

*Defence Production Act*

Then the next statutes which are the real foundation for the discussion of delegated legislation are those statutes passed in the reign of Henry VIII. The reference to those invariably arises in any discussion of our constitutional law. One of those, a statute which as a matter of fact would be covered by the present statute, was described as the statute of sewers, passed in 1531. There was delegation to the commissioner of sewers not only of the power to rate all land owners, and distrain and impose penalties for non-payment of rates, but it also gave legislative power—just as this act does—without defining the field within which the powers might be ascertained. It provided further that—

—all statutes, acts and ordinances heretofore made by the commissioner of sewers not being contrary to this present act or heretofore repealed are to be good and effectual forever.

You see, the illusion of permanence indicated in this house existed even in those days of Henry VIII. Here we were told only a few days ago about the expected permanence of this government, and the permanence of legislation. The minister has used the word “permanent”; and those who adopted the statute on sewers in 1531 thought it would be effectual forever. It did not turn out that way because, of course, in due course there was a reversal of the trend.

Then, as always happens, other acts were passed. Once delegated authority goes forward unchecked it increases in momentum. The most famous of these statutes, and the one which still is the outstanding example of delegated authority in early times, is the statute of proclamations of 1539 passed in the reign of Henry VIII. And that, Mr. Speaker, may I remind hon. members, did not go as far as the measure now before us. It enacted that the king, with the advice of a majority of his council, could issue proclamations which should have the force of an act of parliament.

That act for years has been evidence of dictatorship. That act for years has been regarded as Henry's departure from the historic concept of democracy, even in those days. It has always been given as the historic example of what should be avoided under any circumstances in modern times. It has been pointed out as the thoroughly bad example of parliament giving away its legislative powers. But the power to issue proclamations for certain purposes had in any event always inhered in the royal prerogative, and they had in fact already the force of law. So that all that was being done was defining a situation in which the council could do certain things.

These proclamations extended over all sorts of things. Henry and his ministers

[Mr. Drew.]

found them so convenient that he extended these powers to cover coinage, prices—and of course this act is a price control act—food, drink, cloth; vagabonds and aliens. War and peace were matters which had always previously been considered as not being dealt with by proclamation.

What were the needs for that act? What was the necessity for that proclamation? This is the reason given in the preamble, and I am talking about the act of 1539, not that of 1955. The preamble gives two reasons: first, certain recent proclamations, particularly on religious matters, had been condemned; and second—and how reminiscent this is —

Sudden occasions may arise when some speedy remedy is needed, and there is no time to abide for a parliament.

That is the act which has been condemned over and over again through the centuries; and the explanation given for it was that “Sudden occasions may arise when some speedy remedy is needed, and there is no time to abide for a parliament.” In what way does that differ from the argument put before us today? Yet constitutional lawyers through the centuries have condemned what was known as the Henry VIII act, this particular act of proclamation.

Even at that time the public, which did not have the advantage of literacy we have today, which did not have the advantage of a rapidly distributed press, which did not have the advantage of radio or television—even the public of that day realized that this had gone too far. The result was that the act was repealed in the first year of the reign of Edward VI.

Time went on and another act very shortly after that, known as the statute of Wales, contained a section which gave the king power to make laws for Wales. However, I shall not go into that in detail for the simple reason that it applied to a local area. I might add that it was repealed in 1642. But once again we have to realize that the trend, once started, moves rapidly along unless people who see the danger are prepared at some point to say, “Let us go back and bring such delegated legislation as we need within properly defined channels.”

We all know that the Stuarts were less tactful than the Tudors.

**Mr. Croll:** I believe they paid a price for it.

**Mr. Drew:** Yes, they paid a price for it; indeed they did. But after all that is exactly what we want to avoid. We want to keep this within parliamentary procedure and not be forced to the necessity of such severe devices as were employed to reverse the trend in the days of the Stuarts. They were much less