

cates and that there shall be a registry of regulations maintained by the Department of Justice. I say, fine! I would agree with one step there. But we must remember, plus ça change plus c'est la même chose.

Who drew the regulations in the past? Who were the draftsmen? In many instances it was the Department of Justice. Certainly the department gave its approval; or it may have been that the influence of the department was wide. I put it this way: their influence, maybe, was by paste and scissors. We saw from one bill to another the same offending words and we were always told by the public servants who appeared before us as witnesses, "Well, these are the regulations as they appear in all the other bills and we are not doing anything different here." No, they were just perpetrating potential injustice.

So I say, there is perhaps one correct step in this measure. I refer to the maintenance of a registry. I think we will be better guided in committee by the departmental officers in the practicalities of what is suggested in the bill, whether in the submission of the draft regulations to the Privy Council or in the interchange with the Department of Justice, and whether we may not be setting up a very complicated set of machinery which will delay the preparation of legislation and of regulations.

I would like to put up a warning light at this point. I would not want to have this House, in passing this bill, simply create some form of Frankenstein which will cause too much coming and going and too much exchange of approval of approvals as between the Privy Council and the Minister of Justice. I think we understand that oftentimes a simplified procedure is far better than a detailed one.

We must clearly understand what we want in this legislation. What does Parliament want? Is it the power to suspend the coming into force of regulations, in other words that no regulations would pass into delegated legislation or come into effect unless approved by Parliament? This, clearly, would not work. We do not want that. After all, why has Parliament provided for these powers to make regulations under the legislation? It has done so for the sake of simplicity, flexibility, the need for adaptation and other valid reasons. On the other hand, we must have scrutiny of these regulations. They must be exposed to public examination. Statutory instruments must be scrutinized and exposed to public examination; there cannot be application until approval.

There must be review, with the power to have Parliament revoke improper statutory rules. Not the committee referred to in the bill; I do not think anybody wants that. The only body which could revoke a statutory instrument would be Parliament. The committee would recommend to this House that a particular statutory instrument be revoked or amended. Certainly no committee of this House should have power to tell the government that its regulations are hereby revoked; Parliament must do that. The committee which is being set up to review this matter is acting on behalf of Parliament, and it seems to me this is what is wanted. It is Parliament that controls and it is Parliament that must revoke statutory regulations.

Statutory Instruments Act

By whom should this be done? I asked, what did we want? Scrutiny, review and a power to recommend to Parliament to revoke. By whom? I would suggest, as did my hon. friend from Swift Current-Maple Creek (Mr. McIntosh), a committee of Parliament, a small committee of members of both Houses—that would simplify things—adequately staffed, because we want them to have an automatic referral of regulations and constant, ready reporting so that the process is as simplified and as efficacious as possible.

• (9:40 p.m.)

I have dealt with the matter of review, but there are other ways in which to accomplish scrutiny. First of all, there is the built-in scrutiny of the submission that is made to the Privy Council and to officials of the Department of Justice. This in itself will screen off a lot of difficulties. So that is step No. 1. Step No. 2 is the provision for publication in the Canada Gazette. In this regard I suggest to the minister that the proposal in this bill goes too far. When we were discussing the anti-dumping bill—this applies to other legislation as well—much to the astonishment of government members and also to myself the officials admitted that there was power under the Regulations Act for the governor in council to make regulations exempting the publication of regulations. So there is no guarantee of scrutiny here.

I agree that there may be certain circumstances involving national or international security where there should be an exemption power, or power given to the governor in council to pass an order providing that certain statutory instruments be not published, but only if this be in the overriding public interest. Having attended the same law school which I attended, I think the minister will recognize the legal theory that exceptions should be narrowly construed. In this particular case I strongly commend to the minister that exceptions to the necessity of publication should be narrowly construed.

With regard to the recommendation that as much as possible we adapt our legislation, I suggest that we make an amendment to the provisions of this bill dealing with the Revised Statutes to provide that there shall be included, in all legislation heretofore passed that gives power to make regulations, the words that appear in the new section 28A of the Interpretation Act. I refer to the expression "subject to the affirmative resolution of Parliament", or "subject to the affirmative resolution of the House of Commons". I suggest these words be inserted immediately in all such legislation. Certainly I anticipate it will be included in all future legislation. This is going to the ultimate stage, to that far point that the minister exhorted the committee to reach. I hope he will now be able to convince his colleagues to accept this sort of amendment in committee so that we can go to the limit the minister wanted.

Let me cite one example to the House. I do not want to be invidious in any particular regard, but let me make reference to the immigration regulations. I regularly have occasion to refer to them myself. The 1967 regulations