

not allow a station of that kind to continue broadcasting. I may be wrong, but that is my own belief. Therefore I do not think there is a great deal involved in the amendment. But I agree entirely with the senator from Toronto-Trinity (Hon. Mr. Roebuck), that it is no use having a statutory provision which does no good at all. That is merely a joke. If the amendment is rejected, a station owner who consults a lawyer will be told that it is no use making an appeal, because—

**Hon. Mr. Aseltine:** "It is already decided against you."

**Hon. Mr. Haig:** Yes. The statute gives the C.B.C. the power to pass regulations and the right to cancel licences. I submit that this section should either be stricken out altogether or be amended so as to have some meaning.

What is the use of the Senate if, after a committee has given mature and deliberate consideration to a certain subject and reached a conclusion upon it, the leader of the government is going to read to the house a statement that the government does not agree with the committee's recommendation? If that can be done we cease to be a Senate, we are a superfluous body of members drawing salaries. This is an opportunity that I have been looking for these last two or three years, an opportunity to challenge the government members in the Senate either to stand up and be counted for the independence of this house, or to admit by their action that they are simply puppets of the government ready to jump whenever the government leader pulls the string.

**Hon. Thomas Vien:** Honourable senators, I should like to point out the very striking difference that there is between the provisions in this section and the provisions of the Railway Act with respect to appeals from the Board of Transport Commissioners. In the first place, the Governor in Council may at any time, in his discretion, upon application, or of his own motion, vary or rescind any order or decision of the board. Appeals are allowed as of right from decisions of the board to the Supreme Court of Canada on questions of jurisdiction.

**Hon. Mr. Haig:** That is right.

**Hon. Mr. Vien:** Appeals may also be taken, with leave from the board, on a question which, in the opinion of the board, is a question of law or of jurisdiction, or both.

The fundamental difference under the measure now before us is obvious; there is no right of appeal from a decision of this board to the Governor in Council; indeed, the jurisdiction of the Governor in Council is wiped out.

Honourable senators will please note lines 29 and 30 on page 3, which read as follows:

... any such order shall be forwarded to the Minister of Transport who shall forthwith communicate the same to the licensee and shall take such steps as may be necessary to carry out the terms of such order.

By law the minister receives imperative instructions to carry out such order. Nowhere else in our statutes is similar language to be found with respect to the powers of a minister. The minister is always given discretionary power over the action of boards or commissions. It will suffice to refer honourable senators to the provisions of the Income Tax Act, the Customs Act, and several others, where the minister may approve, but is not compelled to, and may set aside any decision of his administrative officers. Under the legislation before us there will be no such discretion; on the contrary, imperative instruction is given, and the minister must carry out the directions of the board.

**Hon. Mr. Roebuck:** He is a puppet under this legislation.

**Hon. Mr. Vien:** The minister becomes the executive officer of the C.B.C.

The senator from Toronto-Trinity (Hon. Mr. Roebuck) and the leader opposite (Hon. Mr. Haig) have accurately stated that the right of appeal on questions of law is new, and is introduced by the government itself. Until now there was no appeal, even on questions of law. The government now finds it expedient to assuage the rigors of the Act, and to grant a right of appeal from possible arbitrary decisions. But I concur in the views expressed that such right of appeal should be effective and not illusory. In matters coming before the board it will very often be impossible to distinguish between questions of law and questions of fact; in most cases, such questions are mixed questions of law and fact.

The amendment adopted by the committee purports to give, in all cases, an effective right of appeal on law and fact; and so that frivolous appeals may be avoided, leave must first be obtained from a judge of the Exchequer Court of Canada.

I am strongly in favour of this amendment.

**Hon. Gray Turgeon:** Honourable senators, I feel an obligation, at least to myself, if not to those who must listen to me, to say a word about this amendment. Ever since I became a member of parliament in 1935 I have been a strong friend of and advocate for private stations. For many years I have felt that these stations should not be under the enforced supervision of the Board of Governors of the Canadian Broadcasting Corporation.