

Mr. Baldwin: Now, Mr. Speaker, I wish to raise a point of order which is related to, and directed at, this particular bill. With great regret, I am compelled to point out to Your Honour that I doubt very much if this bill should be proceeded with at the present time because it fails to comply with Standing Order 62, which is related to section 54 of the British North America Act.

Your Honour has had some occasion in recent weeks to consider this point. My distinguished and learned colleague, the hon. member for Edmonton West (Mr. Lambert), on two occasions recently called to Your Honour's attention this predilection of the government to include in the recommendation from the Governor in Council, which is required by Standing Order 62, a number of details with regard to what should be the financial aspects of a bill. With the great perspicacity which usually marks your judgments, Your Honour pointed out to all and sundry, but particularly directed your remarks at the government, that it would be much simpler and safer to have simple recommendation with regard to all aspects of the bill.

Having laid the groundwork, I would refer Your Honour to the recommendation which appears on the flyleaf of the bill and which reads:

His Excellency the Governor General has recommended to the House of Commons the present measure respecting grain; to provide for the constitution of the Canadian Grain Commission, for salaries and expenses and accountable advances to the commission; for the objects and powers of the commission; for the establishment of grades of western and eastern grain; for grain standards committees, for the grading and inspection of grain; for the constitution of grain appeal tribunals; for licences and licensees and for charges by licensees; for elevators and grain dealers and the handling of grain licensees and other persons and the carriage of grain; and to make also further provisions in connection with the administration of the act.

When the government has seen fit to itemize a number of instances with regard to which financial aspects prevail, then I think they must cover all of them.

Having said that, Mr. Speaker, if you would turn your attention to clause 108 of the bill you will find that it purports to repeal section 11 of the Prairie Farm Assistance Act. Clause 108 of the bill provides for a levy of 1 per cent to be deducted from the purchase price of grain purchased from elevators. It then provides for that money to be paid into what is known as the Prairie Farm Emergency Fund. From that fund certain other payments shall be made. In addition, that same clause provides that certain licensees who fail to comply with certain subsections of the bill may have to pay a penalty of one-thirtieth of one per cent. That money goes into the same fund, and provision is made for appropriations out of that fund by the commission that is to be established by the bill.

● (3:40 p.m.)

I point out, Mr. Speaker, that this is an appropriation of public moneys for certain purposes, and the Governor General's recommendation simply does not cover it at all. This matter was dealt with, although not in the same sense, when this bill was before the standing committee

Canada Grain Bill

in the previous session. The hon. member for Crowfoot (Mr. Horner) proposed an amendment to clause 15 of the bill. The amendment read as follows:

...Where by reason of an order made under this section a person suffers financial loss, the Commission shall compensate that person in the amount of his loss; the Federal Court shall have original jurisdiction to determine the liability to compensate and the amount of compensation, if any.

At that time, the vice-chairman who was presiding over the committee, acting upon an opinion given by the law clerk and parliamentary counsel, ruled the proposed amendment out of order. I am not suggesting that those opinions are binding on Your Honour. I am simply citing them to show that my point has validity, because it relates to a set of circumstances that are precisely similar. The vice-chairman ruled the amendment out of order because the amendment proposed that compensation, or an award, should be paid to a grain producer. That is precisely the same as the proposal contained in new clause 108. Where the producer has suffered loss, there is to be a financial appropriation and, therefore, I submit, it is out of order.

May I read what the law clerk and parliamentary counsel had to say about that matter, as recorded at page 66 of the proceedings:

...I do not think a private member could do it. I will go further than that. I would say that a Minister of the Crown could not do it in this Committee. If he wanted to do it, he would have to do it at the report stage in the House by moving an amendment there, and to that amendment the recommendation of the Crown would have to be annexed.

I say this is a valid opinion. I approve it. I cite it to Your Honour, not because it is binding on you but because it is on all fours with the situation to which I am referring. The government, having brought down a recommendation from the Governor General setting out in detail various aspects of the bill which are subject to financial considerations, has included in its legislation a provision that a 1 per cent levy shall be paid into a fund, and from that fund the commission which is to be established will be authorized to make certain awards. What can that be except an appropriation of public funds?

Then, of course, there is the additional aspect of the fine of one-thirtieth of one per cent, which goes into the same special fund out of which awards can be made. Consequently, if you examine the bill in its entirety, you will find that there is no provision in His Excellency's recommendations to the effect that this special financial provision is authorized. I am sure that was not in there. I am also sure that if I were to move an amendment to this effect, as the hon. member for Crowfoot did before the committee, Your Honour would have no hesitation in ruling that I could not do so, or that a minister of the Crown could not do it either unless he had come to this House with an amendment to the recommendation approved by the Governor General.

I do not need to say anything more. Your Honour is well aware of the nature of this type of objection. You have pointed out the dangers which are inherent in the government's proceeding in this way. I point out that, under these circumstances, the bill is defective and, until