

*Points of Order*

British Columbia has approached the courts and asked for a ruling on the legitimacy of one of the major components of that budget, namely the Canada Assistance Plan.

Specifically, the province of British Columbia is asking the Court of Appeal to answer the following questions.

First, has the Government of Canada any statutory prerogative or contractual authority to limit its obligation under the Canada Assistance Plan Act, RSC 1970, Chapter C-1 and its agreement with the Government of British Columbia dated March 23, 1967 to contribute 50 per cent of the cost to British Columbia for assistance and welfare services?

• (1310)

Second, do the terms of the agreement dated March 23, 1967 between the Governments of Canada and British Columbia, the subsequent conduct of the Government of Canada pursuant to the agreement and the provisions of the Canada Assistance Plan Act, RSC 1970, Chapter C-1 give rise to a legitimate expectation that the Government of Canada would introduce no bill into Parliament to limit its obligation under the agreement or act without the consent of the people and Government of British Columbia?

Those questions are contained in Order in Council No. 287 signed by the Lieutenant-Governor on February 27, 1990.

I have forwarded a copy of the Order in Council and all relevant court documents that I have been able to obtain to the Chair.

We know that the first court hearing on this issue will take place tomorrow afternoon. I hope you will agree, Mr. Speaker, that the House should do all that it can to ensure that this hearing is as fair to the citizens of British Columbia as is possible.

I think it is important at this point for the House to remember the pledge it made some decades ago when it established the Canada Assistance Plan and defined the federal responsibility over welfare assistance, child care and other related issues.

Section 8 of the Canada Assistance Plan Act states: "an agreement may be amended or terminated by mutual consent of the minister and the provinces" and

"Canada may at any time give to the province notice of intention to terminate an agreement—the agreement shall cease to be effective for any period after the day fixed in the notice or for any period after the expiration of one year from the date on which the notice is given, whichever is the later."

Historically the House has by convention restrained itself from discussing questions which are before the courts when such a discussion would prejudice the outcome of those proceedings.

I refer of course to the *sub judice* convention.

Beauchesne's fifth and sixth editions describe the responsibility of members to exercise restraint in the following way:

Members are expected to refrain from discussing matters that are before the courts or tribunals which are courts of record. The purpose of this *sub judice* convention is to protect the parties in a case awaiting or undergoing trial and persons who stand to be affected by the outcome of a judicial inquiry. It is a voluntary restraint imposed by the House upon itself in the interest of justice and fair play.

As a result of the cases brought before it the House has a much clearer understanding of the *sub judice* convention as it applies to criminal cases than civil ones.

But the premise of the convention that everyone is entitled to a fair hearing before the courts without prejudicial debate in the Commons surely applies equally to criminal and civil matters.

I hope you will permit me, Mr. Speaker, to explain why I feel it should apply in today's circumstances.

The courts are being asked to judge whether there is a legitimate expectation that the Government of Canada would introduce no bill into Parliament to limit its obligation without the consent of British Columbia. It is also being asked whether the government has any authority to limit its contributions.

These two questions are part and parcel of the motion currently before the House. If the House resolves its approval for the budget, it will be endorsing the authority of the government to limit its contributions.

If the House gives leave to introduce any bill which reduces the Canada Assistance Plan to any or all provinces, it will be asserting that there is no "legitimate expectation that the government would introduce no bill".