

Statutory Instruments

in council or regulation or other statutory instrument, how the law is to be administered or enforced. We need a watchdog. The terms of reference of the committee—the criteria, as they are called—should be broad enough to give it full rights. The hon. member for Halifax-East Hants (Mr. McCleave) has already read to the House the proposed criteria. I will not repeat them but I shall refer to some of them. My colleague for Waterloo-Cambridge (Mr. Saltsman) pointed out that in the field of unemployment insurance, the innumerable regulations are important. Recently the House passed the foreign investment review legislation. The real principles of the law are not set out in the act but are contained in the regulations under the act. The same is true of DREE and many other programs and laws passed by this House; these laws are administered under a system of discretion and regulation. I refer to the actual terms of reference of the committee. The first reads:

is not authorized by the terms of the enabling statute, or . . .

It mentions certain prerogatives with which I shall not deal. This provision is most important. Quite often one finds powers with respect to regulations being sub-delegated. In my view, this is done quite illegally and is not authorized by parliament or by enabling statute. Let me give an example of what I mean. One finds that enabling legislation delegates power to the governor in council or minister; in turn, the governor in council or minister delegates authority to some official whose decisions may affect the public of Canada. Item (4) reads:

makes some unusual or unexpected use of the powers conferred by the enabling statute . . .

This is a broad but useful provision because it gives the committee the right to say, "We do not think parliament ever intended that sort of use of the powers conferred by the enabling statute. What you have done is unusual or unexpected. We are not saying it is illegal, but we think it should be reviewed." Item (12) reads:

is not in conformity with the Canadian Bill of Rights.

Of course, the Canadian Bill of Rights speaks for itself. Section 1 provides:

- (a) the right of the individual to life, liberty, security of the person and enjoyment of property, and the right not to be deprived thereof except by due process of law;
- (b) the right of the individual to equality before the law and the protection of the law;
- (c) freedom of religion;
- (d) freedom of speech;
- (e) freedom of assembly and association; and
- (f) freedom of the press.

I will not read the other sections. I hope members of the House are familiar with the Canadian Bill of Rights. The point is that the terms of reference of the committee give it the right to scrutinize the great mass of delegated and sub-delegated legislation and ask, is it in accordance with the fundamental principles set out in the Canadian Bill of Rights? I know that section 3 of the Bill of Rights gives the Minister of Justice some powers in this field, but I am sure the Minister of Justice must delegate them to people in his department. An official would deal with these matters, not elected representatives in parliament. I think this is a great move forward; it is good that independent minds, possibly sharpened by membership in opposition parties,

[Mr. Brewin.]

should be given the opportunity of scrutinizing the regulations and determining whether they conform with the principles of the Canadian Bill of Rights. Item (13) of the terms of reference reads:

is unclear in its meaning or otherwise defective in the drafting.

In my experience, 99 per cent of all laws passed by this House and other legislative bodies is unclear in meaning and defective in draftsmanship. Perhaps the figure of 99 per cent is an exaggeration; nevertheless, the committee must look at delegated legislation and see if it is unclear in meaning or defective for any reason. The last item reads:

for any other reason requires elucidation as to its form or purport.

If people are to be governed by laws, those laws must be clear and intelligible. Some committee of this House should assume the responsibility of calling attention to laws which are not clear and require elucidation. The criteria which I have mentioned are broad in scope. I agree with the hon. member for Halifax-East Hants; I think this Committee should be given explicit authority to refer regulations on specific subjects to other, appropriate committees of the House. We are now discussing fisheries regulations. It might be a good idea to refer those regulations to the fisheries committee of the House, the members of which presumably are more expert in that subject than members of the general committee who cannot claim to be expert. Such authority should be granted.

The work of the committee has only just begun. We have an efficient staff which has been helpful and has delved into aspects of life with which many of us are not familiar. For example, the committee is considering the Migratory Birds Convention Act. We have looked at the regulations passed under that act and have found that section 1(2) provides for a non-refundable fee of \$60 to be paid for a permit. The act, I might say, covers a larger variety of birds than I ever knew existed: we had them recited to us the other day.

● (1430)

According to our counsel, and we are looking into this, no authority is given by the act to prescribe and collect a fee. Who are the people concerned? I imagine most of them are Indians, Innuits and others whose livelihood is concerned in this matter. Without the authority of law, some official may pass a regulation saying, "We will make you pay a non-refundable fee". I thought it was basic that taxes should be imposed by parliament and not by somebody who has not even been authorized by parliament to collect such a fee.

The northwest Atlantic fisheries regulations have some rather extraordinary provisions, as was pointed out by our counsel. Under subsection 16(4), when a temporary seizure is made of fish that supposedly have been taken in contravention of the regulations, and they impound the boat, a judge is given the authority to change that decision. This is the extraordinary feature about it:

Where any vessel or goods have been seized under subsection (1) and proceedings in respect of the offence have been instituted, the court or judge may . . .

Here are the key words:

. . . with the consent of the protection officer who made the seizure, order the vessel or goods to be returned . . .