Senator Lang also gave us a clear analysis of what he termed the obstructionism the committee had encountered, mostly at the hands of the Department of Justice. Honourable senators may be interested in knowing how this came about, and the position it has now reached.

Initially the committee thought that in questioning so many statutory instruments, it would be more efficient if each department of government designated an "instruments officer" with whom our counsel could establish liaison and rapport. After much prodding in some cases the departments complied, and taking naturally the line of least resistance all of them, I believe, appointed their own legal counsel as "designated instruments officers".

But, as it happens, the committee took its job seriously and its probings must have become somewhat annoying to some people. Some designated instruments officers discovered that they had a professional handicap. They could not give the committee legal opinions. And to make sure that everyone concerned was aware that they were handicapped, a proper notice was issued from headquarters acquainting them with their handicap. Soon the committee was being stonewalled on all fronts.

We then had a session or two with the Minister of Justice and his deputy at which they stood firm on their handicapped status. However, some time later the Minister of Justice formally offered a solution, which the committee had also given some thought to. The solution is the following—and I quote from a letter by the minister which is already part of the proceedings of the committee:

> I have recommended to my colleagues in Cabinet a system which I believe is practical and will result in the Committee obtaining more complete information when it has questions related to statutory instruments.
>
> I have proposed that departments and agencies nominate a senior official, perhaps at the deputy-minister level, to whom requests for explanations concerning statutory instruments would be directed. This official would then provide the requested explanations having regard to the department's policy and legal position. Naturally, in many cases there will be consultation between the department concerned and the Department of Justice. It must, however, be understood that the explanations provided, including any explanation as to the legality of the instrument, would be the sole responsibility of the responding department—

So, we will employ the new formula of by-passing the solicitor-client relationship and applying ourselves to the client, and he can deal with his own problems with his solicitor. The committee will now try this avenue. If it works, well and good. If it does not, we shall so report to you, to Parliament, and Parliament can take whatever action it may be able to take or may wish to take. I shall not go into the type of action that Parliament may take or may wish to take today, but the committee does offer a solution in section W of its report, and I commend its reading to honourable senators.

• (1450)

We have had in this debate and in the press and, indeed, in our report, a recital of the obstacles that the committee came up against, but that is not the full story. I feel the committee has accomplished some things, and even if as such it has no clout its existence has been productive, because in the process of seeking information from government we have achieved the following:

First, we have improved the availability of subordinate legislation in comprehensible form, and this is a continuing process. The publication of third subamendments now contains footnotes facilitating reference to initial regulations and intervening amendments. In some instances we have obtained the substitution of an entirely new regulation for amendment-barnacled items of subordinate legislation. This has not been easy, nor has it by any means been complete, but we like to think it is seeping into the system. The Privy Council has been generally willing to accommodate the committee's views on procedural aspects of publication in Part II of the *Canada Gazette*.

Second, the Privy Council has also agreed to publish in the future some classes of documents which have not heretofore been published.

Third, in terms of our criterion 1(b), much more attention is now being given to the statement in the preamble of statutory instruments of the enabling authority.

Fourth, the same thing applies to our criteria 3(a) and (b) concerning tabling provisions and clear statements of the time and manner of compliance with such provisions.

Fifth, obviously, in the process, we have discovered a few gross inconsistencies in substance and quite a number of inconsistencies as between the French and English texts. These have been readily corrected.

Finally, we have also received from departments many commitments for remedial action upon review of regulations and legislation.

In sum, the existence of the committee—that is, the presence of a watchdog—has already had some salutary effects on those whose responsibility it may be to initiate and to draft statutory instruments and regulations.

The committee recommends that certain legislative steps be taken to correct deficiencies which may be summarized as follows:

First, there is no system whereby all statutory instruments are published and made available to the committee charged by statute with their scrutiny. There is a system for regulations only and not for all statutory instruments, many of which are effectively hidden, are unpublished and are unknown even to the parliamentary committees to which they stand permanently referred.

Second, the definition of "statutory instrument" is obscure. The definition of "regulation," in terms of the exercise of a legislative power conferred by or under an act of Parliament, is equally obscure.