

At the present time, the Canada Gazette is recognized as being the official gazette, but this recognition needs a statutory basis, one which the clause in question will give to it. There has been no interruption in the authority for the publication of the gazette. It is published—

**Mr. Lambert (Edmonton West):** Under whose authority?

**Mr. Turner (Ottawa-Carleton):** Under the authority of the minister, who was given that authority by the Government Re-Organization Act. The hon. member reads the words "if designated by the minister", and it has been so designated. The Canada Gazette retains its status as a journal in which documents needing publicity for validation must be published. Nevertheless, the clause itself does not revalidate the Gazette; it merely repairs a lapse whereby the Gazette was not defined as the official gazette of Canada.

**Mr. Lambert (Edmonton West):** Would the hon. gentleman kindly indicate on what occasion the minister designated the Canada Gazette in the terms he used and whether, in any case, he has the power to do so?

**Mr. Turner (Ottawa-Carleton):** He has the power under the section of the Government Re-Organization Act which the hon. member read.

**Mr. Lambert (Edmonton West):** May I ask a further question? Since the Department of Public Printing and Stationery has been abolished, the authority of the minister can only be directed to existing departments—

**Mr. Turner (Ottawa-Carleton):** The Queen's Printer remains with us. Authority was transferred from one department to another without any lapse.

**Mr. Andrew Brewin (Greenwood):** I listened with a great deal of interest to the learned arguments put forward by the hon. member for Edmonton West (Mr. Lambert).

Assuming for a minute that his point is correct, that between 1969 and the present time there was doubt as to the existence of the official authority for the publication of the Canada Gazette, then if the effect of clause 10 is to remedy what clearly, at the highest, was an error or a lack of clarity in the amendment of the statutes, and although this provision may have some retroactive effect, I think we should pass it. I say this recognizing that all lawyers and, I hope, all parliamentarians abhor legislation whose effect is retroactive. I have certainly made it my business to oppose such legislation in this House on a great many occasions. It seems, though, that the effect of this clause is merely to confer a degree of legality which was omitted through mischance or misunderstanding when the statute of 1969 was passed.

What is the alternative? The alternative would be to allow the void, the confusion, to continue indefinitely. I cannot see the point of that, and for this reason I find it difficult to support the amendment.

#### *Statutory Instruments Act*

**Mr. Lambert (Edmonton West):** Might I ask the hon. member whether he, as a lawyer, would be prepared to accept a conviction based upon a regulation which had been published in a gazette for which there was no authority?

**Mr. Brewin:** If this clause is passed it will be a declaration by Parliament that it did have authority, and I would be in favour of making such a declaration.

**Mr. Turner (Ottawa-Carleton):** On a point of order, Mr. Speaker. Authority for the Canada Gazette lies in the fact that it is the Canada Gazette, not that it is designated as the official gazette. All the statutes to which the hon. member refers speak of the Canada Gazette. The legal power is not changed by designating it the official gazette.

**Mr. G. W. Baldwin (Peace River):** This is too fascinating an argument to avoid becoming involved in, Mr. Speaker. On the question of substance raised by my hon. friend from Edmonton West (Mr. Lambert), I would think that when the government introduces legislation which contains a clause of a somewhat dubious character in terms of it being, possibly, retroactive in effect, responsibility falls upon the minister concerned to inform the House as to the background of the situation in order that hon. members may know precisely what they are being asked to do.

The hon. member for Greenwood (Mr. Brewin) has outlined circumstances which might warrant us in taking the course the government proposes, but the onus rests upon the Minister of Justice (Mr. Turner), and in my view he has not sustained it up to the present. It might well be that if I were counsel defending some of those charged under the provisions of regulations enacted under the War Measures Act, I would look with interest upon this particular argument. I might be compelled to consider whether this would constitute a valid legal defence. However, it is not for me, or for that matter the minister, to decide this question. It must be left to the courts to decide. This argument must have some effect on our judgment when we consider passing the bill.

• (4:10 p.m.)

I should like to go on from that point very briefly because the question of the Royal prerogative has been raised. We had an opportunity during our committee discussions to talk about this Royal prerogative and how it is exercised. I have raised this question before in the House. We are driven to consider the effects of section 12 of the British North America Act which contains a code in respect of what the Royal prerogative is and how far it can go. I am not going to apologize for reading it all because I think it is pertinent. Section 12 of the BNA reads:

All Powers, Authorities, and Functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, are at the Union vested in or exercisable by the respective Governors or Lieutenant Governors of those Provinces, with the Advice, or with the Advice and Consent, of the respective Executive Councils thereof, or in conjunction