

*Explosives Act*

the legislation must be examined in the light of the harm it could do if improperly administered as well as in light of the good it could do if it is properly administered. There are some areas in the bill with which I think we should be concerned and which should bear a good deal of scrutiny before the bill is passed.

• (1520)

I refer in particular to the intent of the bill which is illustrated very well in section 21 which reads:

Except as authorized by or under this Act, every person who, by himself or his agent, has in his possession, sells, offers for sale, makes, manufactures, imports or delivers to any person any explosive is guilty of an offence and is liable on summary conviction,

This means that there is an onus or personal responsibility on the individual if an explosive device so named in the bill is found in his possession. He has then automatically committed an offence. I cannot go along with the consequences of legislating absolute offences and then providing for exemption by regulation. Last year or the year before there was a bill "the Statutory Instruments Act" which was to provide appeal to any inequalities or improprieties that might be caused by regulations issued under any act. However, when a bill is drafted in the manner in which this one is, the Statutory Instruments Act would offer no protection inasmuch as the regulations under this measure would provide exemptions from the crime rather than create the offence. Consequently, unless parliament provides for exemptions in the act itself, a review by the Statutory Instruments Committee of the validity of affirmative or negative resolution would provide no protection from the provisions of this act. I think that is important. It is impossible for us to discuss this bill intelligently or what the outcome of the passage of this bill will be unless we can examine the regulations that will be made under the act. Those who have studied this bill know that anybody who has in his possession at any time after the passage of this bill an explosive device will be committing an offence and will be liable to summary conviction.

I think it is useful to point out for the benefit of the uninitiated what the definition of an explosive is under this bill. We see that the term "safety cartridge" has been deleted. A special category was provided in the old act, but under this bill it no longer appears. In effect this took care primarily of the hunters and it is in the category of sporting ammunition. Clause 1(2) defines an explosive as follows:

"explosive" means any substance that is made, manufactured or used to produce an explosion or detonation or a pyrotechnic effect, and includes gunpowder, propellant powders, blasting agents, dynamite, detonating cord, lead azide, detonators, ammunition of all descriptions, rockets, fireworks, fireworks compositions, safety flares and other signals.

It covers the whole gamut. Unless an exemption is provided in the regulations, of which we have no knowledge at present, any hunter or any agent who has ammunition in his possession is deemed to have committed an offence. I suggest that this is totally wrong. There is no reason for hunting cartridges to be included in this act. It might be useful to note that by physical and chemical definition propellant powders are not explosives, and that is what we are concerned with primarily.

[Mr. Downey.]

With regard to legislating absolute offences such as is accomplished under this act, suppose we were to apply this principle to the Fisheries Act. A provision might then state that anybody who has in his possession fishing equipment or any equipment for use in catching fish has committed an offence unless an exemption is provided in the regulations. The regulations would designate the types of fish which it would be illegal to catch. Suppose it was a crime to catch a diminishing species of fish such as, say, salmon. In such a case, an officer who was enforcing the act, and who happened to see a fisherman plying his trade, would regard the fisherman as one who was committing an offence until the fisheries officer ascertained what type of fish the fisherman was catching. Under this act the onus of proof lies with the individual and he is guilty until he proves himself innocent. Under the Fisheries Act, this would mean that the fisherman would have to prove that he was not catching the protected species of fish or else he would be committing a crime. In many cases this would be an impossible task.

Another section which we should consider is section 23.2 which has to do with the certificate of chemist. Objection can be raised to this provision which requires proof by chemist's certificate. Under this section the chemist would no longer have to appear in court as a witness, and it would be sufficient proof if a certificate were provided from a chemist saying that the substance in someone's possession is of an explosive nature, unless the one against whom charges were pressed was able to prove otherwise. Under this act the onus is on the accused to ascertain the background of the chemist and his reliability in providing that certificate. I suggest that this provision bears close scrutiny because it does not seem right that we should arrest a man under this act, that we should require a certificate from a chemist who is not present to the effect that this is indeed an explosive device. It would then be up to the accused and not up to the court to ascertain the reliability or otherwise of the chemist who provided the certificate.

I think that an amendment should be made to take hunting cartridges out of the explosives category because it is not right that shotgun shells should be in the same category as nitroglycerin. I think that there are other areas in the act that need amendment. There is the one with regard to exemptions. I think we will have a great deal of difficulty with provisions dealing with explosives or explosive mixtures which are in common use.

• (1530)

I would like to see what regulations will be written in that regard. Here, I am thinking of the agricultural industry. Some 80 per cent to 90 per cent of the industrial blasting in this country is done with a mixture of ammonium nitrate and fuel oil. I am in the farming and ranching business, and it is not uncommon for me to have 30 tons to 40 tons of this material on hand at certain times of the year. I suggest that this is common in all parts of the country. If we are going to have regulations and restrictions covering all these substances we will run into a great deal of difficulty. We will make lawbreakers of hundreds of thousands of people, simply because of the components of the explosives that they may have stored on their