

*Statutory Instruments Act*

red tape by superimposing a structure which would build another labyrinth in order to accomplish a solution. I therefore submit that the notice of motion should be rejected and that the present situation, which has been rather excellently handled by the department, should be continued.

**The Acting Speaker (Mr. Richard):** Order, please. I am sorry that we cannot hear more of the eloquent pleas of the hon. member. It being six o'clock, I do now leave the chair until 8 p.m.

At six o'clock the House took recess.

**AFTER RECESS**

The House resumed at 8 p.m.

**GOVERNMENT ORDERS****STATUTORY INSTRUMENTS ACT****PROVISION FOR EXAMINATION, PUBLICATION AND SCRUTINY**

**Hon. John N. Turner (Minister of Justice)** moved that Bill C-182, to provide for the examination, publication and scrutiny of regulations and other statutory instruments, be read the second time and referred to the Standing Committee on Justice and Legal Affairs.

He said: Mr. Speaker, the dry title "statutory instruments" rather belies what I believe to be the importance of this bill. I feel it is a significant step toward a more open society in Canada and constitutes a major legal reform in the area that lawyers and parliamentarians have called subordinate or delegated legislation. It represents the first step to be taken by the government in fulfilment of an undertaking given on behalf of the government by my colleague, the Minister of National Defence (Mr. Macdonald), who was at that time President of the Privy Council, to the House of Commons on June 16, 1970. At that time the minister, in outlining the government's proposed course of action in relation to the recommendations contained in the third report of the Standing Committee on Statutory Instruments which was tabled in the House on October 23, 1969, stated to the House as follows:

Due to the nature of the committee's recommendations it is not practical, nor is it reasonably possible, to proceed with their implementation by any one means. Rather, implementation of the committee's recommendations will require action of three different kinds: first, legislative action by Parliament to replace the existing Regulations Act by a new statutory instruments act; second, a number of cabinet directives to implement several of the recommendations which cannot be dealt with by general legislation and, third, amendment of the Standing Orders for the purpose of establishing a scrutiny committee to review regulations.

Before the coming into force of this bill it is the intention of the government to implement the second

[Mr. Jerome.]

part of the undertaking by issuing the appropriate cabinet directives to deal with departmental directives and guidelines and the conferring by legislation of regulation-making powers. The cabinet directive relating to departmental directives and guidelines will be in accordance with what was stated by the then President of the Privy Council to the House in these words:

Departmental directives and guidelines that might reasonably be interpreted as affecting the rights of members of the public in a legal sense will be required to be submitted to the Deputy Minister of Justice before they are issued. The Deputy Minister of Justice will make a report to the person desiring to issue the document indicating whether the proposed directive or guideline is essentially legislative in its nature and, if so, whether it would be appropriate to incorporate it into regulations or, where there appears to be no authority to do so, whether the relevant statute should be revised with a view to conferring such authority.

The directive relating to the conferring by legislation of regulation-making powers will set out certain criteria which should be as closely adhered to as possible. It is my intention to recommend that regulation-making powers such as the following should not be granted except after careful deliberation:

- (1) Power in a statute or in a regulation made thereunder to exclude the ordinary jurisdiction of the courts;
- (2) power to amend or add to the enabling act or other acts by way of regulation;
- (3) power to make regulations having retrospective effect;
- (4) power to subdelegate regulation-making authority;
- (5) power by regulation to impose a charge on the public revenue or on the public other than fees for services;
- (6) power to make regulations which might trespass unduly on personal rights and liberties; and
- (7) power to make regulations involving important matters of policy or principle.

In other words, the criteria which I tend to recommend to my colleagues in the government will exclude the granting of powers such as I have just enumerated. The third part of the undertaking will be implemented by recommending to the House the amendment of the Standing Orders to provide for the establishment of a parliamentary committee to review statutory instruments.

**Some hon. Members:** Hear, hear!

• (8:10 p.m.)

**Mr. Turner (Ottawa-Carleton):** On this day of the Gaelic, the learned House leader will introduce it in due course.

This bill is the first major revision of the law relating to delegated legislation. The Regulations Act was enacted in 1950 and, subject to the consequential amendments made to it when the Official Languages Act was passed in July of last year, it has existed without amendment since it was originally enacted. Since the enactment of the Regulations Act there has been a gradual and continued