

Aeronautics Act

an administrative bureaucracy that finds it easier to make regulations than to provide legislation to cover eventualities that must necessarily arise in the carrying out of legislation. I impress on the minister, and I do not want to see a division on this, that this is a subsection which ought to be removed.

One could go back over the years and read all the various criticisms which have been made of the continuing advance of those who establish a form of administrative lawlessness whereby parliament in the exercise of the need of assuring that legislation will be carried out in detail grants extraordinary rights to the Governor in Council to make regulations. There is no reason why the minister should have the right to make regulations. The Governor in Council must necessarily have that right; otherwise the act could not be made effective. I object in the strongest possible way to parliament giving to a minister the right to make orders with respect to matters that come within the purview of the Governor in Council's power.

This is something that has been strongly objected to by political scientists everywhere. My mind goes back to the first serious attack made by one occupying a high position in the United Kingdom. Lord Justice Hewart, in his book "The New Despotism", with which members of the house are fully acquainted with, in which he points out the danger.

I am not one who takes objection to the Governor in Council having the power provided parliament has given that power. But I do object to and can see no reason for the Governor in Council in turn giving to the minister the right to make regulations. This is a denial of the general principle of law, *Delegatus non potest delegare*—authority to delegate is not given to those who are delegated.

Listening to the arguments advanced I have been impressed with the lack of requisite need for the minister to have that power, and I am going to appeal to him in this regard. If he would sooner have a vote on this matter, that is for him to say. But I do take the strongest possible objection, not because I have any minister in mind, not at all—what I say is not said in that spirit—to this shortcut that will enable the Governor in Council to sublet the right to make regulations to the minister.

Mr. Nielsen: In a taxing bill it is even worse.

Mr. Diefenbaker: I have not looked into the nature of the powers sought in this regard, but the hon. member for Yukon has raised a strong argument that this would enable the minister to impose in fact an impost which has all the attributes of taxation. Whether or not that be so, and I must say that I was impressed with the argument, I would ask the minister this question. Why do you need that power? This is an extra, decorative acquisition of power on the part of the minister which he ought not to have.

I do not want to appear as objecting to needful authority being given to make regulations. But this goes too far. I hope that the minister will feel constrained to look into this. It is not needed. The Governor in Council can give this authority. Why then must it rest in the minister?

I can place a great deal more trust in the passage of Orders in Council that have the authority of the Governor in Council than I can in having the authority vested in the minister. That is the situation in the United Kingdom. Over there they have taken the strongest possible objection to this sort of thing. The parliament of the United Kingdom has existed for a long time. It has taken the strongest possible objection to the invasions in these areas of power that have taken place under successive governments by the bureaucracy which likes shortcuts in the interests of efficiency and immediate effectiveness.

It would not take the minister long to place the matter I have suggested before the Governor in Council. It might be that those who have not sat in cabinet might consider that such a course would take a long time. As a matter of fact, it does not take any time at all. One accepts in cabinet the recommendations of the minister regarding the Orders in Council that are necessary. That is his responsibility to the whole field of cabinet authority and it makes possible the acceptance of his recommendations. That is so unless in fact there is something so extraordinary in what the minister recommends as to shock the collective conscience of the executive.

I suggest to the minister, and I say this in a spirit of co-operation and desiring to assure that we shall not take these preliminary steps to get away from the Governor in Council, that we should not give the minister the authority to be a lawmaker. If parliament once embodies such authority in one case the pathway of today can become the highway of