

Statutory Instruments

Because these documents are not said to be statutory instruments, they were not even reported to the committee and the committee did not know that many of them existed—and to this day the committee does not know how many of them exist. The committee recommended the adoption of the definition proposed by the so-called MacGuigan committee which would clear up this question of definition. We hope the government will afford an early opportunity to remedy this situation.

The committee report also refers to the sub-delegation of the rule-making power and suggests that this should be clarified and cut down, and that such delegation should only be allowed when clearly provided for in the legislation. The committee further dealt with the power of dispensing with regulations in favour of individuals and raised many examples where this is being done at present. It was through the exercise of dispensing this power that James II lost his throne and Charles I lost his head. It constitutes a vicious practice designed to ensure that we are governed not by a democratic parliamentary system but by a bureaucracy.

No one in the House does not appreciate the necessity of having a bureaucracy of officials to administer the law, and indeed I think many of us have a good deal of respect for our officials who are serving this country. But to apply a term which I think was originally used in respect of the army and its position vis-à-vis the civilian power, the bureaucracy should be on tap, not on top.

The committee took the view that the wording of the definition section of the act is obscure, and the Privy Council office's interpretation of it is, and I quote the language of the report, "Quixotic in operation and subversive to the committee's function so narrowly to confine the committee as to hamstring it". This parliament is now having a report prepared for it by the joint committee of the Senate and the House of Commons saying that this provision has hamstrung the committee's functions. I think we should do something about that.

The committee refers to immigration guidelines which the House has been discussing recently in a different context. It says it is satisfied that these guidelines and manuals are in effect statutory instruments and should be disclosed. The committee reports that it has not been vouchsafed either a perusal of the guidelines or the detailed reasons for there not being statutory instruments, and is therefore unable to give an opinion as to whether the guidelines now in existence do, or do not, fall within section 58 of the Immigration Act, or do not lay down any rules applicable to subjects or immigrants.

I invite the House to consider how serious a statement that is. The committee of the House and of the Senate was not even allowed to look at the guidelines which I for one am able to assert dealt with the rules by which we admit people or refuse them admittance to Canada. We were not allowed to even see what these documents are. As they said, they could not judge whether the guidelines now in existence do, or do not, fall within the relevant section of the act.

While it is obvious that the committee cannot pronounce itself on documents it has not seen, these guidelines do contain matters of substance which guide immigration officers' deci-

[Mr. Brewin.]

sions in the case of applicants for immigration into Canada. These documents have been kept rigidly secret, not only from the public or those directly concerned in the cases involved but from parliament as a whole. I hope parliament has enough self-respect to say that this must not continue. The total picture is one, therefore, of frustration and obstruction as well as one of secrecy.

The committee has had before it, as the House knows, another reference to inquire into the secrecy of public documents whose production has been sought in parliament. This committee has not yet reported. I am not quite sure whether it has up to date terms of reference now before it. This refers to a subject that is widely known under the heading of the freedom of information act. This is all part of the same picture in which some of us in the House are striving to bring about greater public participation in the decisions of government. The present report, however, lays the groundwork for some general observations, namely, that we are not governed by participatory democracy, which would require full disclosure of what the government is doing unless the matter falls within a special exemption as clearly set out in the statute.

It is imperative that we should change this situation. Democracy means government by the people. It is essential, for this to be effective, that the people and their representatives should have knowledge. Knowledge, in effect, is power. It can hardly be too much to say that those who have knowledge and power today are the bureaucracy who are supposed to be subordinate. Parliament should take this matter up with vigour and should insist that the definition of regulations and statutory instruments be made broad enough so the committee can function effectively and the Senate and the House of Commons are respected and recognized.

Perhaps we do not need a revolution such as occurred in the days of the Stuart kings of England. But what I think we need is a revolutionary change in attitude, and I hope that when the Minister of Justice speaks in this debate he will say what the government is planning to do to ensure that we move to that freer, more open society in which people have power and in which other instruments of government are in the subordinate position in which they should be.

Mr. Basford: Mr. Speaker, I have listened with a great deal of interest to the chairman of the committee and the hon. member for Greenwood. As both of them indicated, the matter under discussion, namely, the work of the committee and the report of the Standing Joint Committee on Regulations and Other Statutory Instruments, is immensely complicated and complex, not only because of the legal technicalities—some of which have been raised this afternoon—but also by reason of the novelty of this area of parliamentary inquiry. Traditionally, in this country, questions as to the legality or not of legislative instruments were left, until the Statutory Instruments Act came into force, to the realm of the courts.

• (1610)

This is the first substantive report by the committee, and as such it merits very careful consideration, as suggested by the