

Hon. Jack Marshall: Perhaps you should explain that it is d-y-e-i-n-g.

Senator Perrault: As I promised last evening, I contacted the Department of Fisheries and Oceans on this subject to get a complete update on the situation. However, I thought it might be useful to repeat an answer given to the same question posed by Senator Marshall two years ago. It was given on April 29, 1980, and is to be found at page 134 of *Debates of the Senate*. It reads as follows:

I am informed by the Department of Fisheries and Oceans that experiments have been conducted on the effects of dyeing young harp seals. Apparently, small quantities of dye are not harmful to either the pup or the mother-pup interaction. In large quantities, however, it is possible that harmful effects could result. Certain dyes, for example, might possess odours which could interfere with the mother's ability to identify her own pup.

Although conclusive results are not yet available, individuals would be well advised to consider the possible dangers to the harp seal pups they claim they want to protect.

OFFICIAL LANGUAGES

SPECIAL JOINT COMMITTEE—CHANGE IN SENATE MEMBERSHIP

Leave having been given to revert to Notices of Motions:

Hon. John M. Macdonald, with leave of the Senate and notwithstanding rule 45(1)(i), moved:

That the name of the Honourable Senator Tremblay be substituted for that of the Honourable Senator Asselin on the list of senators serving on the Special Joint Committee on Official Languages; and

That a message be sent to the House of Commons to acquaint that House accordingly.

Motion agreed to.

REGULATIONS AND OTHER STATUTORY INSTRUMENTS

CONSIDERATION OF ELEVENTH REPORT OF STANDING JOINT COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the eleventh report of the Standing Joint Committee on Regulations and other Statutory Instruments which was tabled on Tuesday, March 2.

Hon. John M. Godfrey: Honourable senators, the purpose of this report is to list the failures and successes of the Standing Joint Committee on Regulations and other Statutory Instruments in this Parliament in persuading ministers and heads of agencies to correct matters with respect to regulations which we have brought directly to their attention.

Our committee examines all the regulations and other statutory instruments which appear in the *Canada Gazette*, or

[Senator Perrault.]

otherwise come to our attention. Our purpose and mandate is not to pass on the merits of a particular regulation. We approach it from a technical point of view to see whether or not the regulation is in breach of one of the 15 criteria under which the committee operates, and which have been approved by both chambers of Parliament.

The most important of these criteria is whether or not the regulation is authorized by the terms of the enabling statute. In other words, is it *ultra vires*? Other important criteria are whether, in the absence of express authority to that effect in the enabling statute, the regulation purports to have retroactive effect; appears to amount to the exercise of a substantive legislative power properly the subject of direct parliamentary enactment; imposes a fine, imprisonment or other penalty; imposes a charge on the public revenue; or requires payment to the Crown for any licence or service.

Two other criteria are whether or not it is in conformity with the Canadian Bill of Rights, or is unclear in its meaning or otherwise defective in its drafting.

If we are unsuccessful in persuading a department or crown agency to amend or withdraw a regulation that offends one of our criteria, our only recourse is to expose this intransigence and give the department concerned a slap on the wrist by reporting the matter to Parliament.

● (1440)

I am pleased to state that one minister in the last Parliament was so concerned at the exposure of an irregularity in the regulation-making process of his department that he bitterly resented—and said so in the other place when the report was being debated—our reporting the matter to Parliament without notifying him personally of our objections beforehand. We had been dealing exclusively with his senior officials, and had presumed that they had kept their minister advised. The committee thought that the minister had a very valid complaint, and we amended our procedure accordingly.

Our initial procedure remains unchanged. When the committee objects to or questions some provision in a regulation, it instructs our counsel to take the matter up with the designated instruments officer of the department or agency responsible for the enactment of the regulation.

The officer concerned may satisfy the committee that our initial objection was not valid. If not, and no promise of remedial action can be obtained, the committee chairmen, as a last resort, write the responsible minister or head of the relevant agency.

The committee may, after hearing from the minister or head of the agency, be satisfied. If not, and the minister or agency head declines to take action, the committee reports the regulation to both houses.

As honourable senators can see from the schedules to our report, the committee has had a fair amount of co-operation and success with some departments, less so with others. Some departments are very co-operative; with others—and they would be the largest group—we have had mixed success; and