

To see what government by regulation of a board means, I ask honourable senators to look at section 36 of the bill:

36. (1) Subject to the provisions of this act and the regulations and under the control and direction of the minister, the board may

(a) grant, refuse to grant, revoke or vary permits under this act;

(b) in particular cases or classes of cases, from time to time prescribe terms and conditions for permits additional to those prescribed by regulation or prescribe special forms of permits in cases where none is prescribed by regulation;

(c) subject to an appeal as hereinafter provided, determine for the purposes of this act or any proceedings under this act,

(i) whether any person is a resident or non-resident and the time at which any person became or becomes a resident or a non-resident and the country of residence of any non-resident;

(ii) that a person who on or after the fifteenth day of September, one thousand nine hundred and thirty-nine was or is ordinarily resident in Canada has ceased to be a resident; or

(iii) the fair value of any property or of any debt, obligation or claim, or of any services.

It goes on in similar vein to deal with a great many subjects.

It was generally objected that the board, if given power to fix fair values, would be an unfortunate duplication of the Customs Division of the Department of National Revenue, which over a long term since the introduction of dumping duties and other trade practices has built up a staff experienced in valuing goods from all countries. It was suggested by the minister that he would change that general power which the bill seeks to give the board. I have here a memorandum which I think was read to the committee by the Acting Minister of Finance to indicate in what way the power would be limited. In paragraph 3 he says:

Determination of fair value. Section 36 (1) (c) (iii).

It has already been indicated that the necessity for the exercise of the authority of the board to determine, subject to an appeal to the Exchequer Court, the fair value of property, services, etc., is in practice limited to transactions between related companies whose dealings with each other are not arms length, and that it would be unlikely to prejudice the effective administration of the act if the power of determining fair value were limited to such cases.

I would ask the honourable the Chairman of the Banking and Commerce Committee (Hon. Mr. Beauregard) if that is not a correct statement.

Hon. Mr. BEAUREGARD: Correct.

Hon. Mr. McGEER: I would ask also the honourable senator who explained the bill on behalf of the government (Hon. Mr. Hayden) if that is not a correct statement.

Hon. Mr. McGEER.

Hon. Mr. HAYDEN: Yes.

Hon. Mr. McGEER: The honourable senator answers in the affirmative. He apparently does not consider the matter to be important.

Hon. Mr. HAYDEN: I do not think you have any right to say that.

Hon. Mr. McGEER: I wondered why you were smiling about it.

Hon. Mr. HAYDEN: I was smiling at being cross-examined.

Hon. Mr. McGEER: If I had the printed record before me I would not need to go through this procedure of checking on what was said. I do think that we should have a clear understanding of what amendments are proposed. My honourable friends across the way to whom I have spoken are heartily in agreement with me on that. I do not agree that we should by legislation give power to a board to make regulations. I think it is a mistake to confer that power on any board. If regulations must be made for the administration of an act they should be made by the Governor in Council. Let me put this straight proposition to honourable senators who understand the legal meaning of this legislation. If we give to that board power to pass regulations, subject to the approval of the Governor in Council, once the Governor in Council approves those regulations they become part of the act for administrative purposes. Now, unless there is an express provision defining such power, I believe that the Governor in Council would not be able to rescind or amend those regulations after they had been approved—unless they come back. They may never come back.

Hon. Mr. HAYDEN: Is my friend suggesting that if the Governor in Council wished to make a change in the regulations, and the board opposed, the change could not be made? How long do you think the board would last in that event?

Hon. Mr. McGEER: This board is appointed for an indefinite period of time.

Hon. Mr. HAYDEN: Indefinite? It can be removed.

Hon. Mr. McGEER: That would not give the Governor in Council power to change the regulations. But why depend upon the exercise of any such power as that? Why not legislate here that the Governor in Council shall make the regulations? I think the Governor in Council, making the regulations and being directly responsible for them, would probably not be so likely to be a rubber stamp of approval.