

*Statutory Instruments Act*

tunity in debate on collateral issues to commend this sort of approach to the serious problem of delegated legislation. So we have that recommendation made by a committee of the House. I have already read to the House two citations from bodies which examined this matter. In the result I think there should be no question of there being the need of a committee, one with the fullest right to examine delegated legislation and then to make recommendations.

The present clause 26 does not take this approach. Indeed, I look with some suspicion at the proposal contained in the clause 26, which provides that all that will happen is that every statutory instrument issued will stand permanently referred to any committee of the House of Commons, of the Senate or of both Houses that may be established for the purpose of reviewing and scrutinizing statutory instruments. That clause by itself is virtually meaningless and powerless. The reference to the committee may have a very useful and effective aftermath, but standing by itself it is useless. It is like the provisions of the current Regulations Act which provide that regulations shall be tabled. At first blush any innocent person reading that clause would have every reason to believe that regulations were tabled under the provisions of the Regulations Act, that committees and individual members of the House could examine the regulations and make proposals with regard to them, and if they came to the conclusion that the liberties, rights, prerogatives and property of the people of Canada were threatened they could do something about it. But that is not the case.

What will be the situation here? All that will happen is that the President of the Privy Council will from time to time at the commencement of each session table a list of regulations. In fact, he does not even have to table a list; he simply tables a copy of the Canada Gazette—the legality of which is now in doubt—which copy makes reference to a number of regulations. Nobody pays any attention to them. If an individual Canadian suffers damage and goes to his Member of Parliament or to a lawyer, he will find he has no chance to do anything to correct the situation. This is why it is not enough for the House to accept the present wording of this clause.

This sort of thing is not done in other jurisdictions. I admit that in Australia there is a committee of the Senate which I think makes a reasonable effort to examine proposals. I notice that in considering this point and what to do about it, the special committee was inclined to place too much faith in some comments made by the political scientist Bernard Crick, who in effect said, "Well, I don't think we want to go to the public. We don't want to challenge the government and we certainly don't want to put the government in danger". Consequently, he made what I think is a rather anaemic proposal in regard to what to do about this question.

In the United Kingdom I was able to observe the committee of scrutiny in action while I was over there several years ago. I asked for and secured an opportunity of discussing with Sir Robert Speed, as he then was, legal adviser to Mr. Speaker and who acts as special adviser to their committee of scrutiny, and also discussed with the

chairman of the committee, Mr. Graham Page, M.P. and with the chief spokesman in the committee for the government, the way that that committee operates. I was invited to and attended two meetings where I observed the committee in operation.

That committee has a very effective way, administratively, of dealing with these proposals. I want to take a couple of minutes to enlarge upon this question since it is covered by my proposals. Sir Robert Speed, the legal adviser to Mr. Speaker, receives from the departments of government various Orders in Council and regulations which are covered by their terms of reference. Obviously, they issue a great many more than we do.

• (8:20 p.m.)

In Canada in the last 13 years we have enacted approximately 6,900 Orders in Council and regulations involving some 20,000 pages of fine print. We have dealt with, on an average, 530 of these a year. The British do a lot more than this. But there these matters are referred to the legal adviser to the committee, who vets them. Often he is able, from his experience and knowledge, to work out with government departments concerned variations, changes, adaptations, amendments and, in some cases, even the withdrawal of the objectionable parts of an Order in Council or the entire Order in Council. Others which in his opinion offend the terms of reference laid down, are referred to the committee.

The committee meets twice a month. I have before me an agenda of meetings of the committee. In one meeting, for example, 42 Orders in Council had passed through this sieve and were being considered by the committee. In another case there were 26. In each of those cases the members of the committee had a copy of the Order in Council complained of, and the comments of Sir Robert Speed. The committee met, and in three or four hours went through the regulations. In 75 or 80 per cent of the cases they were able to resolve the problem and given instructions to the chairman and to the legal adviser. In other cases they made recommendations.

To those who suggest that this kind of task lies beyond the scope of a parliamentary committee of this House which is provided with the proper degree of assistance to examine such Orders in Council I say that they are completely wrong and their notions are misconceived. A committee of this kind, armed and equipped with proper technical aids and with proper people to assist it, could very quickly develop an administrative capacity and a means of handling such Orders in Council. While the task of the committee might be difficult and lengthy, I am sure it would not be impossible. So speaking of the mechanical aspect, it is within our capacity to appoint a parliamentary committee to scrutinize such Orders in Council.

Having scrutinized them, what else should we do? Perhaps before the debate finishes this evening the minister will tell us what the government will be recommending with respect to a parliamentary committee with powers of scrutiny as well as other powers. I would much prefer that this be done now, before the bill passes, so that we know where we stand. I am not suggesting that the rules

[Mr. Baldwin.]