

Salaries Act

legislating by the Appropriation Act has undesirable characteristics, and in the report of this office to the House of Commons a year ago I drew attention to the situation. See paras. 39-42 of the attached marked copy.

Mr. Sellar sent me a copy of his report for the year 1947-48. I will not read it all but paragraph 41 makes reference to this matter of car allowances and then says this:

These payments become statutory charges by the text of vote 352 of Appropriation Act No. 5, c. 61, statutes 1931. The 1947-48 main estimates included 30 items marked "(S)" because of texts in previous appropriation acts—22 having an association with vote 352 of 1931.

As I have already said the Revised Statutes of Canada for 1952 show that the Appropriation Act No. 5 is now spent. The next paragraph in that same report by Mr. Sellar for 1947-48 reads as follows:

The practice of legislating by appropriation acts has attractions when dealing with special cases or making temporary exceptions from general legislation; but the thought presents itself that it might be a safeguard and a convenience to members were such items listed together in a special schedule and the reason therefor printed with each item—as is the practice with respect to bills.

I submit, Mr. Speaker, that the first part of that sentence justifies what was done by Mr. Bennett's government in 1931. Let me read it again:

The practice of legislating by appropriation acts has attractions when dealing with special cases or making temporary exceptions from general legislation;

But it is a different story when it is continued for 23 years.

Similarly Mr. Watson Sellar, Auditor General, prepared a very extensive memorandum on matters of this kind. Originally it was for a committee of the Senate but later it was presented to the public accounts committee of this house as well. In that memorandum he dealt with this matter again and said:

An example is vote 352 of the main Appropriation Act for 1931. That vote authorizes an annual motor car allowance to be paid to ministers, the Speakers and the leader of the official opposition in the House of Commons. Payments are made every year by relying on the text of the 1931 vote. Consequently, in the estimates the amounts are listed as "s"—

That means "statutory".

—which means authorized by statute. Legislating by means of an appropriation act is a convenience when a need is transitory. Furthermore, it avoids cluttering the statute books with expired legislation.

I think that is a very clear statement and a very proper statement. If there is some item which has to be passed only for two or three years there is really no objection to parliament being asked to pass it, and it can be included in the items in the estimates. Mr. Sellar states that it is rather ridiculous to

have special statutes for temporary items which will result in the statute books soon becoming cluttered with expired statutes.

But this is not something that expires. This is something that has been continuing for 23 years. The Prime Minister (Mr. St. Laurent) agreed there were items which required to be cleaned up and this one certainly comes within that category. The Prime Minister assured me these items would be dealt with but we now have the matter before us and nothing is being done about it. Let me go on with Mr. Sellar's comment. After saying these things would clutter the statutes books with expired legislation he continued:

But from the constitutional viewpoint, it is open to the objection that it is, in fact, incomplete legislation because the mode employed circumscribes deliberations by the Senate. This was pointed out 30 years ago in a report of a special committee of the Senate on the rights of the Senate in matters of financial legislation.

Mr. Sellar included in the memorandum a notation on that subject which I will not take up the time of the house in reading but it does seem to me, Mr. Speaker, that the position with regard to this matter is very clear.

I am not alleging that the paying out of this money is illegal. If it were the Auditor General would have said so long ago. But I am asserting in the words of the Auditor General that although it may be proper to deal with a transitory matter by means of items in the estimates, it is not fair to parliament nor to the recipients to continue year after year making payments of this kind on the basis of an item in the Appropriation Act of 1931 which was spent long ago.

Now, Mr. Speaker, there are two things that might be done in respect of this. On the one hand, the government might say it intends to continue this \$2,000 motor car allowance, and it could present the matter to parliament in some way so parliament could pass it or reject it. That could be done by including it in the Salaries Act. If that were done the question of whether it was tax-free or otherwise could be determined by parliament. Despite my extensive research on the question I have never been able to find when parliament decided on this question and how that decision was arrived at. I suppose the income tax people made a ruling on it or it was dealt with by someone in the Department of Justice somewhere along the line, but certainly parliament never made the decision.

That is one course the government could follow. It could say that notwithstanding the views of the member for Winnipeg North Centre they wanted this \$2,000 to be part of