

Immigration

Mr. Woolliams: If the hon. member is not interested in what I am saying, that is fine by me. Section 5(t) of the Immigration Act, Chapter I-2 reads in part as follows:

"(t) persons who cannot or do not fulfil or comply with any of the conditions or requirements of this Act or the regulations or any orders lawfully made or given under this Act or the regulations. R.S., c. 325 . . .

The government discovered that that law did not work. The point I am dealing with is whether a person who has been given permanent residency and leaves the country, can come back. Is he entitled to come back now, under the present law? According to the Immigration Appeal Board, "permanent resident" means a person who has been granted lawful admission to Canada for permanent residence under the Immigration Act. That is clear. Next I look at the Immigration Act, and it has this to say on the point:

"admission" includes entry into Canada, landing in Canada, and the return to Canada of a person who has been previously landed in Canada and has not acquired Canadian domicile;"

Please note the words "has not acquired Canadian domicile."

I submitted to the board, on the basis of the law quoted, that once you were a permanent resident you could leave Canada and return, without needing a visa. Despite my arguments, the lady in question was thrown in jail.

Let me tell you what happened. Mr. Speaker, I have placed on record definitions concerning permanent residency and admission. What did the government do? In October, 1974, it passed an order in council which said that "permanent resident" means an immigrant who has been granted lawful admission, for permanent residency under the act, and has maintained his place of domicile in Canada since that admission. Please remember what I said about residency, as defined in the Immigration Appeal Board Act. I ask Your Honour to bear in mind the words previously quoted "has not acquired Canadian domicile." Clearly, the order in council totally contradicted the definition in the act. This should be apparent if one compares the two sets of definitions previously quoted. But the consequence was that the girl went to jail. She finally got out and we went before the appeal board, but the point is that this is typical of what has happened.

We all know that an order in council is not supposed to contradict an act of parliament. Parliament passes the act. Regulations flow from the act, and as lawyers in this House well know, if regulations flow from two separate acts of parliament, the first set of regulations cannot apply to the administration of the second. The point I want to drive home is this: under the old Immigration Appeal Board Act, and under the Immigration Act, the department thought that not only did it have power to pass rules and regulations, but that it had power to contradict parliament.

Mr. Alexander: Shame!

Mr. Woolliams: The law said this was wrong. It was wrong. Unfortunately a person was denied her freedom for a short time owing to the shortcomings of the law.

[Mr. Woolliams.]

This is a dangerous bill, too. Let us examine what it can do. I ask, what orders in council can be passed pursuant to Bill C-24? Clause 38(2) provides among other things that:

. . . the governor in council may authorize the landing of any person not described in subsection (1) who at the time of landing has resided continuously in Canada for at least five years . . .

In other words the department can, by order in council, create substantive law affecting people who have lived in Canada for five years. Does that mean that somebody who has sneaked over the border, is here illegally, and gets somebody like Hal Banks to intervene with the minister, can stay in this country? Can this be done by order in council? Does parliament want to pass that sort of law?

An hon. Member: Oh, don't be so partisan.

Mr. Woolliams: Clause 40(4) says that after procedural requirements regarding reports on a person are fulfilled, the governor in council may make a deportation order under this section. In other words, there is to be power to contradict the act, even to make an order in council for deporting people, as the department sees fit. Then, clause 41(1) says that the governor in council can appoint the three-member special advisory board. There is nothing wrong with that. That is to be done by order in council.

Under clause 41(2) the governor in council is required to designate one of the members as chairman of the special advisory board established under clause 41(1).

Under clause 43(2), pursuant to the Citizenship Act, the governor in council designates a member of the Privy Council as minister for the purposes of that act, and it is to this person that questions concerning claims of Canadian citizenship are referred. Therefore by order in council it will be possible to make certain sections of the Citizenship Act relate to the new Immigration Act and the new rules which will be passed thereunder.

Under clause 59(2) the governor in council is entitled to appoint up to 18 members to the Immigration Appeal Board. Under clause 60(5) he may remove any member of the appeal board for cause.

Under clause 61(1) the governor in council designates the chairman of the appeal board, and up to five members as vice-chairmen of the board. The governor in council is also to establish the remuneration of members of the board, and also living and travel expenses.

Under clause 64 the governor in council has discretion to designate what members of the board shall live in the national capital region, which extends beyond Ottawa, as described in the National Capital Act, or within 40 kilometres thereof.

Clause 67 provides that, subject to the approval of the governor in council, the board may make rules "not inconsistent with this act", concerning the board, practice and procedure in appeals, applications for determination, and applications for release.

Clause 109(2) provides that, with the approval of the governor in council, the minister may enter into agreements with the