

*Motions***PUBLIC ACCOUNTS**

## AUTHORIZATION TO TRAVEL

**Mr. Doug Lewis (Parliamentary Secretary to Deputy Prime Minister and President of the Privy Council):** Madam Speaker, the second motion is as follows:

That, the Chairman, the Vice Chairman and the necessary staff of the Standing Committee on Public Accounts be authorized to travel to Quebec City, Quebec, from July 5 to 9, 1987, to attend the 9th Annual Meeting of the Canadian Council of Public Accounts Committees.

**The Acting Speaker (Mrs. Champagne):** Does the Hon. Parliamentary Secretary have the unanimous consent of the House to move the motion?

**Some Hon. Members:** Agreed.

**The Acting Speaker (Mrs. Champagne):** The House has heard the terms of the motion? Is it the pleasure of the House to adopt the motion?

**Some Hon. Members:** Agreed.

Motion agreed to.

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**REGULATIONS AND OTHER STATUTORY INSTRUMENTS**

## CONCURRENCE IN FIFTH REPORT OF STANDING JOINT COMMITTEE

**Hon. Bob Kaplan (York Centre)** moved:

That the fifth report of the Standing Joint Committee on Regulations and Other Statutory Instruments, presented to the House on March 20, be concurred in.

He said: Madam Speaker, I rise today to seek the concurrence of the House in the fifth report of the Standing Joint Committee on Regulations and Other Statutory Instruments which was tabled in the House on March 20, 1987. At the outset, I should mention that my co-chairman, Senator Nathan Nurgitz, already moved and secured the concurrence of the other place in this report on May 6, 1987.

This report, which was unanimously adopted by members of all Parties on the committee, deals with the by-laws made by Indian band councils pursuant to the Indian Act. As Hon. Members will know, this Act delegates important law-making powers to band councils. The by-laws made by those band councils typically cover a wide range of matters of local Government on the reserves from property zoning to the sale of intoxicants. The by-laws affect all those who reside or do business on reserves in their every-day lives and occupations.

If Hon. Members would turn to Appendix "A" of the report which is before the House, they would find a list of the law-making powers which Parliament has delegated to band councils. By-laws made pursuant to those powers are subject to review and scrutiny by our committee in accordance with Section 26 of the Statutory Instruments Act.

From 1982 to 1985, our committee reviewed each bylaw made by band councils. We found that a great number of these by-laws did not conform to the scrutiny criteria which we had been using with the approval of both Houses. Unfortunately, we also encountered difficulties in pursuing the problems which were identified. The reasons behind these difficulties are detailed to a greater extent in the correspondence which my colleagues and I exchanged with the responsible Minister. That correspondence can be found in Appendix "B" to the report.

On the basis of its experience, the joint committee came to conclude that its review of by-laws made under the Indian Act served, and I quote from our report: "a limited practical purpose at best and may not even be entirely appropriate when one considers that these by-laws are made by band councils whose members are democratically chosen by the people they represent".

On this basis, the joint committee decided that it would not review band council by-laws on an individual basis in future and that it should submit this decision to both Houses. We felt it important to draw this to the special attention of the Houses and to ask that they concur in the committee's decision to limit in this way the manner in which it will discharge its responsibilities under Section 26 of the Statutory Instruments Act. As stated in our report, committee members believe that this approach respects the fact that these legislative decisions are those of democratically elected representatives.

The report also recommends that the Statutory Instruments Act be amended so as to exempt band council by-laws from the examination, registration and publication requirements of the Act. The requirements which otherwise apply to the regulations made under the federal legislation are of little practical value in the case of by-laws made under the Indian Act. In fact, most of the by-laws made by band councils have now been exempted from those requirements through Order in Council. We are recommending that those exemptions be formalized by Parliament.

In our system of Government, it is expected that administrative authorities who exercise law-making power, whether it be Ministers or band councils, will exercise those powers in accordance with regulatory control mechanisms designed to ensure that the resulting laws are fair, reasonable and authorized by law. As I mentioned earlier, the joint committee's experience with by-laws made under the Indian Act has shown that there are substantial problems with the manner in which those powers are sometimes exercised by band councils.

The Indian Act does contain some regulatory control mechanisms which are intended to avoid this. For example, a number of by-laws are currently subject to disallowance by the Minister of Indian Affairs (Mr. McKnight). We have found, however, that there are serious problems not only with some of the band council by-laws but also with the existing regulatory