

committees will have power to report on certain matters, and they have done away with "determination." The word "determination" evidently slipped in when the bill was originally drafted, and should not be there now.

Mr. GUTHRIE: There could be no objection to the words being left out. I quite agree that the words "or determination" should come out, and I therefore move:

That the words "or determination" appearing in the first and second lines of section 14 be stricken out.

Amendment agreed to.

The CHAIRMAN (Mr. Bury): Shall the clause as amended carry?

Mr. MACKENZIE KING: Before the clause carries I should like to draw the attention of the committee to what we are asked to do. We are being asked to fix penalties without knowing what the offences may be to which these penalties are to be attached. That is an entirely wrong position in which to place the House of Commons. Let me illustrate: Any local board, the existence of which is not yet known, the regulations of which will not be known until after it is formed, and the orders of which will not be known until after regulations are made, may give an order of a particular nature, and anyone who violates that order becomes liable to the fine and imprisonment for which we are now making provision. We are fixing the penalty to which some person or persons are to be subjected, although we have no idea what the offence itself is to be to which these penalties are to apply. That is wrong in principle. As I said a moment ago it is substituting local boards for parliament, and elevating these subordinate bodies into bodies having a power higher than that which parliament itself is prepared to exercise in the matter of the creation of offences. I do not believe that is a proper procedure or proper in any respect.

Mr. GUTHRIE: Of course this is the same argument, in principle, which the right hon. gentleman has made so many times in connection with this bill. Under many acts of parliament we give power to pass regulations about which we know nothing at the time the bill is passed, and we provide penalties for breaches of regulations. In this instance it is an order of a board; it is not a regulation, but the same principle is involved. We have done it; it is an established custom of parliament; no harm has resulted; no harm will result, and I cannot see any objection to it.

[Mr. Mackenzie King.]

Mr. MACKENZIE KING: I suggest that what parliament has done, at the very most, has been to set out a class of offences and attached to those offences certain penalties. It has permitted the governor in council to make certain regulations under some general clause which applies from one end of the country to the other. But here we are permitting a condition whereby an act may be made an offence in one locality which may not be an offence in another. Under such a condition we make a person liable to fine and imprisonment in one part of Canada, while in another part of Canada at the same time there is no similar law, although parliament has fixed the penalty. I have quoted from the report of the Royal Commission on Ministers' Powers. There is one other passage I should like to quote in this connection. It is from page 72:

The best exposition of the modern doctrine—

That is to say, of what the rule of law now means:

The best exposition of the modern doctrine and of its corollaries is that contained in Dicey's Law of the Constitution. He says: That "rule of law" which forms a fundamental principle of the constitution, has three meanings, or may be regarded from three different points of view. It means, in the first place, the absolute supremacy or predominance of regular law as opposed to the influence of arbitrary power, and excludes the existence of arbitrariness, or prerogative, or even of wide discretionary authority on the part of the government.

I submit that under that exposition what is here proposed is a highly improper method of proceeding, namely, to allow the governor in council arbitrary power to fix certain offences and to ask this parliament in advance of those offences being named or known, to fix the penalty that is to be made applicable when the governor in council has acted. The report goes on, still quoting from Dicey:

It means, again, equality before the law, or the equal subjection of all classes to the ordinary law of the land administered by the ordinary law courts.

There again I submit that we are violating what is fundamental because under this legislation there will not be equal subjection of all classes to the ordinary law of the land. These penalties that we are now asked to enact will apply only here and there as different local bodies, the central board, or as the governor in council may wish to have them apply. The penalties are to be made applicable to offences that are created by these local boards. I believe it will be found such a procedure is wholly unconstitutional and I