

have the departmental officials there to explain it, and make its report to the House.

Hon. Mr. Martin: May I ask Senator Fergusson a question?

She spoke a moment ago of the committee that was established in the House of Commons in Britain some twelve years after the publication of the book entitled *The New Despotism*. How did the House of Lords become seized of the responsibility? Was there a suggestion made by the House of Commons committee in the United Kingdom that this power should be transferred to the Lords?

Hon. Mrs. Fergusson: I am afraid I did not do enough research on this, but I do know that the House of Lords committee was set up in 1925. In referring to the Committee on Ministers' Powers set up in 1932, they said that little attention was paid it, and they went on with their investigation without making much reference to the committee of the House of Lords.

Hon. Mr. Lamontagne: They were trying to fight the great depression at that time, I suppose.

Hon. Mrs. Fergusson: But that committee was set up in 1925. I found out that much in my research.

In Ontario also, the McRuer Royal Commission on Civil Rights was established in 1964 and made its report in 1968. That commission devoted considerable attention to the problem of statutory instruments in regard to provincial legislation.

An article by Terrance Wills, commenting on the findings in this area of the report of the Ontario Royal Commission on Civil Rights, appeared in the *Toronto Globe and Mail* of May 11, 1968. That article says that "most Acts contain a clause allowing the Cabinet to pass orders-in-council affecting enforcement."

Mr. Wills goes on to say:

Every democratic government uses the Civil Service to draw up implementing details which are submitted only to Cabinet so that House time is not wasted on trivia.

But where do details stop and changes in principle begin? How broad a power does Cabinet need to complete details? Certainly not as broad as under a great many Acts, former Chief Justice James McRuer concluded in his Royal Commission into Civil Rights.

Some statutes, he found, authorize Cabinet to pass regulations changing the very principles of Acts. In many cases opposition parties claim the Cabinet has made important changes that the House should have had an opportunity to debate.

Mr. Wills' article quotes from statistics regarding regulations passed each year in Ontario. Then he goes on to say:

Other regulations permit Cabinet to set any penalty for the contravention of an Act or its regulations.

Some sanctions for the breach of the prohibitory regulations is necessary but in our view the penalty should be fixed or at least limited by the statute authorizing the regulations.

The article says further that although it is required that regulations be published in the *Ontario Gazette*, at this point "they are a fait accompli and that therefore a private member's opportunity to have the regulation considered by the legislature is very limited."

This requirement to publish regulations in the *Ontario Gazette* is similar to the requirement under the Regulations Act that all federal orders, regulations and proclamations shall be published in the *Canada Gazette*; and the same argument could be made about publication in the *Canada Gazette* of regulations made under the federal acts, that by the time they are published they are a fait accompli and that a member's opportunity to consider them is limited.

A citizen whose rights are affected might bring such a regulation to the attention of a Member of Parliament who could bring it up in Parliament, but the large majority of citizens are very unlikely to read the *Canada Gazette*. This works most hardship on the poor, and in regard to them it is discriminatory. Corporations and people of wealth would, in all probability, have persons looking after their affairs who watch for any legislation that is contrary to their interests, and when such legislation is brought to the attention of the more affluent they can do something about having it reviewed or reconsidered, or even seek redress in the courts. But the large number of less fortunate people in Canada, and particularly the poor, would know nothing about delegated legislation that might affect them, unless and until it was applied to them; then they would find it worked to their disadvantage, and in all probability they could not afford to seek redress through the courts.