

*Statutory Instruments Act*

most fantastic regulations dealing with food production and the marketing of food.

● (4:30 p.m.)

One of the great stories Doctor Cheshire told was when he, on behalf of Exeter College, was duly summoned before a court to answer why the college had either produced too many or too few eggs on some distant farm the college owned in contravention of some government food regulation that had an index number a yard long. When an inquiry was made as to what this regulation was, it was found that the blessed regulation had never even been printed. No one but some dim-witted and very minor official in the food ministry was aware of this regulation. It seems to me that we are getting dangerously close to this when we say here merely "to the notice of those persons likely to be affected by it". Surely, the law has operated satisfactorily. Has there been objection to the wording which existed previously under the Regulations Act? Surely to goodness if we in Canada are going to insist that our courts not only do justice but appear to do justice, it is not asking too much that there be proof the regulation had been drawn to the attention of the person being charged. Surely to goodness, that is different from merely giving notice to the persons likely to be affected by it.

It seems to me that the original language was more felicitous; that is the burden of my argument. I must confess that I did not notice the difference between the English and the French texts, and I thank the parliamentary secretary for bringing it to my attention, but it seems to me that there is a clear difference between the words "shown" and "proved". I ask the minister to answer my point. I am quite prepared to meet him halfway, but let us get this clause straightened out.

**Hon. John N. Turner (Minister of Justice):** May I say first of all, without accepting the hon. member's amendment, that I would be willing to change the word "shown" as it is found in the bill at page 7 in clause 11 (2)(b), the first three words of which read "as it is shown", to "it is proved" to bring it into accord with the French version which reads "s'il est prouvé". Both versions would be interpreted together under the Interpretation Act, in any event, so if there is any way of doing that with the unanimous consent of the House, I think that could be registered.

**Mr. Deputy Speaker:** Is it agreed that the amendment suggested by the Minister of Justice (Mr. Turner) be adopted?

**Some hon. Members:** Agreed.

**Mr. Turner (Ottawa-Carleton):** Regarding the substance of the hon. member's argument, what he does in his amendment is to attempt to resurrect section 6 (3) of the Regulations Act. Under the law as it now stands, a conviction cannot be obtained unless the regulation is published or, if exempted from publication, it has been brought either to the notice of the public or the persons

[Mr. Lambert (Edmonton West).]

likely to be affected, or the person charged has been given notice.

What we have retained in our version are the words "to bring the purport of the regulation to the notice of those persons likely to be affected by it". I want to point out that under the present law these are alternatives, three choices. The law can be satisfied if public notice is given, whether or not the person or class of persons likely to be affected have or have not been notified. We think that is too wide. On the other hand, we think it is too narrow to ensure that a particular person who has been charged has been given notice if he is among a class of people whom the regulation is affecting and should have, in the ordinary course, received notice of it. On the one hand, we think there is not enough protection to the individual, and on the other we think it would be going too far to notify each individual who is a member of a class of persons who have had that notice if general notice has been given to that class of person whether he be a mariner, an airline pilot or someone involved in the distribution of eggs or poultry.

If general notice is given to the trade or to a section of the public, and if a person in the ordinary course would have had notice of it as a member of that trade or class of public, then we feel that that is a fair compromise. So, under the present law and under the amendment suggested by the hon. member, the options are too wide and too narrow. An official notice could be published in the Canada without it being brought to the attention of the people likely to be affected, and the conviction would be valid. On the other hand, if it were to be a requirement in every case that everybody affected by the regulation had to be given personal notice before any conviction would be valid, that would be going beyond the realm of common sense. That is why, of the three options now available under the law, we have settled upon the one that brings about a measure of fairness and common sense.

**Mr. Andrew Brewin (Greenwood):** Mr. Speaker, I will be very brief on this particular amendment. As I understood it, the hon. member for Edmonton West (Mr. Lambert) said that his amendment would put a heavier burden on the Crown and that, on the other hand, it would add to the difficulties of the accused in one of these cases. If that were the correct interpretation, I would be very sympathetic to his amendment. However, as the Minister of Justice pointed out, my impression is that the original clause as it is before us has exactly the opposite effect. The amendment gives three alternative ways in which notice can be imputed to an accused. It can be imputed to him because notice would be given to the public; that is one alternative. It can be imputed to him because persons likely to be affected have received notice, or it can be imputed to him if he himself has received notice. Clause 11 (b), as it stands presently, is restricted to one way in which notice can be imputed, that is when notice has been given to those likely to be affected. It seems to me that that is narrower rather than broader than the amendment proposed by the hon. member for Edmonton West. For that reason, the expla-