

*Statutory Instruments*

co-chairmen and the very competent officials who work for the committee.

We are facing a situation in which, in a society such as we have today, so many of the rules and regulations which govern the lives and conduct of people are the result not of what is done in parliament but what is done by those to whom parliament has delegated authority, and by those to whom, in turn, authority has been sub-delegated, as was mentioned by the hon. member for Greenwood (Mr. Brewin). We may say that because we know the cabinet, or even in spite of knowing the cabinet, we are prepared to delegate certain authority to them. But we often find that the authority which in practice is given to a minister is in turn delegated to his officials by whom regulations and orders in council are made affecting, for example, the conditions under which persons are admitted to this country. We might never have contemplated, when we passed a particular law in this chamber and provided for the right of delegation, that the right would be exercised in that particular way.

As I say, I am encouraged by what is happening in the committee. Progress is bound to be slow; changes will not come about overnight. But I believe there is great cause for satisfaction. I have more to say, but I will take the liberty at this point of reading briefly from a paper which I have just received on the subject of reform of parliament. The author is Mr. H. B. Turner, a member of the Australian parliament. I believe we can all take what he says into account in our approach to the subject now before us. The article appeared in the *Australian Quarterly* for December, 1965, and it reads:

It has in fact been a matter of common observation that throughout the world in recent years "the executive" has increasingly acquired power at the expense of elected assemblies, in London and Washington as well as in Canberra.

I would add the words "in Ottawa".

And this includes not only prime ministers and presidents who appear in the limelight, but bureaucracies that operate behind the scenes.

What are the reasons for this phenomenon? Is it due to the perils of the age, when men look to strong leadership, as the Roman republic from time to time, when the state was in jeopardy, put its liberties in pawn to a dictator? Certainly the world is locked in a bitter struggle between contending ideologies, incessantly smouldering and often in flames. Is it due to the increasing complexity of modern government? What is the nature and what are the causes of this complexity?

The article continues:

While it would be foolish to deny the strength and direction of these centripetal forces, is it inevitable that one should throw up one's arms in despair and embrace the authoritarian state—transfer the sceptre of power from the feeble hand of a confused and ignorant parliament to the firm grasp of the technocrats, expert in the art of manipulating public opinion, expert in the fields of administration, science and technology?

Is parliament, the apotheosis of the amateur, doomed to extinction in all but name because, like the early English folk moot, it has ceased to be a fitting instrument to perform the increasingly sophisticated functions of government?

And later:

Surely the answer lies in recognizing the danger and adapting the machinery of parliament to meet the challenge of changing circumstances. Usurpation of authority is to be resisted by promoting a fruitful partnership between the elected representatives of the people on the one hand and the administrators with their teams of experts on the other.

[Mr. Baldwin.]

I think this provides a firm foundation upon which the authority of the committee rests. I am one of those who believe it is a good thing that there should be hon. members from the other place on the committee. As I have noted, we are building up a continuing jurisprudence. During the course of the next election there may be many changes in this House. I look forward to quite a few changes, but we shall see what time will bring. But there needs to be continuity of experience on the part of the committee. Hon. members from the other place are making an important contribution to the work, so if it should happen that members now sitting on the government side are unfortunately not available to the committee after the next election, at least we shall have the benefit of the experience of the members of the Senate.

The hon. member for Greenwood talked about the criteria established by the committee, and I thoroughly agree with what has been said. They are good criteria and sufficiently wide to cover almost any situation. I believe, however, that the committee will not be able to complete its functions unless additional authority is provided by way of the right, in certain circumstances—they will be unusual circumstances, I admit—to bring before this House and, I assume, before the Senate, a particularly repugnant or offensive regulation which has been improperly passed or which is in violation of these criteria, should the bureaucrats refuse to modify it or make the necessary changes.

In such cases we must have the right to bring it before the House and ask the House to vary or set aside a particular statutory instrument. This is a practice which is traditional in the United Kingdom, based on a procedure known as a prayer or a petition. I do not think it is exercised more than half a dozen times a year, but the power does exist. The officials who are engaged in the task of preparing and promulgating regulations will, in my opinion and in the opinion of most of my colleagues on both sides of the House, exercise more caution if they know there is a possibility that should they offend in any substantial way against the criteria which have been brought forward, they may not only be called before the committee but the regulation or order in council can be brought before the House and made the subject of a motion asking that it be varied or set aside.

● (1450)

At the moment, Madam Speaker, we do not have that power. All we can do at the present time is have the joint chairmen bring before the House a committee report with a recommendation, but I do not think it is essential that we take that time. I suggest to the procedure committee that the committee find a simple procedure for parliament to give some direction regarding a particular order in council.

The hon. member for Greenwood pointed out that many cases involve applications for immigration. I can think of many instances in this regard where a regulation or even a ministerial decree might have been drafted which violates natural justice and which probably breaches the criteria we have laid down. An opportunity should be given to bring it before this House and to seek the approval of the House to set aside or vary that order or decree. This would not mean that the government was bound; it can muster