

### *Children's Rights*

procedural acceptability; not really in itself, but in the fact that it opens the door to further abuses on other occasions.

Despite the fact that this bill, or an identical bill, was allowed to be debated earlier this year during the previous session, the Chair feels it is necessary at this time to intervene and interpose its authority, because now it becomes quite clear we will be faced within the near future with a far-reaching precedent which could be set for many other such bills already listed on the order paper.

Before proceeding with the consideration of this bill, I thought it was appropriate to make the case and establish the position of the Chair. It appears to me that this bill, and other similar ones, are out of order at first glance. This bill seems to infringe the financial initiative of the Crown.

Clause 4 of Bill C-204 reads as follows:

Such officers and employees as are necessary for the proper conduct of the work of the task force may be selected from the Public Service of Canada and the public service of the provinces.

That clause, as well as the objectives laid down in clause 5, will necessitate expenditures of a nature which would require the financial initiative of the Crown. These financial initiatives are the first items mentioned at page 754 of May's nineteenth edition under the appropriate heading, as follows:

#### MATTERS REQUIRING THE QUEEN'S RECOMMENDATION

##### 1. Moneys to be Provided by Parliament

The most frequent case of expenditure of this type is that of charges upon moneys to be provided by parliament for salaries and other expenses caused by the imposition of novel duties upon the executive government by the legislation of the session.

Further down the page, it reads as follows:

Instances of charges imposed upon moneys to be provided by parliament occur in abundance every session. The following examples may be given:

- (1) The expenses connected with the establishment of a new department—
- (2) The expenses arising out of the imposition of new duties on an existing department or authority—

If this bill is to impose a new duty on officers of the Crown, it falls within the citation in May's to which I have referred.

Another point is disturbing for the Chair. Clause 6 of the bill reads as follows:

Nothing in this act shall be construed as requiring an appropriation of any part of the public revenue.

Similar clauses are found in many other bills. Of course the Chair is not concerned with the application which might be made of the clause, if the bill becomes written in the statutes. That is a matter for the courts to decide. But the House should be cautioned that the Chair could not interpret the incorporation of such a clause in a private member's public bill as an acceptable way of eluding the requirement for a royal recommendation where such recommendation is required.

The practice of incorporating clauses of this nature in private members' public bills is relatively new, but it is being applied to an increasing number of bills, all of which have this in common: that there might be some doubt as to the need for

a royal recommendation for the implementation of a bill because of financial requirements.

It should be understood clearly that the Speaker, and only the Speaker, has the duty and responsibility to determine whether any bill requires a royal recommendation, and that the Speaker is empowered to decline to put the necessary questions on bills which require royal recommendations but fail to obtain it.

● (1712)

It is equally clear that when the required royal recommendation is not obtained in relation to a bill, the Chair must interpose its authority before any further proceeding is embarked upon on the bill. Under the heading "Enforcement of Rules of Financial Procedure", May's nineteenth edition, page 709, states:

Questions of interpretation are decided by the Speaker, or if they arise in committee, by the chairman. In discharging its duty of disallowing any proceedings which would infringe the rules of financial procedure, the Chair relies in the last resort upon its power to decline to propose the necessary questions. It is principally by the action of the Chair that the financial practice of the House has been developed, its principles defined, and any deficiencies in the standing orders (such as those mentioned on p. 710) supplemented.

And a few lines further down it says:

Unless the recommendation of the Crown enjoined by SO No. 89 be signified, the Speaker cannot propose the question on a motion which comes within the scope of this standing order. Accordingly, if any motion or bill or proceeding is offered to be moved, whether in the House or in a committee, which requires but fails to receive the Queen's recommendation, it is the duty of the Chair to announce that no question can be proposed on the motion or to direct the withdrawal of the bill.

I am sure all hon. members are aware of our Standing Order 62, but this same requirement is also provided for in the British North America Act under section 54.

The rules of financial procedure are so stringent that there is no provision whereby the Speaker might leave it to the House to decide whether or not a royal recommendation is required for a particular bill or to allow the House to do it by unanimous consent. It is interesting to note—and this is important—that even if the Chair were tempted to abnegate its responsibilities in this area by allowing a bill to be proceeded with on the basis of the inclusion of a clause claiming that no appropriation would be made of any part of the public revenue, it would not be the House but one of its committees which would in fact decide on the application of the financial initiative of the Crown, because it is in committee that the various clauses of a bill are dealt with. For example, clause 6 or a like clause could be defeated in committee and removed from the bill.

The Chair has therefore come to the conclusion that clause 6 of this bill, and similar clauses in other bills, whatever their purpose or object may otherwise be, will not be given any consideration in determining whether or not there is any infringement of the financial initiative of the Crown. I therefore intend to continue, according to past practice, to examine every private member's public bill as it is proposed for consideration to ensure that the provisions of Standing Order 62 are not violated.