

- Business in particular is often very reluctant to make an issue of anything until every recourse within the administration, and politically, has been tried. There is a natural fear of the consequences of exposing silliness, obduracy, and so on, in public.

44. Each one of these factors is important, and the third may be the most important. Witnesses, especially business witnesses, spoke in generalities a great deal before this Sub-committee. It will take a lot to persuade such people that a parliamentary review committee on regulations is an effective forum and worth their time. But if a start is not made, the persuasion can never begin.

45. Given the pressures on members of the House of Commons, there may well be a role for the re-confirmed Senate and its Committees in acting as the forum for the airing of views and concerns about particular regulations.

## **5. Power in Parliament to Amend or Substitute Regulations**

46. A power in Parliament to amend regulations, rather than disallow them, in whole or in part, or to substitute new regulations for old ones, ensures true control by Parliament over the content of Executive lawmaking. It also recognizes the proper nature of delegation, namely that the delegation of a power does not prevent the exercise of the same power by the person who delegates.

47. This novel power, contained in the New Zealand 1989 Statutory Publications legislation, is one that should be further examined for possible application in a jurisdiction with a bi-cameral legislature. The Standing Joint Committee is the appropriate body to examine and report upon our mechanisms for parliamentary control of delegated legislation.

## **D. EVALUATION OF REGULATORY PROGRAMS BY PARLIAMENT**

48. As with proposed regulations, it is not possible to deal with regulations only and to ignore the statutes under which they are made. A regulatory program and regime includes both, and both need to be examined.

### **1. Review of Statutes and Programs**

49. The "Regulatory Process Action Plan," released in May 1986 as part of the present government's Regulatory Reform Strategy, specified that "Parliamentary Committees will review all regulatory statutes over a ten-year cycle and recommend sunseting action to the government." Six and one-half years later, this process has not been started. Further, the Action Plan stated that "a Committee of Cabinet will ensure the review of all regulations over a seven-year period and recommend sunseting action to the Cabinet." It was not until February 1992 that the Minister of Finance announced that the government was beginning a "department-by-department review of existing regulations to ensure that. . . they result in the greatest prosperity for Canadians."

50. There are, it is true, the existing reviews conducted by the Office of the Comptroller General (OCG). As we argued in the previous chapter, from the start these have been designed as a tool to assist the top management of a department to carry out their responsibilities. They have never been seen as a means by which "outsiders" (e.g., Parliament or citizens) would gain insights into the performance of regulatory programs and therefore use the information to try to hold those responsible (notably the minister) accountable.

51. Systematic program evaluations are a necessary step in moving toward improved accountability and more rational decision making about regulation. But it is essential to create procedures for an external review or audit of evaluation reports. External review could be carried out