

direction or an independent board—although the vote does not designate the board's independence—then this vote is legislation by an Appropriation Act, legislation which, unless there is an emergency, should be enacted in a separate bill as an amendment to the Department of Consumer and Corporate Affairs Act.

I would refer Your Honour to the report of the Special Committee on Trends in Food Prices, issue No. 17 covering the proceedings for Tuesday, March 27 of last year, Thursday, March 29 of last year and Friday, March 30 of last year. At page 17:7 we find that the first recommendation of that report to the House, passed by the committee, was:

That the government give consideration to the advisability of introducing the necessary legislation to establish an independent Food Prices Review Board equipped with such powers as are necessary to review prices, and that it report to the Minister of Consumer and Corporate Affairs—

That was the recommendation of the committee, one of the reasons for which I presume was the lack of power in the report. I therefore submit that if the vote refers to that board set up under the Inquiries Act, chapters 1 to 13 of the revised Statutes, 1970, then again, in my submission, it is legislation. Section 11(1) of that act authorizes any commission constituted under the act to hire staff. That is the only expenditure a commission is authorized to make. Yet this vote details operating expenditures for transportation and communications, rentals and capital expenditures for machinery and equipment—and God knows it needs some machinery and equipment. This vote can only be legislation to amend the act to do something which the governor in council could not authorize the board to do by order in council under the act, that is, to authorize the board to expend public moneys beyond the hiring of staff.

Whichever way this vote is looked at, it is attempted legislation by an Appropriation Act. The principle is set out in May's eighteenth edition at page 731. On that principle the vote must be ruled invalid. I will be referring very shortly to a precedent by the Chair. Before I leave that particular aspect I ought to point out to you, sir, and make the submission that the proper way to fund a body such as a food prices review board is as has been done in the main estimates of the Privy Council to be found in the main estimates for this year at page 20-6. I read from "A—Privy Council" estimates; It is the last subparagraph at the bottom of the page under "Program description" and it reads:

Commissions of Inquiry and Task Forces—The provision of funds for Commissions of Inquiry and Task Forces appointed to make recommendations on specific issues.

That is the way it was done with the setting up of the Indian Land Claims Commission; it was not done under the Department of Indian Affairs, and the powers are similar to this. The appropriation of the Minister of Consumer and Corporate Affairs was sought by the estimates under the appropriation bill following that, and in that case it is a vote under the Privy Council estimates and not under the department which has no powers.

I said, sir, I was going to refer the Chair to a ruling which was made on December 10, 1973, in which Your Honour quoted the same citation from May's which I now advance in support of the submission that the vote is an attempt to legislate by an Appropriation Act. I refer to May's eighteenth edition at page 731, commencing at page

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730 under the heading "Authorization of expenditure by the Appropriation Act without specific legal sanction," as follows:

Expenditure by a department for purposes not covered by its existing legal powers normally requires to be specifically authorized by a financial resolution associated with a bill according to the procedure described in the next chapter.

On that day Your Honour went on to quote at length, commencing as follows:

The question has repeatedly arisen in the past whether, in a particular case, the authority given by the Appropriation Act is an adequate substitute for authorization by a specific bill.

On the one hand, there is, so far as this question is concerned, no legal restraint on the discretion of the Crown in presenting an estimate, or on that of Parliament in authorizing the expenditure provided by such an estimate by the Appropriation Act. On the other hand, the Appropriation Act is a general measure, containing a great many items, and is not adapted to defining the conditions, etc., of expenditure. Also, this act only gives authority for a single year, and is therefore not appropriate for expenditure which is meant to continue for a period or indefinitely. There have been cases, too, in which the Appropriation Act has been used, not merely as a substitute for specific legislation, but to override the limits imposed by existing legislation.

The Public Accounts Committee have repeatedly drawn attention in their reports to cases of what they considered the misuse of the Appropriation Act in either of the above-mentioned ways, and the Treasury, in answer to such comments, have justified the practice on grounds of emergency rather than of principle.

Your comment at that time, Mr. Speaker, was this:

I suggest that if such justification were put forward, it would have to be based on an emergency rather than a principle.

But, Mr. Speaker, there can be no emergency in this case because if there were an emergency with respect to vote 16b the government would have proceeded under Standing Order 58(18). That order reads:

In the event of urgency in relation to any estimate or estimates, the proceedings of the House on a motion to concur therein and on the subsequent bill are to be taken under Government Orders and not on days allotted in this order.

So I submit to you, sir, that this is an attempt to legislate by an estimate, and that it should be done in a normal fashion by bringing in the necessary amendment to existing legislation and not by an attempt to legislate through an appropriation bill. That being the case, in my submission the estimate cannot be put forward at this time on a motion to concur.

Mr. Reid: Mr. Speaker, unlike the hon. member, I shall be brief. I think it is important to realize that the Food Prices Review Board was set up under the Inquiries Act, the act designated, and the responsible minister having set up the board, the government was under some obligation to provide funds for it to operate. That is what this estimate does. How else is money to be provided for a function of the government if not through the Appropriation Act or estimates? It seems to me that the hon. member, in his typical fashion, has dragged one of his red herrings across the path of the House of Commons.

Mr. Speaker: The Chair would be pleased to hear further representations if hon. members have views to express. The evening is early and the Chair is quite prepared to listen to further argument if that is the wish of the House.

Some hon. Members: No.