

*Dollar Items*

Should the very limited time allotted by Standing Order 58 be restricted to the consideration of what is strictly supply?

Standing Order 58, despite some changes, is substantially the same Standing Order. Mr. Speaker Lamoureux answered his own question later when he ruled that the items complained of were not properly before the House. He said:

—I must come to the inevitable conclusion that, in view of the situation created by the new rules, these items are not before the House in proper form.

On December 10, 1973, this ruling was upheld when he said:

—I think I have to reaffirm the principle at this time.

On March 26, 1974, he used similar language. Having been guided by those rulings, in June of 1976 I said, in commenting on the Loto Canada item:

—the desirability of this course is open to severe question, and it would certainly be hoped that where a question of principle is involved in an urgent situation, such as that which has given rise to this course and this particular situation, it would be considered an extremely singular situation, and will not be repeated in the future.

● (1640)

The last paragraph of that ruling reads as follows:

However, I do have to find and rule that in fact the legislative authority exists separate and independent from the estimates, and, therefore, what is sought in the estimates, the item before the House, is the money to support that legislative action which exists independent from it. In these circumstances I have to conclude that there is no legal bar to proceeding in that fashion.

On the other hand, Erskine May's eighteenth edition, at page 731, states that there is "no legal restraint on the discretion of the Crown in presenting an estimate" as "an adequate substitute for authorization by a specific bill." May points out simply that the Appropriation Act is not always adapted to defining the conditions, etc., of an expenditure—or is not always "appropriate for expenditure which is meant to continue for a period or indefinitely."

There is evident conflict between those two lines of reasoning, and the attempt to resolve this conflict leads to some consideration of the function of the Chair, which is not to dictate what parliament can or cannot do but, rather, to ensure that what parliament attempts to do is procedurally correct. It raises the additional matter of whether the Chair should act upon its own initiative in procedural questions or whether it should confine itself to the resolution of arguments presented.

This is a very pertinent question, in my opinion, in the present circumstances, because if the former course of action were recommended and were considered prudent it would have the Chair sorting through over 50 supply items of \$1 and, indeed, if we are to be consistent with my earlier remarks, through all supply items every time they are presented in an effort to ensure their legislative foundation. I do not think any hon. member sees the Chair as under such a duty, particular since it might very well conflict with certain basic rights of parliament on occasion to alter its regular practice in order to achieve a given objective. I refer specifically to occasions in the past and, I suppose, to occasions in the future, when parliament because of some urgency has wanted to use or may well want to use some similar device or even a \$1 item in supply, to do what essentially ought to be done by legislation.

The point of order raised seeks the adjudication of the Chair in respect of a number of specific items, and I am prepared to see to that. However, I hope hon. members share my distress that our present procedures do not provide the kind of confrontation between the two sides which enables the Chair to make an intelligent decision after weighing prepared arguments on both sides. The nature of yesterday's discussion was very much related to the general concern about the growing use of the \$1 item, and while specific references were made it seemed to me that they were made in support of the general argument rather than as attacks seeking to set aside the specific item referred to.

I will deal in a moment with those items, but first I want to stress the desirability—indeed, the necessity, if I am to be asked to set aside such items in future—that the House, first should be aware of my opinion on the general question; second, that we adopt an appropriate procedure for challenging specific items.

On the general question, it is my view that the government receives from parliament the authority to act through the passage of legislation and receives the money to finance such authorized action through the passage by parliament of an appropriation act. A supply item, in my opinion, ought not, therefore, to be used to obtain authority which is the proper subject of legislation. As an illustration of my reasoning on that subject I again refer hon. members to my language in respect of Loto Canada which I quoted some moments ago.

On the matter of a more appropriate procedure for challenging specific items, such procedure must, in my opinion, permit an adequate opposition attack and a properly prepared defence if the Chair is to hope to make an intelligent decision. Obviously, therefore, it cannot be expected that points of order would be raised at the time of tabling or referral of the supplementary estimates. Nor can it be left to the last moment of consideration of the supply bill itself, if the administration of the House is to be expected to produce for consideration by hon. members the actual supply bill before the votes are taken.

It would, therefore, appear to me that some time must be arranged, with some advance notice to ministers, when points of order can be argued. The Chair, of course, is always open to suggestions which may come forward for discussion among hon. members. But I wish to serve notice on the House that if no such suggestions are forthcoming for such arrangement or similar arrangement, it will be my intention to set such arrangements in motion with the co-operation of the House on the next occasion upon which supplementary estimates are tabled. They will be arrangements probably calling for such arguments upon the next to last allotted day in the trimester, upon some notice given to the ministers involved some time on the previous day.

Frankly, in the absence of such procedure I feel compelled to take a somewhat lenient view in respect of the specific items in issue at this time. Of those I propose to set aside only two which in their own language, in my view, admit of the necessity to amend an existing statute. These are paragraph (a), vote 1d, under Industry, Trade and Commerce, and vote 77d, also