

*Federal-Provincial Arrangements Act*

(g) generally for carrying into effect the purposes and provisions of this act.

As I understand the proposed motion, it would provide that such regulations be subject to a negative resolution adopted by not less than a majority of the provinces, and so on.

Two matters arise for consideration. The first does not cause me much concern at this point. I am referring, now, to the somewhat unusual constitutional aspect of a group or body outside the federal authority in effect rescinding or vetoing an order in council. It does seem to me that this is a matter of importance, possibly one involving constitutional law. Though I would be pleased to hear representations with regard to it, I would not at this point wish to rule the motion out of order procedurally on that basis because I think it is a matter of law rather than a matter of procedure.

The second point is one which does cause considerable concern from a procedural standpoint, namely, whether or not the amendment is of a substantive nature; whether giving provincial ministers of finance authority to suspend or veto the operation of an order in council is really a matter of a substantive nature which is outside the clause the amendment purports to amend. I have no fixed opinion on the matter, but it is something with regard to which I should like to hear representations if hon. members are prepared to assist the Chair.

• (2030)

**Mr. Lambert (Edmonton West):** Mr. Speaker, may I first of all dispose of the difficulties facing you on the first point. With the greatest respect, it is not the duty of the Chair to rule on the constitutionality or otherwise of a particular motion or matter. I put it to you that this House having given power to a particular body to make an order in council, can just as easily provide that some other body review that order in council and annul it if necessary. The governor in council has no power to make an order in council under the act unless that power is given by this House; and I suggest that what has been given can also be taken away.

Under the Statutory Instruments Act, this House has already provided for an overriding veto by the House, following certain procedures, in connection with orders in council. To my mind it has always been the greatest abuse of the privileges of the House for the governor in council to say that once the House has given authority to pass an order in council, that is the end of the matter and no further review is possible. That is entirely wrong. As I have said, having given the right to do something, the House can take that right away. In this particular case, in giving the governor in council the power to pass certain orders in council the House can certainly grant the right of review to some other body. This is what the amendment provides for.

In regard to the second point raised by Your Honour as to whether this is a substantive matter, we are talking here about the power to review an order in council affecting an agreement embodied in this statute. An agreement presupposes consent of both parties to the agreement. So far as orders in council are concerned, one party arrogates unto itself the exclusive power to make and to

[Mr. Deputy Speaker.]

amend the agreement. This House is the ultimate authority in regard to the agreement that is entered into by the governor in council. This House has provided that the governor in council may make orders in council, but that they shall be subject to review on behalf of the other contracting party to that agreement or order in council by convening a meeting of first ministers, including the representative of the government of Canada, or of ministers of finance, including the Minister of Finance of the government of Canada.

Yesterday I asked the President of the Privy Council when action was going to be taken to put into the effect the provisions of the Statutory Instruments Act, which I know is going to be blazoned forth as one of the jewels of some studded crown. The Statutory Instruments Act will be trotted out as some sort of an achievement. I submit not one thing has been done about implementing that statute. So far as the House is concerned, no motion has been introduced. This is what I was objecting to during the passage of the bill, and my colleagues objected as well. We said that the initiative under the Statutory Instruments Act would rest entirely with the government, both as to the composition of the committee and as to amending the rules to make the necessary provision. The Statutory Instruments Act calls for a change to the rules, and this is where we got the definition of a negative resolution. At one time I made reference to that in my motion but I thought it would introduce further complications and procedural arguments.

I have presented this amendment merely because of the default of the government. Yesterday the President of the Privy Council told me he would have to take my question as notice because he did not know the answer. If you were a betting man, Mr. Speaker, I would be prepared to bet you \$10 that we will not see any motions presented by the government until after a certain event. This parliament will not see any steps taken in regard to the Statutory Instruments Act until then.

The Minister of State was quite right when he said he recognized that I opposed this type of clause giving blanket authority to make orders in council. I understand, just as well as he or anybody in this House, the efficacy of having the ability to make regulations under a statute. But I object to giving blanket power to make regulations of all kinds under a statute without the power of review.

Since the government refuses to make any move under the Statutory Instruments Act to place regulations under review, I have to provide an alternative and this is the purpose of my amendment. I put it to you that on that score, supported by the arguments I put forward, my motion is acceptable. If there has to be any argument or debate on this particular point, I hope that some government spokesman will come forward on behalf of the governor in council and tell the House when a motion will be presented to set up the appropriate committee under the Statutory Instruments Act and to change the rules to that effect.

Last year we went through an exercise in total futility.

• (2040)

I do not think this House should be played with. I do not think it should be taken through this sort of exercise and