

nation of the minister is satisfactory to me and I would be disposed to support the original clause rather than the amendment.

**Mr. G. W. Baldwin (Peace River):** I have some comments to make, but perhaps I may be allowed first to ask the minister a question which he might see fit to answer now. Having in mind the fact that this provision relates to criminal practice, would it be the opinion of the minister that part of the substance of any charge which would have to be proven by the Crown beyond a reasonable doubt would be the fact that such publicity had been given in such places, in such a way and at such a time, that any person who might be charged with an infraction of the regulation was made aware of it. Would that be the view of the minister? The minister nods his head. The reason I asked the question was that, in my opinion, the difference here was the notice to the public. As has been pointed out the phraseology contained in the legislation we are now considering is, "taken to bring the purport of the regulation to the notice of those persons likely to be affected by it". This is the whole problem so far as ignorance of the law being no excuse is concerned.

• (4:40 p.m.)

In this place we may deal with a very serious amendment to the Criminal Code, as we did last year and as we may be doing later this year. It is not part of the basis of any successful prosecution to be able to establish that a person charged with a breach of a new offence, no matter how substantial an offence, knew of that change. Are there any classical scholars here who know about the Roman emperor who, being compelled to publish his laws, published them on tablets of stone but hung the tablets up so high that nobody could read them? I would have been happier if the word "public" appeared in that clause because you could have imported from the word "public" that it was essential the regulations had been given such notice and notoriety that any member of the public would be aware of them. The reason for that provision is that regulations are usually passed and proclaimed in the secrecy of cabinet offices. I am not saying that is wrong, but I point out the contrast. When we debate legislative changes in this House, with the aid of our friends in the press gallery, a certain amount of attention is given to the changes.

There is one other matter which I should draw to the minister's attention. One of the reasons we are in this difficulty, which has prompted the hon. member for Edmonton West (Mr. Lambert) to move his amendment, is that the minister and his officials did not pay enough attention to what the committee suggested. I will not go into that now. I will be able to show later on, when dealing with one of the amendments, the limited extent to which the government has moved in complying with the committee's recommendations. However, I know that any response appears to constitute a magnificent effort because before this legislation we had nothing, and now even going forward a modest few feet looks to be quite a feat for the government.

If we look at the third report of the Special Committee on Statutory Instruments we find one important recom-

### *Statutory Instruments Act*

mendation on page 91. This recommendation resulted from a substantial debate in the committee as well as the views expressed by the people who appeared before the committee. My hon. friend from Greenwood was quite concerned about this; in fact he and I were both concerned about it. Recommendation No. 9 on page 91 reads:

Before making regulations, regulation-making authorities should engage in the widest feasible consultation, not only with the most directly affected persons—

They would be those covered by the wording in the legislation.

—but also with the public at large where this would be relevant. Where a large body of new regulations is contemplated, the government should consider submitting a White Paper, stating its views as to the substance of the regulations, to the appropriate Standing Committee. When enabling provisions and statutes are being drawn, consideration should be given to providing some type of formalized hearings on consultation procedures where appropriate.

Later on when we came to making suggestions as to the form of the scrutiny committee that should be established, this was one of the proposals which would invest that committee with some form of authority. I recognize that a recommendation of that kind cannot be fully implemented and incorporated into a statute but I do think that those who drafted this bill might have seen fit to incorporate somewhere, as a matter of principle, that regulations, as defined in the bill, should be submitted to this process of consultation with those members of the public most directly concerned.

The preface to the report contains this paragraph, Mr. Speaker:

This report is based on the assumption that public knowledge of governmental activities is the basis of all control of delegated legislation. For parliamentary democracy is a system of government which requires that the executive be responsible to the legislature and that both be accountable to the people, and there can be neither responsibility nor accountability where there is no knowledge of what has been done. In political matters knowledge is the beginning of power, and its lack, impotence.

I quote those words to show that I am quite disappointed there was not in the legislation, not so much in the actual operative sections, but at least in the form of the preamble, a statement of principle to indicate that it was the intention of this parliament to direct the government, to engage in the widest possible measure of consultation before regulations are drafted. If that had been done, we would not have needed to worry about the amendment of the hon. member for Edmonton West. I must express my regret that it was not done. I hope that when this bill, which does break some new ground, is considered for review something of that kind will be done so that the government of Canada, whatever party forms that government, will have no doubt of what we intended when we were giving directions to the government at this time.

**Mr. Robert McCleave (Halifax-East Hants):** Mr. Speaker, I was a member of the committee referred to by the hon. member who just sat down. I think it might be interesting to note that on many occasions we did give earnest consideration to how regulations, orders and