

**Senator Stewart (Antigonish-Guysborough):** No, I did not; I asked that question.

**Mr. Beatty:** You asked it rhetorically, and the answer is that you cannot do that.

Secondly, with delegated legislation, yes, you do have the ability—with all sorts of delegated legislation—to create new organisms or to create bodies which need to be funded. That exists in statute after statute in our law. There is nothing novel about that at all. To suggest that there is something somehow peculiar in the case of Bill C-77 is simply wrong.

**Senator Stewart (Antigonish-Guysborough):** You are saying that with this new act on the statute books Appropriation Acts of the kind that are now required would be necessary in every circumstance?

**Mr. Beatty:** The same rules would apply in the future that apply now.

**Senator Stewart (Antigonish-Guysborough):** Are you saying that there is no change in the—

**Mr. Beatty:** Pardon?

**Senator Stewart (Antigonish-Guysborough):** I want to make sure I am not interrupting, because I want you to get the best information that is available to you from your officials.

I want to know what difference this measure would make with regard to the appropriation of funds by the Governor in Council. We know there are certain circumstances, such as with Governor General's Warrants, under which this can be done. What new abilities will the Governor in Council have to appropriate funds if this bill becomes law?

**Mr. Beatty:** None that is novel in any way.

**Senator Stewart (Antigonish-Guysborough):** Then why is it provided in the bill that in the case of an international emergency there can be appropriation?

**Mr. Beatty:** What clause are you referring to? Are you referring to clause 36?

**Senator Stewart (Antigonish-Guysborough):** Would you look at clause 30(1)(j), which states:

the authorization of expenditures for dealing with an international emergency in excess of any limit set by an Act of Parliament and the setting of a limit on such expenditures;

**Mr. Beatty:** That is simply the ability to top up things like revolving funds and so forth.

**Senator Stewart (Antigonish-Guysborough):** Oh come! It states:

the authorization of expenditures for dealing with an international emergency in excess of any limit set by an Act of Parliament—

That is a little more than topping up.

**Mr. Beatty:** I am advised that the only case where such limits are placed is in acts dealing with revolving funds, for

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example. It does not say "appropriation," incidentally, in that clause.

**Senator Stewart (Antigonish-Guysborough):** I would be interested in hearing the distinction.

**Mr. Beatty:** An example, senator, would be that the Export Development Act or the Defence Production Act may have limits in terms of the amounts of money that can be spent under those acts, quite apart from any amounts of money that might have been voted and appropriated by Parliament. This would allow one to waive the limit, but would be consistent with the appropriation powers of Parliament. Parliament would have appropriated the funds for that purpose.

**Senator Stewart (Antigonish-Guysborough):** Clause 40(1) states:

While a declaration of a war emergency is in effect, the Governor in Council may make such orders or regulations as the Governor in Council believes, on reasonable grounds, are necessary or advisable for dealing with the emergency.

Would appropriation be possible by order or regulation under that clause?

**Mr. Beatty:** No, because there is a constitutional requirement that there be a bill to appropriate funds. The Constitution supersedes the provisions of the bill.

**Senator Stewart (Antigonish-Guysborough):** I understand that, but surely a government—not a government in which you were a member, of course—would argue that an order made under this clause would be adequate.

**Mr. Beatty:** That is a novel construction, senator; you are right that I would not argue that. I would be very surprised if anyone else did.

**Senator Stewart (Antigonish-Guysborough):** A similar argument was made during the First World War, not with regard to the appropriation of money but in relation to putting aside the provisions of a statute.

**Mr. Beatty:** I missed World War I, and my memory may be faulty there, but, as a parliamentarian, one thing I know is that the development of parliamentary democracy stemmed in large part over the issue of control of the purse. Precedents are well established in jurisprudence, and the long struggle for the development of parliamentary democracy would forbid precisely that.

**Senator Stewart (Antigonish-Guysborough):** I want your word on the record, and that of reliable authorities, that, in fact, we are not setting aside the great tradition to which you referred.

**Mr. Beatty:** Absolutely not, senator.

**Senator Stewart (Antigonish-Guysborough):** All right. When I say "All right," I am thanking you for what you have said; I do not mean I necessarily agree.

I was pleased when you were explaining the measure that you said candidly that in many of the situations contemplated