

*Regulations and Other Statutory Instruments*

of appeals which the committee had indicated it felt was desirable, it would make the system of appeals from the decisions of the information commissioner all the more expensive and time consuming. This, to my mind, is something to be avoided. In the system which reviews ministerial decisions certain matters should be exempted; it should be a system which would be speedy and not costly. Indeed, there were groups which appeared before the committee which shared that point of view.

I remember particularly the anti-poverty organization which expressed concern or opposed appeals to the court system exactly on the grounds that such a costly and time consuming procedure would, in their belief, militate against the position of their group. In the past I have indicated to hon. members of the House my concern about reliance upon the courts to determine in all cases this question of public interest.

● (1632)

**Mr. Baldwin:** One group suggested that there should be an appeal from the courts to the Prime Minister.

**Mr. Roberts:** As the hon. member for Peace River has pointed out, some people have suggested that the proper way to deal with this question of who is to review ministerial decisions would be to have an appeal to the Prime Minister. I am sure the fairness of that suggestion will recommend itself to the hon. member, but perhaps he will wish to reflect longer before we unanimously endorse the recommendation to pursue that direction.

I wanted to say a few more words about the difficult question as to whether the review process should be in the hands of the courts. I am sure we all agree that there should be a review process. The question as to whether a matter falls within an exemption is not one which should be simply and exclusively within the hands of the minister. The demands of public credibility require a method for assuring that a minister's decision has not been taken frivolously or without due concern for all aspects which touch upon the question.

I have expressed my difficulties to the House previously concerning the idea that the courts, in all cases and in relation to all subjects, are the best method of reviewing that kind of decision. I am second to no one in the House in my admiration for our judges and their ability to interpret properly the will of parliament as expressed in the black letter law. However, it is another question to call upon them to make judgments of interpretation of the public interest as opposed simply to rendering the text of the law. Indeed there are many areas in which parliament, in its wisdom, has decided that the courts are not effective or able in such a task. For instance, one thinks of the development of various aspects of administrative law in which parliament has decided that those responsibilities should be exercised by those who are other than judges.

Indeed, I suspect that many judges would not like to have the responsibility of pronouncing upon what is in the public interest, rather than interpreting or applying black letter law. After all, it is our parliamentary and political institutions

[Mr. Roberts.]

which are the way in which the community decides what social, moral, and political objectives are to be pursued by society. It is within the political process that the assessments of public interest are to be taken. Fallible or not, it is the ministers who are responsible to the House of Commons and parliament for the exercise of those responsibilities.

Certainly it is not clear that we could supplement the ministerial role by an appeal to the courts in all cases where it is necessary to reach a decision as to whether public interest is met by allowing an appeal within the context of an exemption. In many instances parliament has provided possibilities of review through an officer of parliament rather than an outside court, such as the case of the Auditor General. Perhaps parliament will wish to have an officer to perform the role of independent review, rather than having access to the courts, particularly in the cumbersome way recommended by the committee. When the legislation is delivered to the House in the next session, perhaps parliament would prefer to consider other mechanisms than that of judicial review embodied in the report of the committee.

It is for those reasons, recognizing the spirit which motivated the hon. member to make his motion, that I feel it would not be effective to urge my colleagues to support his resolution. At this particular time, I urge hon. members to regard objectively the legislation the government will present as soon as possible in the next session of parliament.

**Mr. Stanley Knowles (Winnipeg North Centre):** Mr. Speaker, as Your Honour knows, because I so indicated to you approximately an hour ago, it was not my intention to take part in this debate.

Since the Gentleman Usher of the Black Rod is seeking entrance, I am precluded from saying very much. However, I want to say that I am shocked by the statements of the Secretary of State (Mr. Roberts). This report should be adopted. It comes from a committee which represented all parties in both Houses. On behalf of my party, let me say that this report should be adopted by the House.

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[Translation]

#### MESSAGE FROM THE SENATE

**Mr. Speaker:** I have the honour to inform the House that a message has been received from the Senate informing this House that the Senate have passed Bill C-66, an act to provide for an additional advance poll in respect of certain by-elections, without any amendment.