

legislative and improperly included in those supplementaries. I will quote from the part of the ruling that discussed dollar items in relation to the opportunity for debate in the House under Standing Order 58, because it has been suggested by the government House leader that Loto Canada could be subject to a debate and vote in the House on the initiative of the opposition on an allotted day. Mr. Speaker said:

Those members suggest that there is now no real opportunity for the consideration of such items by the House itself. That, of course, is not entirely correct since the new Standing Orders do provide for such an opportunity, albeit restricted, under the terms of Standing Order 58. Clearly the Standing Orders do provide the machinery for the consideration by the House itself of specific items in the estimates to which the opposition might take exception. However, this opportunity is undoubtedly limited and depends very much on the number of allotted supply days which might still be available by virtue of Standing Order 58. In other words, under the old rules there was unlimited time to consider supplementary estimates, including items intended to amend statutes. Under the new rules there may be only a limited time to consider supplementary estimates.

That, indeed, is the relevant point. In the case before us only two such days were left when the estimate was reported back to this House. Mr. Speaker went on to say:

Is the difference between the two situations so substantial that the past practice of allowing statutory dollar items in the supplementary estimate should now be disallowed? Should the very limited time allotted by Standing Order 58 be restricted to the consideration of what is strictly supply? There is much to be said to support an affirmative answer to these questions.

Then Mr. Speaker went on to endorse that reasoning, and specifically establish the precedent that legislative items should come in as bills and not as supplementary estimates.

The same reasoning applied on December 10, 1973, when supplementary estimate dollar items, back in the House for final approval, were declared out of order. In confirming the previous ruling Mr. Speaker stated:

—the dollar legislative item is just that—it is legislation by way of a dollar item in the estimates and I think it is not a practice which ought to be condoned and supported by the House.

Some hon. Members: Hear, hear!

Mr. Mazankowski: Later on Mr. Speaker stated further:

I suggest that if such justification were put forward, it would have to be based on an emergency rather than on principle. The Chair has to make a ruling on principle, and on this basis I would have to say that these three specific items are not properly before the House.

Some hon. Members: Hear, hear!

Mr. Mazankowski: Mr. Speaker, Vote L27a in Supplementary Estimates (A) is a slightly different dollar item in that the dollar actually is used in a purchase, but this purchase is a subterfuge to secure ipso facto House approval for the creation of a corporation. This approval would normally be sought through legislation.

The final ruling to which I would like to refer is March 26, 1974. On this occasion Mr. Speaker rejected the argument that the provision of money for the Food Prices Review Board was legislative in nature. I quote part of that ruling because it puts succinctly what must be proven in this particular case. Mr. Speaker stated:

I agree with him that Parliament cannot legislate by estimates, but on looking at this particular item I do not see what act it claims to

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amend or in what way it seeks to establish a legislative principle, or to legislate, to put it simply.

What I am contending is not that the estimate amends a bill other than an appropriation act, but that, more serious still, it asks the House to approve in detail, in a legislative fashion, the establishment of a company, its purposes and the benefits of some of its staff. In other words, it simply legislates.

When an estimate goes so far as not only to say what the money is allocated for, but how the proceeds of the corporation it is being lent to will be divided up, and what the financial position of civil servants will be, we have a detailed enactment, not a description. Either this is a legislative enactment or all the other estimates before us tonight have been inadequately described.

It has been contended that most of the things done here can be done by Order in Council anyway. These are the words of the President of the Treasury Board. That may be, although I do not believe that generalization applies to the last clause concerning public servants. This still does not mean that this form is proper.

The fact that the government has two options does not justify its inventing a third. Things intended to be part of statute law should be introduced as bills, even if their purpose could also be pursued, in whole or in part, by an Order in Council. If this type of estimate legislation stands as a precedent, then the next time it is tried it might take the form of legislative action which could not be done by Order in Council. We will have created a legislative form which offers governments speed as well as immunity from parliamentary scrutiny.

This point is raised. Mr. Speaker, not to throw out the lottery, with the general purposes of which we are in agreement, but to allow us the normal input which would be our right if legislation were before us. If you find that this estimate is not properly before the House I would be willing to consult with the minister and his colleagues, as are other members of our party, as to the form and progress of any bill that the President of the Treasury Board may wish to introduce before the House.

Some hon. Members: Hear, hear!

● (2230)

Mr. Speaker: Order, please. Before recognizing the hon. member for Winnipeg North Centre (Mr. Knowles), who has given some advance notice of his interest in this subject and his objection on similar grounds to the presentation of this measure in this fashion, I must indicate that I have some difficulty in accepting the precedents relating to one dollar items in the past because they are artificial in both form and substance in that they do not represent legitimate spending estimates. The amount here represents a legitimate spending estimate and is a departure from the one dollar estimate, as stated accurately by the hon. member for Vegreville (Mr. Mazankowski).

There is another distinction, that is, that separate and apart from the introduction of this item in the estimates is the legislative authority or licence for the establishment by the federal government of a lottery under the Criminal Code, and therefore again it is not the breaking of new ground to introduce it in the estimates in the legislative