

*Point of Order—Mr. Andre***POINT OF ORDER**

MR. ANDRE—PROVISIONS IN MAIN ESTIMATES, 1981-82—RULING
BY MADAM SPEAKER

Madam Speaker: On June 1 the hon. member for Calgary Centre (Mr. Andre) argued the point of order that he had raised some weeks earlier, namely, the procedural acceptability of certain items contained in the main estimates for 1981-82. It had been suggested to the hon. member on that earlier occasion that he await until the estimates were formally returned to the House May 31, at which point there would remain ample time to dispose of the matter well before the last allotted day.

Both the hon. member for Calgary Centre and, in reply for the government, the President of the Treasury Board, (Mr. Johnston) dealt briefly with the history of the points of order relating to what the estimates should contain.

This history shows that during the past ten years, members have objected that in one way or another the estimates that have been submitted from time to time by the government have attempted to do more than set out the spending requirements of the government for the next fiscal year. This is of course supposed to be the acknowledged purpose of estimates and appropriation acts.

In 1971 the Chair ruled that items in the estimates that attempt to amend existing statutes are out of order. This was confirmed by most subsequent rulings.

In 1974 and 1976 the Chair went further and dealt with the question of matters of substance being put in the estimates. The Speaker, in effect, ruled that the Appropriation Act is not the place to seek authority to do something such as to establish a program. Rather, the Appropriation Act should only seek authority to spend the money for a program that has been previously authorized by a statute.

In 1977 the Chair continued to lay down these principles that should be followed in the use of the estimates and added that it makes no difference whether the item attempted to spend a large sum or simply one dollar. The distinction is unimportant. The test is whether or not the government is putting forward a spending estimate under authority it already possesses, or whether it is really seeking new legislative authority to do something.

In March of that year the Speaker said:

The government receives from Parliament the authority to act through the passage of legislation and receives the money to finance such authorized action through the passage by Parliament of an appropriation act. A supply item in my opinion ought not, therefore, to be used to obtain authority which is the proper subject of legislation;—

In other words, the government may not by the use of an Appropriation Act obtain authority that it does not have under existing legislation.

The then Speaker summed it up in this way in December, 1977:

Supply ought to be confined strictly to the process for which it was intended; that is to say, for the purpose of putting forward by the government the estimate of money it needs, and then in turn voting by the House of that money to the

government, and not to be extended in any way into the legislative area, because legislation and legislated changes in substance are not intended to be part of supply, but rather ought to be part of the legislative process in the regular way which requires three readings, committee stage, and, in other words, ample opportunity for Members to participate in debate and amendment.

Finally, it seems clear that it is in order to extend the purposes of an item in an Appropriation Act by means of an item in the estimates provided that it does not amend any other legislation.

● (1210)

The hon. member for Calgary Centre objects to 12 items contained in the main estimates. Of the 12, Agriculture vote 30, Department of Public Works vote L-70, Supply and Services vote 5, and Transport vote 110 each mention specific legislation which they seek to amend, and are clearly out of order on the basis of the principle established in 1971 and repeated continually in all of the rulings from the Chair since that time; that is, estimates which attempt to amend existing legislation are out of order.

The hon. member for Calgary Centre then objects to Energy, Mines and Resources votes 35, 40 and 45. An examination of these items clearly shows that they seek both to establish a new program in the absence of other legislative authority and the funds to put it into operation. This runs counter to the rulings of the Chair since 1974, which hold legislation is required to authorize new programs, particularly matters of major substance. That we are dealing here with matters of substance is demonstrated by the fact that vote 45 seeks even to grant to the governor in council the power to pass regulations. By definition, the estimates seek spending authority alone; they are not intended to ask for substantial authority, such as to pass regulations.

Accordingly, consistent with earlier rulings, Energy, Mines and Resources votes 35, 40 and 45 are out of order. I note that in his remarks last June 1, the President of the Treasury Board confirmed this view when he addressed the question of the receivability of these items by saying, "Of course, legislation will be introduced with respect to those programs". By asking for money now, he would be putting the cart before the horse.

The next items objected to are External Affairs votes L45, L50, L55 and L60, and Finance vote L15. They are grouped together because each of them seeks authority to finance international development by the use of issuing demand notes to the credit of the various named banks or institutions upon which they may draw in the Bank of Canada, or to purchase shares in the listed banks. The hon. member for Calgary Centre suggests that these items are an attempt to grant to the government authority to undertake certain actions rather than simply asking for funds, and that they also contravene the provisions of Section 80 of the Financial Administration Act, which states that the Crown cannot assign its debts without legislative authority.

While I suggest that these items do not seek, for the Crown, the right to assign its debts, three of them, nevertheless, seek to grant authority for the government to take certain action, and on a very substantial scale. This is, of course, contrary to