

*Statutory Instruments Act*

He pointed out that it would have been impossible to carry on the work of government without making very vast changes in the machinery of the Prime Minister and cabinet of that day; without those vast changes it would have been impossible to bring about the flood of Orders in Council and other documents from on high, if I may use that description. I suppose it was natural that that sort of philosophy should spill over into the post-war period. At page 471 of the journal to which I have referred, Professor Mallory says the following about this problem:

—we may conclude that the central executive machinery of the government of Canada has undergone considerable change and adaptation to meet the needs imposed on contemporary government. Functioning under the 1939 procedure the central executive would have broken down in a few weeks under the burden of ordinary government operation today. This change and improvement has taken place rapidly and quietly on ministerial (and, no doubt, official) initiative. It demonstrates again the remarkable flexibility of cabinet government. It remains to be seen how far Parliament, the public, and political parties can adjust themselves to the challenge of the administrative state.

Perhaps it is of interest to note that we are entering upon a period that seems to be more challenging than recent times, more economically uncertain than recent times and one where we may have to prove ourselves a great deal more flexible. This is particularly true of the reaction of the government to financial events. If the challenges were immense in time of war and more immense in the post-war period, I suggest they may be even more immense in the days that lie ahead.

Having listed my reasons for saying that a measure to establish such a committee is necessary, I would also point out that about three out of every four statutes that parliamentarians pass contain at least one section that enables regulations to be made. In the committee referred to by the minister there was presented a special study made by Madame Immarigeon, of our parliamentary library, which revealed that 303 of 416 statutes examined contained power to make subordinate laws. The report she gave the committee showed that 6,892 regulations, covering 19,972 pages, were published during the period January 1, 1956, to December 31, 1968, averaging 530 regulations per year. That did not take into account regulations exempted from publication and documents of a legislative nature but not officially considered to be so. An example of this would be handbooks of directions to pilots.

Perhaps the most telling point of all as to the importance of such a committee is that the major legislation in the field of immigration consists of regulations that are passed, not the statutes themselves. So I would think there is agreement among all members that it is important to get this committee established, to get it a good staff and to put it to work.

I should like to make reference to what I think may be a weakness in this legislation, certainly something that will have to be considered when the bill is studied in committee. According to our advisers, under clause 9 of the bill it will still be possible to enact retroactive regulations. This is in conflict with the recommendations of

the committee that there should be no power to make regulations having a retrospective effect. I think that recommendation is to be found at page 33 of the report of the Special Committee on Statutory Instruments. There will be considerable questioning about the departure from the committee's recommendation when this bill comes before the Committee on Justice and Legal Affairs.

• (8:40 p.m.)

My final concern is that the measure will be considered by that committee rather than by a committee of the whole House. The committee of the whole House is not frequently used, but when it is much enthusiasm in respect of parliamentary business occurs in this place. Certainly that was the case with respect to the electoral laws. When dealing with something as important as this bill, I would be inclined to say that it should go to committee of the whole House because it is basic to the operations of Parliament.

The minister has pointed out that there are technicalities involved in the law dealing with statutory instruments. He is perfectly right in that respect. I have had some difficulty making up my mind whether it would be a good thing to have this measure go to committee of the whole House or to our committee of legal experts. On balance, I suppose it is better that it should go to that committee. I think consideration should be given to setting a period of time for the consideration of statutes such as this by a committee of the whole House. I hope the government House leader and the leaders of other parties will consider such a formula.

**Mr. McIntosh:** Why legal experts only?

**Mr. McCleave:** The hon. member for Swift Current-Maple Creek (Mr. McIntosh) asked why it should be a committee of legal experts only. I was arguing that it should not be one of legal experts only. The difficulty is that when we consider anything in committee of the whole House, everyone enjoys it so much they want to stay for the rest of the winter, and that tends to knock askew all the other business with which Parliament is seized.

Perhaps I should repeat my suggestion. In respect of a measure such as this, thought should be given by the House leaders to putting it before committee of the whole for a set period of time. If the measure could not possibly emerge from the committee in the time set, it could be sent to the special committee. I make that as a suggestion. The principle of this bill is one we have sought for a long time. We look forward to working on it in a non-partisan but vigorous way in the committee in order to make it a fine piece of legislation for the protection of our rights as parliamentarians as well as the rights of those Canadians whom we serve.

**Mr. Andrew Brewin (Greenwood):** Mr. Speaker, I hasten to remove from the debate any element of drama or suspense that may linger by making the announcement that we, too, support the principle of this bill and will

[Mr. McCleave.]