are precedents that are of assistance to the Chair. After examining them, the Chair feels that it must rely on the February 22, 1971 ruling of then Speaker Lamoureux.

In that case Bill C-219, an *Act to establish the Canada Development Corporation*, was before the House and Messrs. Baldwin and Lambert, then the members for Peace River and Edmonton West, argued long and hard about the regularity of that bill. Experienced as they were, their arguments did not convince the Chair. In that case, Speaker Lamoureux mentioned a third class or category of bills, that is "hybrid bills", a class of bills that he ruled does not exist in Canadian practice.

Speaker Lamoureux was clear, in 1971, that: "in order that a bill be designated as private it should not and cannot include any feature of public policy because such characterization will transcend any private nature it may have."

He went on to find that where a bill was not purely private but also affected the public interest, it must be treated as a public bill.

It is clear to me that while this bill affects private interests, it also clearly affects public policy, concerning, as it does, a multiplicity of public interests.

The conclusive argument, in my view, is to be found in Clause 3 of the bill, which states: "In the event of any inconsistency between the provisions of this Act and any other Act of Parliament or anything issued, made or established under that other Act, the provisions of this Act prevail."

In the opinion of the Chair such a provision could only be included in a public bill since a private act, being an exception to the general law, could not prevail over any other act of Parliament. It is therefore the view of the Chair that bill C-19 is properly before the House as a public bill.