

reversed the trust of the legislation, either restricting some powers or expanding some others.

What certainty is there, if that is the way to proceed? Amendments to existing statutes must be brought before this House, accepted at second reading, considered in committee and come under the total legislative process. It is legislation; it is not a matter of the voting of moneys. Therefore, I ask that you, Mr. Speaker, take this matter into consideration and, if it is possible to do so, to indicate, as have Mr. Speaker Lamoureux and others in the past, that amending legislation by way of a \$1 item is a reprehensible practice which must not occur, and that those items should be deleted from supplementary estimates D.

Mr. Mazankowski: Mr. Speaker, I, too, wish to rise on this very important and fundamental point of order which has been raised by the hon. member for Grenville-Carleton. I say it is fundamental because as far as I am concerned we are dealing here with a matter that affects the main function of this chamber. Your Honour will recall that last week I raised the question of the extensive use of \$1 items in supplementary estimates during the question period, and at that time Your Honour indicated that this was a matter which should be discussed and considered by way of a point of order rather than in the question period. It is with that in mind that we wish to elaborate on the issue before us today.

I want to contribute briefly to one aspect of this question, and that is the unsuitability of estimates and appropriations bills for legislative action of the nature proposed in these items. Reference has been made to the ruling of Mr. Speaker Lamoureux of March 10, 1971. The section which determined his ruling of that date is referred to in May's nineteenth edition at page 747. I believe that citation describes the limitations of the Appropriation Act. I think it is very pertinent to the issue we are discussing today and I should like to quote, for the record, the citation at page 747 as follows:

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.

The question has repeatedly arisen in the past as to whether in a particular case the authority given by the Appropriation Act is an adequate substitute for authorization by a specific bill. I refer again to May's as follows:

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 next paragraph goes on to note that this practice has been justified in the United Kingdom on the ground of emergency but not of principle. But it is principle upon which our democratic assembly must base its decisions and its findings, and it was Mr. Speaker Lamoureux who rejected emergency as a proper foundation for that precedent. In this context I would also like to refer to Driedger's comment on the nature of

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the appropriation bill at page 214 of the new version of "Legislative Forms and Precedents". He said:

These acts authorize the expenditure of a specific sum for the purposes enumerated in the schedules. The authority under these acts is to apply a specified sum out of the consolidated revenue fund towards defraying the several charges and expenses of the public service from the beginning of a specified fiscal year to the end of that fiscal year.

The noteworthy feature is that the appropriation is for one fiscal year only; balances of the appropriations remaining unexpended at the end of the fiscal year lapse. The authority does not extend into any subsequent fiscal year.

It would be very odd indeed if we were to adopt the principle that an appropriations act can only authorize the expenditure of money for one year but can permanently alter totally unrelated legislation. There have always been problems with \$1 items. Previously, the Appropriation Act could be debated and thorough consideration given to one of these items almost as if it was a proper legislative proposal. Now, however, we are subject to the new Standing Order 58. Estimates go to committee, and there is no debate on the appropriations bill, which means there can be no amendment. Therefore, there is effectively no way of dealing with a \$1 item in the House outside of an opposition day. Even on such a day, or in committee, it is doubtful what could be done. By tradition, and under the terms of the Financial Administration Act, no alteration can be made in the form of an estimate and, of course, there is no point in moving to reduce a \$1 item. Therefore, we have a legislative proposal which is inviolate in terms of amendment or effective debate, subject as it is to a guillotine after very restricted committee discussion.

I simply want to reinforce the point raised by my colleague, the hon. member for Grenville-Carleton. It seems to me that in this case the House of Commons is, in fact, being denied the right to debate a legislative proposal. To me, that is wrong in principle. To me, the right to debate a statute or an amendment thereto is a fundamental right of parliament and that right should be guaranteed and preserved. No legislation should be immune from the judgment of the House and so approximate in essence to an executive decree. In addition, there is bound to be confusion in the future about the proper course to take respecting bills which amend the Appropriation Act. I think all members of this House should work to make our statutes more, and not less, intelligible.

● (1530)

These considerations led the previous Speaker to disapprove of the use of appropriation bill for this purpose. I hope your ruling will agree with him and call for the deletion of legislative proposals from appropriations bills. I think the Speaker summed up his case very appropriately, as reported at page 8608 of *Hansard* of December 10, when he stated as follows:

—legislation by way of a dollar item in the estimates . . . is not a practice which ought to be condoned and supported by the House.

It is also worthy to note that the second report of the Standing Committee of the Senate and the House of Commons on Regulations and Other Statutory Instruments had this to say about the use of \$1 votes in terms of affecting legislation. I quote from page 34 of the report: