

*Regulations and Other Statutory Instruments*

Let me talk about consistency. We have seen the Hon. Members of the Liberal Party decrying the sale of de Havilland. At the same time, the Premier of Ontario wants to sell UTDC. In this morning's *Globe and Mail* one can see the comments from Tuesday's *Hansard* in the Ontario Legislature where Ontario Premier David Peterson, speaking to the proposed sale of UTDC—

**Ms. Copps:** UTDC was a P.C. boondoggle and you know it.

**Mr. Lewis:** We never had any boondoggles when we were in Government. We just had successes in Ontario. It is nice to have the Hon. Member with us after a distinguished career in the Ontario Legislature. I am just trying to think of what distinguished it.

I was going to say that on June 10, 1948—

**Mr. Foster:** A point of order, Mr. Speaker. Would the Hon. Member clarify if this is the first time in history that the Government is filibustering a report like we are dealing with this afternoon?

**Mr. Deputy Speaker:** The Hon. Member for Simcoe North, on debate.

**Mr. Lewis:** That is too much, Mr. Speaker. Earlier today we were accused of cutting off debate and rushing legislation through Parliament. Earlier today the Liberals and NDP said that we are choking off debate in Parliament. Now we are debating. You cannot have it both ways. Either you want to debate something or get at the business of the day. Some Members of the House would do well to bear with me as we discuss the Patent Act.

I want to remind the House that in 1954 the Governor in Council purported to revoke the Register of Patent Rules, 1948 of his own authority. That was quite a constitutional problem because not everyone wanted him to revoke those rules. However, the report goes on to state:

These Rules were made by the Commissioner pursuant to the regulation-making power delegated to him by Section 15(2) of the Patent Act and can only be revoked by the Commissioner. While the approval of the Governor in Council is required for the making, amendment or revocation of regulations under Section 15(2), this is not to say that the Governor in Council may substitute himself for Parliament's delegate. If authority is wanted for this proposition, it can be found in section 26(4) of the Interpretation Act—

● (1640)

This is where we get to the power:

Where a power is conferred to make regulations, the power shall be construed as including a power, exercisable in the like manner, and subject to the like consent and conditions, if any, to repeal, amend or vary the regulations and make others.

Then we come to the meat of the report in which we are concurring:

Your Committee is of the view that the revocation of the Register of Patent Agents Rules, 1948 by the Governor in Council was without legal effect and that until such time as these Rules are revoked by the Commissioner of Patents, they must be regarded as being legally in force.

That is why we must have the debate today and air this question for the benefit of the House and the entire country.

**Mr. Tobin:** Oh, oh!

**Mr. Lewis:** They will never get my FCA. Where was I?

**An Hon. Member:** Start over.

**Mr. Lewis:** I was talking about the fact that the committee indicated that until such time as these rules are revoked by the Commissioner of Patents, they must be—

**Mr. Kaplan:** We will send a copy of your speech to your constituents.

**Mr. Lewis:** —regarded as legally in force. That is the key. The House must actually look at and consider whether these rules are in force. Can the Commissioner of Patents revoke them or are they regarded as being legally in force? The committee came out with a recommendation. We have to decide whether the House, all 282 of us, will back the feelings of the committee that the provisions of the Patent Rules which regulate the registration of patent agents be formally revoked and that the Register of Patent Agents Rules, 1948 be amended by the Commissioner of Patents so as to bring them into conformity with current practices under the Patent Act. I should like to make a personal aside here. This patent matter is a pretty complex one. When someone came to those of us who practised law—and I am sure the Speaker and other Hon. Members who practised law will remember such occasions—with a patent question, we always turned it over to an engineer. For the engineers in the House, I will say that was a disaster. Anyway, engineers have to do something, and as long as they took the Patent Act out of my hair, I was happy. Anyway, they all trucked down here to Ottawa, because most patent agents seemed to operate in Ottawa, to consider what rules to use. They wanted to know whether they should use the Register of Patent Agents Rules, 1948 or whether they should go to the Commissioner of Patents and say: "Did you revoke the rules?"

**Ms. Copps:** The family allowances are being cut back, and you are blithering about the Patent Act.

**Mr. Lewis:** This is important stuff. For example, people go out and buy motorcycles. They may be sitting on motorcycles on a magazine cover some day. If that were to happen, they would want to know whether the motorcycle was properly patented in Canada. They would not want to be sitting on an unpatented motorcycle. For crying out loud, those things can happen to people. Where was I?

**Mr. Gray (Windsor West):** Start from the beginning.

**Mr. Lewis:** In case anyone has lost my train of thought, I want to point out that there was a slight grammatical change in the legislation which was passed in 1923. It was not exactly the same as the legislation which was passed in 1869. One cannot read the report all at once; it has to be digested piece by piece. I should like to point out to the House a case considered by the House of Lords, to which reference is made on page 2 of the report where it reads: