

Motions

control mechanisms. In this respect, the report lists a number of suggestions which are designed to improve the law.

Two specific amendments to the Indian Act have been recommended. First, we recommended that the Act be amended to guarantee the right of those living on reserves to adequate notice of new by-laws and the right to have access to those by-laws. Second, your committee believes that the Act should prohibit convictions for breach of a by-law unless it is shown that reasonable steps have been taken to bring the law to the attention of the person who is charged.

As for the existing power of disallowance of the Minister under the Indian Act and the more general question of adequate regulatory control mechanisms, the committee received assurances from the responsible Minister that his Department was preparing a disallowance policy and a review of the jurisdictional scope and administrative treatment of by-laws. We recommend that these documents be referred to the appropriate committees of the Houses for study.

In the last few days, I myself have spoken with officials of the Minister of Indian Affairs. I hope there will be a response to the statement I am making now along the lines I have suggested.

Finally, in the course of the preparation of the fifth report, it came to the attention of the committee that about 100 by-laws made under Section 85(1) of the Act had not been registered as required by law. These are penal by-laws which prohibit or regulate the sale or consumption of intoxicants on reserves. Legally the consequence of not having registered these by-laws is that no person may be convicted of violating those prohibitions. This rule of law was set down by Parliament in Section 11 of the Statutory Instruments Act.

• (1040)

Notwithstanding this rule, the committee was informed that a number of Canadians have been convicted for violating some of these by-laws in using intoxicants on reserves. You will agree, as I am sure all Members will, that these unlawful convictions of Canadian citizens are a matter of grave concern so far as the rule of law is concerned. Because of this the committee has recommended that the Government take all necessary remedial measures *vis-à-vis* those individuals who have been unlawfully convicted. The particular recommendations of the committee in this regard will be found in our report.

In conclusion, I want to reiterate that this report represents the consensus of all members of the joint committee representing all Parties in this place. This committee has a long and well-established tradition of doing its work in a completely non-partisan fashion and the report I have tabled and on which I am moving concurrence reflects this tradition. The recommendations we have put before you are reasonable and non-contentious. They are designed to improve the law and the processes under which native people govern themselves. The report, as I mentioned at the beginning of my intervention, has

already been concurred in unanimously in the other place and I ask for similar support from Members of this House.

Mr. Stan Schellenberger (Parliamentary Secretary to Minister of Indian Affairs and Northern Development): Madam Speaker, in responding to the Hon. Member, I want to say that I followed the committee's work as it relates to Indian and northern affairs. I watched the proceedings closely.

The report of the joint committee outlines their concerns with the manner in which the Government deals with by-laws enacted by band councils pursuant to various provisions of the Indian Act. The concerns of the joint committee focus on the need to ensure that band by-laws are fair, reasonable and valid, and that they comply with or are properly exempted from provisions of the Statutory Instruments Act.

Particular concern was noted with problems related to convictions under the intoxicants by-laws passed pursuant to Section 85(1) of the Indian Act. In the last fiscal year 1986-87 some 68 band councils passed 99 by-laws. Of those, 74 dealt with general topics, five with financial matters, and 20 with intoxicants. In total the department recorded over 2,200 by-laws passed by band councils under the terms of the current Act.

There is particular interest on the part of the Government in the powers of Indian bands to enact by-laws as these powers are consistent with the Government's strong commitment to advance and promote Indian self-government. As part of the over-all review by the department of the functions of the Lands, Revenues and Trust sector of the department, a comprehensive review is being carried out on the by-law making process. The review is being conducted by the office of the Comptroller General and results are expected in another year. It is anticipated that the review will come forward with recommendations for improvement of the by-law making process in areas within and outside the purview of the report.

The report also calls into question the validity of band enactments and the processing of same. In addition, it emphasizes the need to ensure that if the requirement to comply with the Statutory Instruments Act was removed, steps would be taken to ensure that persons affected by the by-laws were given notice of such by-laws and that convictions under by-laws were subject to proof of such notice.

As joint chairman of the Standing Committee on Regulations and Other Statutory Instruments, the Hon. Member certainly recognizes the complexities raised in this report. The department is in the process of reviewing the report in consultation with other concerned departments. In accordance with the committee's request a comprehensive response to the report will be tabled in this House within the required time frame.

For reasons I have just identified, including the fact that the Government is in the process of preparing a full and complete response, and as provided for in the Standing Orders, I move:

That the debate be now adjourned.