

when it presented clause 2 of Bill C-14 to this House which provided authority to make precisely the same proposal that was presented in the regulations promulgated on November 8. That proclamation came from the authority of a statute passed by parliament some time ago, but I would disagree with the hon. member opposite who just spoke and said that all the clause tends to do is narrow the powers given to the government. It does not narrow any powers; it grants specific authority to deal with part-time workers under the Unemployment Insurance Act. His statement that the proper course of action is to refer the matter to the Standing Committee on Statutory Instruments is not relevant here.

The question of whether there was authority in the Unemployment Insurance Act of 1971 to promulgate those regulations was never resolved. I think it is irrelevant. It is obvious that the department thought there was some doubt about their authority and they needed the specific proposal. Clause 2 provides specific authority to do what they have already done.

I would suggest that the conduct of the department in this matter amounts to second guessing parliament and bypassing parliament. It is obvious that if the original regulation had been followed and they did have authority for its promulgation, the rejection by parliament of the proposal in clause 2 of Bill C-14 would raise questions about the validity of the regulation.

I do not think we should ask Your Honour to decide the legal question involved, but rather just what the department was putting before parliament in this case. The department was asking parliament for authority to make a specific regulation. It is very specific in its terms. It is not a general regulation. It is not granting the department wide powers to deal with part-time workers; it is granting specific authority under specific circumstances. By promulgating the regulation prior to this time the department, I submit, is anticipating parliament and second guessing what this House would do.

● (1422)

As to whether members of this House were misled or whether it was an honest mistake, that I do not think is the issue. I do not think there is any allegation that there was a deliberate attempt to mislead. But the misinformation created certain problems for members. Members have been dealing with this act for some time. Members of the committee have been dealing extensively with the act for some 32 or 33 meetings over the last several weeks. In reporting to constituents, the press and so on, it presents a real problem, because members and constituents are under the impression that this particular enactment would provide the power for the department to deal with part-time workers under the Unemployment Insurance Act. In the department's opinion we now find that no matter what we do to this particular enactment here in this House or in committee, the regulation has been promulgated already, and in its opinion it is valid.

Reference was made in committee—and I am not sure if it is proper to refer to committee debates—and the deputy minister mentioned this in debate, to the effect that it was

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presented before, and he said he would check the record. We have checked the record and could not find where reference was made to the fact that this regulation has been issued prior to this time. What we were doing in the committee and this House was dealing with a provision that the government felt was not really necessary. The department had already promulgated it in the form of a regulation and therefore, in the opinion of the department, our time was being wasted and it really made a sham of the whole parliamentary process.

I submit to Your Honour that you should find a prima facie case of a breach of the privilege of this House.

Mr. G. W. Baldwin (Peace River): Mr. Speaker, I rise as a volunteer to speak on this particular issue.

Mr. Cullen: The lawyer does it for no fee.

Mr. Baldwin: Yes, for no fee, just the approval of my colleagues at least on this side of the House.

I have some interest in the issue not only because as a member of this House I am concerned about the regularity with which things should be done, but also because I have the honour of being one of the co-chairmen of the statutory instruments committee. I have to point out to the House, through you, Mr. Speaker, that this particular regulation would, in the normal course of events, come before our committee for consideration in any event. Because of the numbers of regulations which the government is spewing out day by day and week by week, it might well be four months, five months or six months before it comes to us, by which time an interesting event might have taken place, or maybe even some reversals of positions from one side of the House to the other.

Just a short time ago this House gave approval to the terms of reference and to criteria which the statutory instruments committee uses when it examines orders in council and regulations. Certainly one of the most important of those criteria is the one which is now being discussed, that is, the study of the regulation which is warranted legally under the terms of the enabling clause in the legislation. However, we go far beyond that. We also look at the question as to whether it violates natural justice, whether it is in accordance with human rights and whether there is an unusual or unexpected impact of a power which this House has granted which is being used by the government in a rather extraordinary way.

During the course of our deliberations over four or five years we have had some limited capacity in taming some of the departments, including this particular department. I cannot say they are eating out of our hands as yet, but at least they are listening to us. We are having a reasonable measure of success in persuading some of the bureaucracy who, when confronted with a committee which is usually unanimous, consisting of members of this and the other place, change, take back, vary, and sometimes even repeal regulations which offend our criteria.

I am not going to take part in the debate in substance, but it seems to me to be rather unusual if a committee of this House, distinct from the standing committee, were to examine this