

As all honourable senators know, the first of the two motions proposed by Senator Godfrey is to examine the subject matter of clauses of bills where these clauses may, by express words or otherwise, infringe upon the rights and freedoms guaranteed by the *Canadian Charter of Rights and Freedoms*. Senator Godfrey's second motion, that is Order No. 12, deals with a similar request but, in that case, it is to examine clauses which bestow power to make regulations upon a person or a rule-making authority which is couched in unnecessarily wide terms and otherwise breaches the generally accepted principles of delegated legislative authority.

After some considerable discussion, we on this side hold mixed views. No one, for the moment, would be suspect of the motives of Senator Godfrey. They are, in fact, worthwhile. There ought to be some method by which, if we have a *Charter of Rights and Freedoms* and if we have a concern about the wide-ranging legislative authority, we can build in some safeguard so that clauses of bills, which offend either the charter or the delegated authority, are not passed.

I should like to congratulate Senator Godfrey for bringing these matters forward. He is one of the few persons in both houses who takes a great interest in this terribly important work. While normally we would concentrate a little more on breaches of the Charter, breaches of delegated authority may perhaps be a greater sin on the part of government and bureaucracy. As honourable senators who attend meetings of the Standing Joint Committee on Regulations and other Statutory Instruments will know, there are literally many hundreds of regulations that are challenged annually. I believe the success rate of that committee, although not as high as members would wish, is nevertheless reasonably high, and we endeavour to convince departments to withdraw or change the regulations made.

● (1530)

The question of building in a safeguard with regard to both of these matters is admirable, but how does one do it in the best possible way? Some would argue that this should not lie with any single committee, that every committee has staff and has access to the Library of Parliament Legal Research Department, or, in general, the Library of Parliament. Many of our committees have other research resources available. Each committee would examine any bill notwithstanding its concern about the subject matter, be it health, taxation or anything else. Each committee would have the added criteria to ensure that the bill did not breach the Charter or was not, in some way, couched language that would offend what is considered to be good practice in terms of delegated legislative authority.

For example, a taxation matter may come before the Standing Senate Committee on Banking, Trade and Commerce, and bills dealing with other subject matter would come before other committees. Obviously there would be no duplication of work. Standing committees of either house could review the substantive matters, as well as look at the two serious matters raised by Senator Godfrey. That could be within the criteria for every committee.

Assuming that Senator Godfrey's motion passes both houses, presumably the committee, of which I am a joint chairman, would have this responsibility. One can foresee substantive matters coming before the standing committees of either house and there could be an ongoing fight dealing with substantive matters before the Senate Committee on Regulations and other Statutory Instruments. To that end, one might argue that there could be some duplication. Some might argue that every committee could be instructed to be mindful of the concerns of the Charter and of delegated legislative authority.

We should not lose sight of the fact that as bills are argued in both houses of Parliament, surely there would be a sufficient number of members of both chambers who would be mindful of their duty, who would be concerned with Charter rights and delegated authority matters and who would raise them on the floor of both chambers as the bills were being debated.

I do not wish to oppose Senator Godfrey's motion, although I have expressed my views on it. I believe that his motives and ideas are commendable, and I believe that this matter should not be left lying around here much longer. I am not certain whether Senator Godfrey and other honourable senators will be familiar with Bill C-27 which was introduced in the other place on January 31. No doubt it will reach us shortly. Clause 106 of that bill amends the Department of Justice Act. Without quoting the clause, it imposes an obligation on the Minister of Justice to the effect that legislation should conform to the Canadian Charter of Rights and Freedoms. I am not certain how that will be done, but, when the opportunity arises, I am quite sure that we shall be asking the minister how he will carry out that function. There is an added safeguard in that there will be some built-in mechanism that, as legislation comes through, there will be a statutory requirement on the part of the minister to ensure that it does not offend the Charter.

In the interests of getting on with other business before us, we should perhaps proceed with this and the next Order of the Day, to enable both houses to deal with them.

Hon. John M. Godfrey: Honourable senators—

The Hon. the Speaker *pro tempore*: I wish to inform honourable senators that if the Honourable Senator Godfrey speaks now, his speech will have the effect of closing the debate on this motion.

Senator Godfrey: Honourable senators, Senator Nurgitz has raised the question that the matter should not be decided by one committee. I entirely agree with him. The Committee on Regulations and other Statutory Instruments only alerts the committee that is dealing with the bill of the possibility, and it is that committee that will make the decision, not the Committee on Regulations and other Statutory Instruments. The point is that the Committee on Regulations and other Statutory Instruments has two full-time counsel, and no member of Parliament really has the time personally to go through a bill and ferret these things out. There is the advantage of having that technical assistance.