

*Point of Order—Mr. Andre*

them that the role of the Chair is to rule on procedural aspects only and not to decide questions of law.

The hon. member for Calgary Centre objects to 11 items contained in the Main Estimates. These are: Communications, Vote 1, 70 and 80; Energy, Mines and Resources, Vote 1; Environment, Vote 5; Finance, vote 1; Public Works, Vote 10; Supply and Services, Vote 1; and Transport, Votes 1, 10 and 45. The hon. member is of the opinion that these votes should be ruled out of order on the basis that they seek authority which does not appear in existing legislation, that is, "authority to spend revenue received during the year".

As I said in my ruling of June 12, 1981, an item that seeks to establish a new program in the absence of other legislative authority and the funds to put it into operation runs counter to the rulings of the Chair since 1974, which hold that legislation is required to authorize new programs, particularly matters of major substance.

I quite agree with the hon. member on this particular principle. However, after examination I find that the 11 items objected to are indeed based on legislative authority, which is the Appropriation Act No. 2, 1981-82, and therefore are in order. This is consistent with my ruling of June 12, 1981, with respect to two votes in the Main Estimates 1981-82 of the Department of External Affairs, in which I said:

However, two of the items, External Affairs Votes L50 and L55, have previous statutory authority, albeit previous Appropriation Acts, and thus are in order.

I would like here to make a brief aside. Last year, in the same ruling, I did express the wish that "if all votes included a reference to the statutory authority on which they are based, it would be easier to determine whether or not they were in order." I wish to thank the President of the Treasury Board for doing just so in this year's Main Estimates. It is a step forward in making it easier for the House to find its way through the complex world of estimates.

In his argumentation, the hon. member for Calgary Centre made reference to Bill C-96, an act to amend the Financial Administration Act which is now on the Order Paper. He cited this in support of his contention that what is being attempted to be done in the estimates is clearly out of order. My response is that this is immaterial in the matter before us because statutory authority exists. We are not dealing with new programs but a continuation of programs which exist. This bill might well solve the problem in authorizing new programs in the future. It is not yet law, however, and is therefore of no assistance in the present circumstances.

The next item objected to by the hon. member for Calgary Centre is Privy Council, Vote 1 on the grounds that it seeks to amend legislation and, on this basis, the hon. member makes a parallel with Agriculture, Vote 30 in the 1981-82 Main Estimates which was ruled out of order on June 12, 1981. I must admit this vote caused particular concern to the Chair. Agriculture, Vote 30 was specifically seeking to go beyond Section 12 of the Animal Disease and Protection Act and was ruled out of order for attempting to amend existing legislation, whereas Privy Council, Vote 1 does not refer to specific legislation but is in fact a continuation of a vote in the 1981-82 Main Estimates covered by the Appropriation Act No. 2,

1981-82. In other words, Privy Council, Vote 1 does not attempt to amend the Salaries Act but provides for the salary of certain Ministers of State assigned by virtue of Section 23 of the Government Organization Act, 1970, which is itself the legislative authority required. The authority for the amount can be found in the Appropriation Act No. 2, 1981-82. I therefore find Privy Council, Vote 1 also in order.

The third classification mentioned by the hon. member for Calgary Centre dealt with expenditures not authorized under existing legislation. He cited Public Works, Votes 15, 25 and 35, and pointed out, based on Section 9 of the Public Works Act, that no authority exists for the minister to spend public moneys on non-public property. He added that Bill C-91, an act to amend the Public Works Act and the Public Lands Grants Act, not yet passed by this House, would give that authority. The three votes in question, however, appear in identical terms in Appropriation Act No. 2, 1981-82 and are therefore authorized under existing legislation. These are, therefore, not new programs and are in order.

The hon. member then offered a submission that Industry, Trade and Commerce, Votes 25 and L35 attempt to create new programs and are therefore out of order. Funds were appropriated for them, however, in the 1981-82 fiscal year in Appropriation Act No. 2. In view of this circumstance, I cannot agree that these votes authorize payment for new programs. I must rule them in order.

At this point the hon. member invited attention to Vote 40 of Public Works, contending that the vote is out of order on the grounds that it establishes a new Crown corporation and authorizes the corporation to spend revenues received during the year. As in the instance of the Industry, Trade and Commerce votes, funds were appropriated in 1981-82 for this program. On the second ground, that of spending revenues received during the year, I might well have included this vote for discussion under the hon. member's first classification. I find this vote also to be in order.

Finally, we come to Secretary of State, Vote 40 which the hon. member submits is out of order because it is based on an invalid authority, namely, paragraph (d) of Vote L27a of the Appropriation Act No. 4, 1976, which, he contends, lapsed several years ago. After thorough examination, I must respectfully differ with the hon. member. Paragraph (d) gives the terms and conditions of the payment and describes how payments are to be made. The statutory authority, again, is the Appropriation Act No. 2, 1981-82 and intervening Appropriation Acts.

By way of conclusion, I should like to make a brief comment. The President of the Treasury Board in his response argued that, when raising points of order of this kind, timing is of the essence. As all hon. members are aware, estimates are a complex subject and their examination is time consuming. My predecessors and I have noted that it would be helpful to the Chair and would assure a more appropriate procedure for challenging the estimates if points of order are presented as soon as possible after the estimates are returned to the House