



# Recent Publications and Documents

## REPORT OF THE SECOND COMMONWEALTH CONFERENCE ON DELEGATED LEGISLATION, Ottawa, 1983, 3 vol.

Delegated legislation consists of orders-in-council and other regulations having legal effect because Parliament has, by statute, delegated its law-making authority to the cabinet, a minister or some public agency. The doctrine of parliamentary sovereignty makes it impossible for the executive to make such regulations in its own right. They must have their basis in a law passed by Parliament. Similarly Parliament has an ongoing duty to scrutinize the government's use of delegated legislation. That is a practice which for a number of reasons is more honoured in the breach than in the observance. If all Commonwealth parliamentarians deeply committed to the scrutiny of delegated legislation were gathered together they could fit easily into a medium size room. In fact they do — every three years at the Commonwealth Conference on Delegated Legislation.

These three volumes contain the report, background documents and transcript of proceedings of the second such conference which brought representatives of some twenty-seven jurisdictions as well as many non-parliamentary experts to Ottawa in April 1983. Volume One contains the agenda of the four day conference along with a concise summary of the matters discussed and the conclusions. Volume Two contains background papers divided into four sections: documents from seven jurisdictions (British Virgin Islands, Newfoundland, Northwest Territories, Tamil Nadu, Maharashtra, Sarawak and Zimbabwe) that were not represented at the first conference; updating of material from five jurisdictions (Australia, Canada, Ontario, Zambia and the United Kingdom) that were present at the first conference; papers delivered to the conference; and some miscellaneous statements relating to the need for a Commonwealth Study on Statutory

Instruments. Volume Three contains the transcript of the proceedings. Few parliamentarians are likely to read it from cover to cover. Those who do will not be disappointed. It is surprising how seemingly complex issues can be clarified in the cut and thrust of debate. One example is the exchange reprinted elsewhere in this issue, between Professor David Mullen and Richard French of the Quebec National Assembly on the question of scrutinizing delegated legislation on its merits.

The transition from the spoken to the written word appears to follow usual Hansard guidelines with a certain amount of revision to syntax and grammar to make for a more readable report. There are, however, more typographical and spelling mistakes (including names) than one usually finds in Hansard type documents. The only major criticism was somebody's decision to publish three separate volumes instead of one. This followed the practice of the first

conference but as a result the delegate list is duplicated in volumes one and three and many of the background papers printed in volume two are also found again in volume three. Despite these problems the conference organizers are to be commended for having continued and improved the dialogue on parliamentary scrutiny of delegated legislation in the Commonwealth. Perhaps the real clue to the Commonwealth's viability is the ever-increasing

number of opportunities for members from various countries to come together to discuss problems common to their profession.

Copies of the report may be obtained by writing to the Senate Clerk, Standing Joint Committee on Regulations and Other Statutory Instruments, The Senate, Ottawa, Ontario, K1A 0A4.

The Editor