

*Statutory Instruments*

which he referred. In my view he put the whole matter in proper perspective. I am sure that other speakers, such as the hon. member for Greenwood (Mr. Brewin) and other hon. members, will be commenting on the work of the committee in the past few weeks.

At the outset, I must confess that when I first became a member of the Standing Joint Committee on Regulations and other Statutory Instruments I did so with some feeling of trepidation. The not very exotic title of the committee is, in itself, enough to strike fear in the heart of even the bravest bureaucrat. When I became concerned with the great volume of regulations which have accumulated over the years and the need for their scrutiny, I conjured up an image of myself pouring over mountains of documents written in a somewhat less than tantalizing legal, technical style. Needless to say, such an image did not fill me with rapturous joy.

However, as with many things, once I began to work with the committee and acquired some limited knowledge of delegated legislation, my interest in the subject and appreciation of the work of the committee increased immeasurably; so, too, my respect for those members who over the years have spent so much time and energy trying to obtain greater parliamentary supervision over regulations and statutory instruments. Most notable of these hon. members are the hon. member for Peace River (Mr. Baldwin) who for over ten years led the fight for closer scrutiny of delegated legislation, and my colleague the hon. member for Windsor-Walkerville (Mr. MacGuigan). He was chairman of the special committee whose recommendations were the basis of government action, which included the setting up of the committee whose report we are now discussing.

We are indebted to all those who made contributions in this regard, for Canada until 1970 lagged far behind other Commonwealth countries such as Great Britain, Australia and New Zealand in terms of parliamentary supervision of the use of delegated legislative power. I do not think it is necessary to take up the time of the House by giving the history of developments in these countries. However, I would like to point out that the British House of Commons has had, since 1944, a select committee on statutory rules and orders, commonly referred to as the scrutiny committee, and the Senate of the Commonwealth of Australia established, as far back as 1931, a standing committee on regulations and ordinances to examine regulations. In New Zealand, standing order 360 provides for the establishment, at the commencement of every session, of a statutes revision committee to consider all bills containing provisions of a technical, legal character to determine whether a certain regulation should be drawn to the attention of the House.

● (1410)

These measures, which were just the beginning of the action taken by our government in 1970 in response to the recommendations of the MacGuigan committee, reflect the concern over one of the major problems facing democratic governments in the twentieth century—the problem of controlling governmental authority. The immense growth of government activity caused by changing attitudes, circumstances and needs which encourage the expansion of the public sector into areas once considered the preserve

[Mr. Robinson.]

of private enterprise, create the dangers that the expert public servants required to operate the expanded government service may become masters of the people they are employed to serve. The problem is how parliament can control the vast administrative system of the government in a practical way without undermining the effectiveness of the public service.

It is not possible, and not even desirable for parliament to control in detail all administrative, regulative and other activities of government. Parliaments are not composed of specialized experts—although there are a few exceptions—but, rather, are composed of generalists who must be able to find out what people want, or at least what they will accept, and express the views of the people whom they represent. Not only do members lack the expertise necessary to supervise closely the full-time experts of the public service, but they also lack the time to grind out all the detailed laws and amendments which are required in a modern, democratic state.

For these reasons and others, considerable legislative authority over the past half-century has been delegated to the executive. However, having delegated legislative power to be used under the terms of parent acts, parliament still has the responsibility to ensure that these powers are not abused. The possibility of abuse of these kinds of powers should not be underestimated. John Kersell, in his book "Parliamentary Supervision of Delegated Legislation", while rejecting as "sheer melodrama" Lord Hewart's representation of civil services or any considerable part of them as dark and insidious conspiracies, warned that:

The government official, like a good many other people in this imperfect world, is to be watched most carefully when he is acting with the best intentions.

This should be in no way interpreted as lack of confidence in the men and women of our public service. Canada is fortunate in having a public service which has a long and honourable tradition and is composed of hard working people who have not only gained the respect and trust of most Canadians but also the admiration of many outside our borders. Nevertheless, it has been pointed out that administrators, however well intentioned and however much they may consult persons and interests directly affected by their particular departments, may be out of touch with the needs and wishes of ordinary men and women in the general public. That is to say that the community as a whole, in certain instances, is as profoundly, if not directly affected by sublegislation as particular persons and interests habitually consulted by department officials.

There is no problem when the effect on the particular individuals and the community is a positive one. However, when there is conflict there arises a need for an institution which has the authority to correct the situation. Parliament possesses not only the needed authority but is composed of members who should be in touch with the needs and wishes of the ordinary people.

Mr. Speaker, I would like briefly to review some of the major developments which have taken place since the tabling of the third report of the special committee on statutory instruments. On June 16, 1970, the then president of the Privy Council announced that after careful