

Financial Administration Act

Though this is an interim measure until the commission reports and until the government brings down legislation to implement any recommendations the committee may make—which may take two or three years—I think this clause could have been much better than it is. We are passing a law: We are not passing a temporary regulation. This matter becomes a law of Canada.

Even though this is a temporary measure I object to two things in it. One of those has to do with the whole procedure under which the inquiry will be conducted and the right of appeal, which goes much further than the inquiry. The framework within which the inquiry will be conducted is to be contained in regulations passed by the governor in council. We have not seen the regulations. As things are, the government is left with a completely free hand as to the regulations it will pass and the framework within which they will be set up. The other objection is that this measure says that the commissioner has to be appointed by the governor in council. That might be somebody in the civil service; it might be somebody closely associated with those who have suspended the man and recommended his dismissal. The minister could have saved himself much trouble by having placed in subclause 7 a provision saying that when a person has been suspended for security reasons the right of appeal would be to some judge named by the Chief Justice of Canada.

In these circumstances the judge appointed would set up the regulations and framework within which the appeal would be heard and the inquiry conducted. This would give the judge the right to decide the extent to which the hearings would be private—I assume they would be in camera—and the procedures for the conduct of the appeal. This gets the governor in council entirely out of the picture. A security matter ought to be referred to a judge, it should be left to a judge to carry out his own investigation in the way he thinks best. That would alleviate any suspicion that the person appointed as commissioner has been selected because he is more likely to agree with the recommendation of suspension and dismissal.

The minister shakes his head. I remind him of the old saying, that not only must justice be done, but it must appear to be done. Beyond a shadow of doubt it must appear to an individual who has been dismissed on security grounds that justice has been done. Those grounds, because they have to do with

security, cannot be made public. I point out to the minister that subclause 8 of clause 7 says:

(8) For the purposes of subsection 7, any order made by the governor in council is conclusive proof of the matters stated therein in relation to the suspension or dismissal of any person in the interest of the safety or security of Canada or any state allied or associated with Canada.

We are giving this commission wide powers. Not only has it power to inquire, but the decision it reaches is final and complete. I take it there can be no appeal to the courts. A man can do nothing else. If you are to make such a definite decision, which would end a man's employment with the government and probably ruin him for life—any man who has been fired by the government after an inquiry on the grounds of security, is not likely to find a job anywhere else in Canada or in the western world—it is extremely important that this committee make absolutely sure that when a person is dismissed he has every opportunity to present his case. He should be treated according to the ordinary precepts of justice.

The government for its own sake, I should think, would want to wash its hands of anything that looked like a biased judgment. I do not know why the minister does not consider that when it is decided to suspend a man, the right of appeal should be given to him. Any such appeal ought to be conducted by any judge of the Supreme Court selected by the Chief Justice of the Supreme Court. It should be left to that judge to decide how to conduct the inquiry.

Mr. Herridge: Mr. Chairman, I want to raise what might be considered a contentious question. I have been asked to do this by some people in my constituency, by some members of the public service in Ottawa, and by some other employees in the public service. I suppose I have been asked because possibly I represent the Victorian values more than any other member of our group.

I want to quote two paragraphs taken from section 3:

(f) establish standards of discipline in the public service and prescribe the financial and other penalties, including suspension and discharge, that may be applied for breaches of discipline or misconduct, and the circumstances and manner in which and the authority by which or whom those penalties may be applied or may be varied or rescinded in whole or in part;

(g) establish and provide for the application of standards governing physical working conditions of, and for the health and safety of, persons employed in the public service;