

to be disposed of. I see nothing raised by the hon. member, with due respect to his knowledge as a parliamentarian and as a lawyer, that gives rise to a question of order. I therefore propose to put the question.

Mr. Nielsen: I rise on a question of privilege.

Some hon. Members: Order, order.

Mr. Nielsen: I rise on a question of privilege. There is nothing in the rules, with great deference to Your Honour, which prohibits an hon. member from raising a point of order before any motion is called, before any bill is called.

Some hon. Members: Hear, hear!

Mr. Nielsen: Surely, Sir, every member of this House enjoys the privilege of stating a point of order—

Some hon. Members: Order, order.

Mr. Nielsen: —to the Chair before it is ruled on. I have not yet completed the point of order I was making. Surely it is the rule, in all fairness, that the Chair listen completely to the point I am raising.

Mr. Deputy Speaker: Order, please. If the hon. member does have a point of order in connection with two of the motions that are now on the order paper, I suppose the proper time for him to raise them will be when they are reached. At the moment they have not been reached.

With the conclusion of this debate, proceedings on the motion before the House having expired pursuant to section 10 of Standing Order 58, the House will proceed to the next item on the order paper, namely, consideration of the business of supply.

MOTION FOR CONCURRENCE IN VOTE 70, DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

Hon. C. M. Drury (President of the Treasury Board) moved:

That vote 70, in the amount of \$45,032,100 of the Department of Indian Affairs and Northern Development for conservation—operating expenditures for the fiscal year ending March 31, 1974 (less the amount voted in interim supply), be concurred in.

Mr. Deputy Speaker: Is it the pleasure of the House to adopt the said motion?

Some hon. Members: Carried.

Mr. Nielsen: On a point of order—

Mr. Deputy Speaker: All those in favour of the said motion will please say yea.

Some hon. Members: Order, order.

Mr. Nielsen: A point of order—

Mr. Deputy Speaker: I see the hon. member on his point of order.

Mr. Nielsen: I do not know why it is, Sir, that I have such great difficulty in being seen by the Chair on a point of order. This is one of the votes that is affected by the

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point of order I was raising a little earlier. I had offered, as a matter of courtesy, to send up to the Chair a list of the votes affected, if it was the wish of the Chair. As I was saying, I am applying the argument on my point of order that was made before I was interrupted. I will complete it so that Your Honour might have something to decide.

The matter is a procedural one, that these continuing votes in the main estimates will, if allowed to remain, erode that procedural and constitutional safeguard by almost one-sixth. If one adds the provisions in these estimates—which I have not done—that allow for non-lapsing votes, contrary to the procedural rule in section 30 of the Financial Administration Act, transfer votes and the revolving funds established in other years, one finds an erosion of parliament's constitutional control over supply in excess of one-sixth of the supply requested by the government in these main estimates.

I should like to refer the Chair to a ruling by the Chair on June 22, 1972, which established that under the new rules this House has lost its power to reduce votes in supply; the House can only vote for or against them. The decision was a landmark warning that this House must, under the new rules, if it is to play any role at all in granting or controlling supply, insist that the estimates comply with the constitution, the statutes of this parliament and the rules, statutory or otherwise, of this House.

Under the new rules, this is the first opportunity the House has to raise a point of order of this nature. The rules are different if a point of order is raised at the appropriation bill stage: there the statutory rules of construction may come into play. I say "may" because the point was raised in the other place on a supplementary appropriation bill during this session, but has since remained unresolved. There is interesting, and perhaps helpful reading, in the proceedings of the Standing Committee on National Finance of the other place, issue No. 2 of February 23, 1973. The committee was considering Bill C-141, the supplementary estimates appropriation bill, with the assistance of the President of the Treasury Board. When the President of the Treasury Board disqualified himself as an expert, the director of the legislation branch of the Department of Justice undertook to furnish the chairman of the committee with a written opinion to explain how the bill could contain votes in the schedule that extended beyond the fiscal year, and thus contradicted the title and the body of the bill.

Although some months have elapsed, I am informed that written opinion has not yet been received from the Department of Justice by the chairman in the other place. The partial explanation offered by the Department of Justice representative at the time, that the appropriation bill amended the relevant provisions of the Financial Administration Act as being later in time and particular in quality, does not, of course, avail here. I am objecting to a motion that exceeds in scope the Governor General's recommendation and violates section 54 of the British North America Act, Standing Order 62(1) and section 20 of the Financial Administration Act. A mere motion, of course, cannot of itself amend a statutory provision.

If the Chair would like to have a copy of the votes that are affected and that go beyond the scope of the recommendation of the Governor General, I will send it up.