

36. Is it time to look at the situation again in Canada? The matter could be accomplished easily enough. A simple decision that the existing Standing Joint Committee or some other committee should review regulations on a basis wider than that now employed is all that is required. But would it be a good idea?

37. Those who would confine parliamentary scrutiny of regulations to legality and propriety believe that there is no ground between such scrutiny and policy review or second-guessing. This is not necessarily so. If scrutiny of any instrument were conducted for economic or competitive impact or on any ground of merits, the process would be investigative, allowing a forum to exist in which doubts and grievances about regulations could be ventilated. No recommendation as to the policy or future of the instrument need be made by the committee. The evidence, summarised or not, would speak for itself.

38. If it is considered that widening the scope of the review conducted by the Standing Joint Committee would jeopardise its effectiveness in its present sphere or detract from the necessary work of ensuring legality, propriety and the rule of law in regulation making, why should each of the existing standing committees not be constituted a committee "for the purpose of reviewing and scrutinizing statutory instruments" in terms of Section 26 of the *Statutory Instruments Act*?

39. The Sub-committee concludes that the whole question of sedulously avoiding examination of the policy of regulations should be looked at again. By the passage of skeletal enabling acts, Parliament has *delegated* its policy settling and policy arbitrating function; it has not *abdicated* it. Review may well be partisan, but so in our parliamentary system would be settling policy by a bill in the Chamber.

40. If nothing else is done, the existing Standing Joint Committee should be encouraged to examine regulations more closely for matters more appropriate for parliamentary action, and to hear witnesses on this point who wish to point out the difficulties caused by the substance of regulations. The Committee might also be encouraged to look into an adjustment of its criteria for scrutiny to allow review of the consequences and application of regulations, falling short of examination of the regulations as to their policy.

4. Is Committee Scrutiny of Regulations Realistic?

41. This chapter contains a number of suggestion for more committee work of a particular kind. The principal question is this: will any parliamentary committee take up this sort of work with relish? A second question is: will those affected by regulations come forward to provide necessary evidence?

42. This is a touchy subject. Despite the sterling work done by the Standing Joint Committee over the last almost 20 years, it has hardly set the heather ablaze. The Committee is unattractive to parliamentarians. It has been resorted to very infrequently by businesses or individuals who wish to make an issue of some new or existing regulations. And this despite the fact that on several occasions over the years such interventions were encouraged.

43. It would be easy to say that a less technical review of regulations will encourage participation in, and resort to, a scrutiny committee. It might, but factors militating against this include:

- Committee work is time-consuming and most of it lacks glamour.
- Any sort of review of regulations, in accordance with any criteria, requires hard work. It is not easy to read and master a set of regulations and it is not a job a legislator can effectively, pass to staff. There is a limit on parliamentarians' time and the amount they can spend listening to grievances and witnesses.