

Committee on Statutory Instruments

ner—at least that hope has been expressed and agreed to by members who have taken part in previous debates.

It has been suggested by the committee that the chairmanship of the committee be rotated or moved about among members of various parties in the House. Perhaps if that procedure is followed, it will give some incentive to carry out the work of the committee with a minimum of partisanship, although I am certainly not advocating that partisanship be removed from the House of Commons or any of its committees generally.

Even though it will be a joint committee, the committee will be small. It will probably require members who are expert in this field and who, over a period of time, will develop a growing expertise in the examination of statutory instruments, administrative regulations and so on. The work of the committee will be a continuing job because of section 26 of the act which provides for a permanent referral of the subject matter to the committee.

It has been recommended by the committee, under the chairmanship of the hon. member for Windsor-Walkerville, that this new scrutiny committee be assisted by a skilled expert staff in order to perform its work effectively. I believe that recommendation of the special committee received the support of the House and the Minister of Justice (Mr. Turner) in the debate on the act. It is probably a good idea to get the committee organized as quickly as possible so that the expert staff required, however small it may be, can be recruited and assigned to the work of this committee.

I do not propose to say anything further because the ground has already been covered in a previous debate. For those who would like to refer to previous discussions on the work of the scrutiny committee that is proposed in this motion, I refer them to the debate of Monday, March 8, 1971. It contains quite a full account of the discussion at that time in which distinguished members of this House, including the hon. member for Peace River (Mr. Baldwin), the hon. member for Winnipeg North Centre (Mr. Knowles) and the Minister of Justice gave their views on the work of the committee. I should revise my inclusion of the name of the member for Winnipeg North Centre because his participation was confined to one or two small interjections. The main burden was carried by the hon. member for Peace River and the Minister of Justice.

Mr. G. W. Baldwin (Peace River): Mr. Speaker, we endorse this motion. I am sure it will pass. When the motion does pass, I hope the President of the Privy Council (Mr. MacEachen) will engage in the usual consultations to secure the submission of names of those from this House who will form the committee so that, in conjunction with the members of the other place, the committee will be formed and immediately commence its operations. One of the first and most difficult tasks the committee will have will be to develop a jurisprudence with regard to this very important issue.

I do not want to traverse the ground we already covered in the debate. However, I should again point out that practically every bill that comes before this House has a clause that deals with regulatory powers granted to a minister, tribunal, board or the governor in council. This is a tremendously important subject. I think this fact is emphasized by item 78 on the Order Paper, a motion

[Mr. MacEachen.]

standing in the name of the President of the Privy Council which deals with the right of the committee to be appointed to study the kind and nature of legislation to deal with emergencies. There is an amendment to the motion by the hon. member for Calgary North (Mr. Woolliams) to give the committee the right to look into the circumstances surrounding the problems in Quebec last year. To stress the importance of this motion, if this committee had been active, it would have had the right, pursuant to the Regulations Act, to look at the order in council which contained the proclamation to bring into effect the War Measures Act. I think that simple statement underlines the importance of this committee.

I wish to very briefly put before the House some of the recommendations of the select committee to which the President of the Privy Council referred, and of which I was a member. They are to be found in the third report of that committee of the 1968-69 session. The committee recommended what should be the powers, duties and functions of a standing committee. I will not say anything about the composition of the committee as it will be comprised of members of the other place. I do not have any objection to that. There is something to be said for the fact that it will provide a measure of continuity which may be very important. One proposal is as follows:

All regulations should stand permanently referred to it.

This is what the select committee recommended. This will be brought about by the terms of the statute.

It should strive to operate in an objective and non-partisan way.

I agree with the President of the Privy Council that in this House we operate on the adversary system. Hopefully, not as much of this adversary system is carried into all committees. There is bound to be some. If this committee is going to function, not to place a nail in the last plank of the coffin of bureaucracy but at least a nail on the last rail which will hem bureaucracy in a corral behind it, it will have to examine and scrutinize with a measure of objectivity those things which are referred to it. To that extent, I recommend that when the committee is constituted the first chairman be selected from the ranks of a party other than the government. That, of course, is up to the committee. I like to think that it will at least start out on that basis.

This is the practice in the United Kingdom where the chairman of the special scrutiny committee on statutory instruments is always a member of the opposition. I am not suggesting this should necessarily be the case here, but I hope it would start out like that. "It should have a small membership". That condition is met. "It should normally sit in public session." I do not think there will be any objection to that. "It should be empowered to sit while parliament is not sitting". "It should have adequate staff". I pause here to enlarge upon that recommendation. The success of the United Kingdom committee is to a large extent ensured by the effectiveness of its chief adviser, who is counsel to Mr. Speaker at Westminster. I do not suggest we follow this procedure precisely here, but if this committee is to function effectively in examining statutory instruments and checking the operations of government boards and tribunals which operate under statutory instruments it should have an adviser with some knowledge, some training, some considerable experience, who