

Government Organization Act, 1970

The Acting Chairman (Mr. Richard): Order. The following amendment has been moved by the President of the Treasury Board:

That Bill C-207 be amended by striking out lines 22 and 23 on page 9 thereof and by substituting therefor the following:

"the Governor in Council may, by proclamation, subject to negative resolution of the House of Commons, establish a Ministry of State for that"

Mr. Knowles (Winnipeg North Centre): On a point of order, Mr. Chairman, shouldn't it be page 5?

The Acting Chairman (Mr. Richard): The reference in the English text should be to page 5, although it was typed as page 9. It is also to be moved by Mr. Drury—I am just reading this for information at the present time:

That Bill C-207 be amended by striking out line 6 on page 6 thereof and by substituting therefor the following:

"proclamation, subject to negative resolution of the House of Commons, change, from time to time,"

Mr. Baldwin: Mr. Chairman, I shall try to be as brief as the minister was, and because of the tone of his speech and his proposal, which we accept as being conciliatory in an attempt to co-operate with all parts of the House, I will not repeat the objections that we have taken to clause 14 in its present form. They are on record and speak for themselves. The minister's approach has been reasonable. He has attempted to find common ground. There have been discussions, as there always are in this place, to see if there was not common ground, and now the minister has come quite a distance. I do not think he has come far enough but I will indicate how far we are prepared to go. It may be that the final mile will be worked out, if not today then at a later date.

An hon. Member: In three or four months' time.

Mr. Baldwin: No, that is not so. The government has made its position clear and we are entitled to make our position clear. I have before me the bill amending the Statutory Instruments Act and I think I am entitled to quote from it because the minister indicated that this is a new and novel procedure. The expression "subject to negative resolution" is contained in clause 28 of that bill, at page 17. I refer to Bill C-182 and I quote:

—the expression "subject to negative resolution of Parliament", when used in relation to any regulation, means that such regulation shall be laid before Parliament—

For "regulation" we substitute the word "proclamation" here.

—within fifteen days after it is made or, if Parliament is not then sitting, on any of the first fifteen days next thereafter that Parliament is sitting and may be annulled—

Mr. Drury: Mr. Chairman, I would suggest that the hon. member read paragraph (d) because my amendment relates to "negative resolution of the House of Commons."

Mr. Baldwin: The minister is quite correct. That paragraph reads:

—if the House is not then sitting, on any of the first fifteen days next thereafter that Parliament is sitting and may be

[Mr. Drury.]

annulled by a resolution of the House of Commons introduced and passed in accordance with the rules of that House.

• (5:10 p.m.)

The problem we see on this side of the House is a very practical one. An onus would be placed on an opposition party or a private member to secure ways or means by which he could have it annulled. It would be quite impossible, for example, for a government backbencher to do this because at the present time the procedure of using an opposition day is denied to all except those in opposition to the government. So if there should be a backbencher on the government side or a government member who should decide to move by way of negative resolution, he would be denied that opportunity.

It may well be that some time in the future this House might get around to enacting changes in our Standing Orders which would make a negative resolution an effective procedure, but so far it is not effective. I say there is no practical way in which a negative resolution can be of use at the present time. So, Mr. Chairman, I shall come right to the point. We propose an alternative. At one time I considered moving this as a subamendment, but in light of the amendment moved by the minister I doubt if this could be done. Therefore, perhaps I might place it on the record as an indication of our view, although I would move it as an amendment if I thought I would be in order.

It is our view that instead of having a negative resolution we should have an affirmative resolution. Let me read an affirmative resolution. I am referring to section 28A(1) (b) in clause 28 of the statutory instruments bill: the expression "subject to affirmative resolution of the House of Commons", when used in relation to any regulation, means that such regulation shall be laid before the House of Commons within fifteen days after it is made or, if the House is not then sitting, on any of the first fifteen days next thereafter that the House is sitting and shall not come into force unless and until it is affirmed by a resolution of the House of Commons introduced and passed in accordance with the rules of that House;

That places on the government the responsibility to seek and secure some procedure. The government is much more able, because it has command of the government's time, to bring forward a resolution in the House of Commons and seek approval of that resolution. The minister may say this might cause a considerable amount of difficulty in the interval. Mr. Chairman, let us take parliamentary notice of the fact that very rarely does a year pass when this House is not in session for approximately nine months, and there is very rarely a calendar year when Parliament is not sitting for a period of three months.

The government has the means at its disposal under existing legislation to cope with the situation in the interval through the means of appointment of either a minister without portfolio under the present practice or, as the case might be, a minister of state under the new practice—I am not talking about the establishment of ministries of state—and provide that under the Transfer of Duties Act the minister without portfolio or minister