

March 7

Bill to Limit Orders-in-Council Too Theoretical

Heighington Measure Pro- vokes Friendly Debate; Finally Withdrawn

PREMIER MITCHELL F. HEP-
burn believes in a set-up limit-
ing—when practical—Executive
Council activities.

The Premier saw some merit yes-
terday in Wilfrid Heighington's bill,
which would require that the Legis-
lature tacitly endorse all regulations
made under an act by the Lieutenant-
Governor-in-Council.

Truce Prevails.

At the Premier's request, and after
two hours' discussion, the measure
was withdrawn. The interval was a
legislative love-feast. Hon. George S.
Henry and Attorney-General Arthur
Roebuck held common views, and Mr.
Heighington thanked the House for
the debate.

The Conservative member aired sev-
eral of the sins of "Order-in-Council
Government," but stressed his oppo-
sition to regulations passed without
knowledge or consent of the members,
and to Commission and board fiat
from which there was no appeal.

"It is our desire to, in time, effect
certain changes," Premier Hepburn
answered, "designed to limit the activ-
ities of the Executive Council." Later
the Premier pointed out that the
Cabinet—although immediate action
was sometimes necessary—was averse
to passing special grants. The North-
ern Development bill this year would
not be a "blank cheque."

More spice was injected into pro-
ceedings when Mr. Heighington cited
Liquor Control Board and Securities
Commission regulations to prove his
argument against government by of-
ficials.

"Does my friend believe that when
a man has been convicted of bootleg-
ging the board should not be able to
immediately cancel his license?" Pre-
mier Hepburn asked.

The Premier pointed to his Ottawa
record—voting and speaking against
the Dominion Administration's "peace,
order, and good government" move.

Abuses Followed.

"That bill took from Parliament all
power and vested it in the executive."
Terrible abuses had followed, in the
Premier's opinion—endorsement of the
C.P.R. bonds—probably irretrievable
loans to the Western Provinces—and
a wild orgy of speculation in wheat.

There was a practical side, however,
to the problem. As the Leader of the
Opposition knew, most of the statutes
had regulations which must be passed
by Order-in-Council. To carry Mr.
Heighington's proposal to its extreme
conclusion—why not abolish courts
and have the Legislature adjudicate?

"The executive must have power,"
the Prime Minister pointed out. "I
don't think any member of the former
Administration will agree with such
arguments in their entirety."

The Premier was on safe ground,
for Hon. George S. Henry had agreed
that regulations were to some extent
a necessity.

"There may have been cases," said
the former Premier, "when not
enough was put into the statute and
too much was left to regulation. But
it is difficult to draft legislation—
very often in recent years—without
a background here or elsewhere." Mr.
Henry held that the regulations aided
in making effective laws passed for
the first time in a tentative form.

Principle Praised.

The Attorney-General saw "a very
great deal of good principle" in what
Mr. Heighington had said, and he in-
vited him "on a little pilgrimage to
Ottawa, where these matters have
gone to an extreme."

But the Attorney-General would
not agree that misuse of necessary
authority warranted its withdrawal.
"My friend might as well say that we
should abolish the police because a
policeman sometimes goes beyond his
authority."

The Securities Department, Mr.
Roebuck held, could not be con-
ducted without some executive
powers.

"When this Government came into
office it found a Commissioner who
was satisfied to let the 'boiler-room'
menace go in Toronto and elsewhere.
The remedy was to bar telephones;
the regulations were amended and
positively hundreds of 'boiler shop'
boys were sent out.

Regulations, Mr. Heighington held
in his thesis, were passed without ap-
proval or knowledge of the members
of the Legislature—yet these mem-
bers must answer for the effect of the
law.

He was not, he repeatedly stated,
criticizing the present or former Gov-
ernments. He was speaking of an "in-
creasing practice of all Governments
to embody in acts the right to pass
regulations."

Practice Attacked.

"We never see the regulation," said
the member. "We are forced to leave
to the decision of a Minister or the
Cabinet regulations affecting the
rights of our constituents."

"The time has come when we should
call a halt to this slovenly practice,"
Mr. Heighington insisted. Regulations
sometimes frustrated, sometimes ex-
tended far beyond, the law as passed
by the Legislature.

"We are delegates deputed to do a
task. What rights have we to discharge
from our shoulders the responsibility
of matters which affect our con-
stituents?"

The Lord Chief Justice of England,
the Magna Charta, and Sir William
Mulock were quoted in defense of the
thesis. "Instead of the autocratic
monarch as of old," said Mr. Heigh-
ington, "we have the autocratic de-
partment official or Commission ex-
pert."

The official, he noted in his refer-
ences, was not independent, liable to
dismissal and hardly fitted in an
administrative position for the exer-
cise of judicial duties. He has the
"departmental mind."