

Aeronautics Act

every week with a thick pile of documents which its counsel considers may have been passed improperly, cases where officials have taken unto themselves a discretion which was not contemplated in the statute or even in the regulations. Mr. Speaker, if the statutory instruments committee has done anything at all, it has at least been able to alert those who draft the regulations in an attempt to make statutes work that legislation is the function of parliament. The committee acts as a brake on the practice of exceeding the power given in the statute.

The amendment does not say that the operation of the Aeronautics Act shall grind to a halt. It does not say that the powers given to the government under the act can suddenly be brought to an end. It does not say that the government has no regulatory power at all. It does not say that the Minister of Transport cannot exercise the discretion which is appropriately left in any minister. It says none of those things. It merely says that, if one chooses to move by regulation under the Aeronautics Act, there is a duty on the government and, indeed, on this parliament at least to examine whether those regulations are appropriately enacted, and that parliament should have an opportunity to pass judgment on that openly.

● (1542)

While the Minister of Transport is in the House, I want to say to him that in view of the precedents we have already made in this parliament—indeed, in this session of parliament—I cannot understand, frankly, why the government should disagree with this amendment, unless it is because it would be an inconvenience, unless the government wishes to hide something or unless it feels there might be something done which parliament ought not to see. I cannot believe there should be any objection to this amendment. I cannot believe that at the end of the debate on the report stage it ought not to be axiomatic or follow automatically that this government would allow this report stage amendment to proceed.

Just before I sit down, I want to ask the Minister of Transport to reconsider what I believe is his view that this amendment ought not to go forward, because I think it is important to our process. Although we have disagreements with the minister from time to time, I think he has some feeling for that process. But I think it is important that this kind of thing appear in a bill which affects such a broad spectrum of the Canadian community. I ask the minister to consult with his colleague, the Minister of Employment and Immigration (Mr. Cullen) and, if the Deputy Prime Minister (Mr. MacEachen) is in the House, with him, to see whether as this debate draws to a close the government cannot reconsider its position with respect to what is really a fundamental matter of parliamentary government.

Mr. Leonard C. Jones (Moncton): Mr. Speaker, I must say that preceding speakers have spoken very adequately, but this subject is of great and dire importance not only to this House but to all Canadians and to all those who believe in our system of parliamentary democracy. Is there any need whatsoever to have to make such an amendment? Quite frankly, I think this

[Mr. Baker (Grenville-Carleton).]

legislation by regulation is the phoniest blooming thing I have ever seen in my life. When I was in law school—and that is a number of years ago—I was taught that there would be no way under the British parliamentary system of justice that parliament would pass regulations unless they came back at a subsequent date to parliament for approval. That was the principle, and I suggest that that still is the principle of common law under the British system.

Having that in mind, I suggest that this amendment is too mild. It should have been more forceful. We should have no regulations at all because regulations are and have been abused time after time, to the detriment of the citizens of this country.

Let us look back 760 or so years to Runnymede when King John decided to recognize parliament. Prior to that he governed by decree or edict. Orders in council or regulations are edicts of one man or group of men called the governor in council. In King John's time it was necessary to pass the Magna Carta, and from that time we were supposed to have responsible government, freedom in government and democracy for the sake of the people.

I suggest that regulations are like a cancer. They get worse and worse, and that cancer is getting to be terminal because it eventually will result in the death of parliament. At one time the Prime Minister (Mr. Trudeau) said that parliament was becoming irrelevant. Parliament will and does become irrelevant through the use of legislation by regulation. Making a regulation is like drafting a document and putting at the end of it "One party may do this unilaterally". That is just exactly what is being provided in this legislation, that one party or group of parties may do something unilaterally. This invention of orders of council or regulations by a minister is far more serious than one would think. I suggest that regulations can be dictatorial and improper, and they can bring bad results to the whole system of parliament.

This practice reflects not only on ministers and their ministries but also on the House of Commons for allowing this type of legislation to go through without a clause such as the one suggested by the hon. member for Vegreville (Mr. Mazankowski). I suggest that it is not proper that we should have other bills without clauses like this one. Possibly there should be a special act to cover all regulations so that they can be reviewed by parliament and be subject to parliamentary scrutiny.

We talk of responsible government. Responsible government does not permit legislation by regulation. The people want to know and we want to know what the results will be and what is happening. Regulations are an invention—perhaps a fiction—but we are not being fair to ourselves or to our constituents by permitting this type of thing to happen. I know that some hon. members have already suggested to the minister that he consider this amendment. This amendment would not stop him from making his regulations; it does not go that far. The amendment is very fair to the minister. With this amendment he could make his regulations, but upon a petition presented by so many members of the House the minister could be