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Mercredi 22 mai 2002

**Standing committee on
regulations and private bills**

**Comité permanent des
règlements et des projets
de loi d'intérêt privé**

Chair: Rosario Marchese
Clerk: Douglas Arnott

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS**

**COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ**

Wednesday 22 May 2002

Mercredi 22 mai 2002

The committee met at 0959 in committee room 1.

**TILBURY AREA PUBLIC SCHOOL ACT
(WILLIAM J. MILLER TRUST), 2001**

Consideration of Bill Pr1, An Act respecting the Tilbury Area Public School and the William J. Miller Trust.

The Chair (Mr Rosario Marchese): I call the meeting to order. Welcome, everyone. Do we have enough Tories here?

Mr Morley Kells (Etobicoke-Lakeshore): Tories? We've moved to the left. You can't call us Tories.

Interjections.

Mr Kells: We can call Murdoch anything.

Mr Bill Murdoch (Bruce-Grey-Owen Sound): Are we on the record?

The Chair: Order, here. Order.

I call Bill Pr1, An Act respecting the Tilbury Area Public School and the William J. Miller Trust. The sponsor is Mr Pat Hoy. Would you introduce the other folks, if you don't mind?

Mr Pat Hoy (Chatham-Kent Essex): Thank you to the committee and Chair. This bill is An Act respecting the Tilbury Area Public School and the William J. Miller Trust. I am indeed the sponsor of it. I will let the individuals who travelled here today introduce themselves. They'll give you an overview, and I'm sure they will answer any questions you might have.

Mr Brian Knott: Good morning, Mr Chair and members of the committee. My name is Brian Knott and I'm the director of legal services with the municipality of Chatham-Kent.

Mr John Taylor: Good morning. My name is John Taylor and I'm a solicitor in the former town of Tilbury.

The Chair: Thank you for coming. At this time, I'm going to read for the record the report by Mr Justice Maurice Cullity and Madam Justice Susan Himel.

"Re: Bill Pr 1, An Act respecting the Tilbury Area Public School and William J. Miller Trust

"At your request we have reviewed the provisions of sections 1 and 2 of the above bill.

"The provisions are consistent with the intentions of the donor and we do not believe that either the fact that they vary the terms imposed by the previous legislation,

or the nature and extent of such variations, should be considered to be objectionable.

"Accordingly, we believe the provisions of sections 1 and 2 of the bill are reasonable to carry its purposes into effect and that they should pass."

I read that for the record. Now either the sponsor or the applicants with some comments, please.

Mr Taylor: I'm the solicitor for trustees of this trust. Basically, I'll just give you a two-minute background on it. William J. Miller was a foster child believed to have been raised by a family in Tilbury in the 1920s and 1930s. He went on to live in the United States and died in Florida in 1960. In his will, he provided that the residue of the estate be left to the Tilbury Area Public School. There's a provision in the will that said if there was no such thing as a Tilbury Area Public School—a separate entity—the money should be given to the municipality for the benefit of the school.

A bill was passed in 1966 setting up a trust of this money whereby it would be invested. Three hundred dollars a year would be used for an outing for the children or something, and the rest was to be kept invested and the interest applied to the reduction of taxes for the municipal ratepayers who supported that school. As things evolved, the Tilbury public school became part of the Kent county school board. There was a fear by the trustees that the money would be used outside of the municipality, and they had an amendment to the bill, which was in 1966.

As you know, all these schools are now supported by provincial funding rather than local funding. There was a worry by the trustees that the amount being returned on the investment was going to get dissipated or would probably no longer be applied for those old purposes.

Secondly, interest rates have dropped such that the revenues from it are insignificant to reduce the taxes. It only reduced each householder's taxes by a dollar or two, plus the fact that there's a large industrial base in Tilbury, and it was getting the benefit of the taxes.

From the Kent school system, we've now gone to the Lambton-Kent system, and the trustees feel that Tilbury is rather aloof from the board that runs the schools now from Sarnia, so it wanted a change in the legislation.

The first major change is that the appointment of the trustees would be put in the hands of the municipality. There's a feeling that the municipality of Chatham-Kent-

Tilbury contributes two representatives to that body—at least there's some attachment to that—as opposed to the Lambton-Kent board, where we do not seem to send any representatives because we're a smaller community and when the elections come around, someone from some other community seems to get elected. They thought there would be no personal connection with the municipality, so they wanted the municipality itself, rather than the board, to make the appointments.

Secondly, they want to be able to use the funds for the benefit of the school itself by buying specialized equipment or such things as the board, in its normal spending operations, wouldn't provide. They want to be able to buy special things like music rooms or playground equipment etc.

The third thing the bill suggests is that not only can they spend income for those things, but capital as well. I don't think there are more than two dozen people in the municipality now who even know about Miller and the Miller trust. It was created over 40 years ago; he died in 1960. It may be that over the next decade or so, the capital of this will be turned from money into improvements to the school itself.

That's the two-minute explanation that took five, I guess.

The Chair: Thank you, Mr Taylor. I suspect there isn't much debate, but let's just check. The parliamentary assistant first: any comments?

Mr Kells: No. Everything's quite in order.

The Chair: That's what I thought.

Mr Mc—McMicken?

Mr Ted McMeekin (Ancaster-Dundas-Flamborough-Aldershot): McMeekin, as in blessed are the meek, for they shall get in.

My understanding, from a cursory observation, is that this bill does in fact advance and support the desires and intent of both the original donor and the trustees.

Mr Taylor: Yes, it does.

Mr McMeekin: Good enough.

The Chair: Any other questions? Seeing none, I think we're ready for the vote. Presumably, there is no one else who wants to comment on the bill? Very good. We will proceed to the vote.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried. I'm assuming there's none opposed, so I don't have to read it in for the record.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

Shall section 5 carry? Carried.

Shall section 6 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you very much. The bill is passed. Thank you for coming, Mr Sponsor. Thank you, Mr Hoy.

Mr Taylor: Thank you, Mr Chair and members of the committee.

WYCLIFFE COLLEGE ACT, 2001

Consideration of Bill Pr2, An Act respecting Wycliffe College.

The Chair: We'll move on to the next group. Mr Smitherman, s'il vous plaît, venez. I call Bill Pr2, An Act respecting Wycliffe College, its sponsor, George Smitherman, and the applicants, the Reverend George Sumner, principal, Wycliffe College, and Max Marechaux, counsel, Miller Thomson LLP.

Mr George Smitherman (Toronto Centre-Rosedale): Mr Chairman, you stole my thunder. My hope this morning was only to be able to introduce the two gentlemen who are beside me, but you've done an effective job of that.

I would just say that Bill Pr2, An Act respecting Wycliffe College, is really an administrative act designed to bring Wycliffe College into pretty much the same situation that exists for other schools and colleges. So without delay, I'd introduce Max Marechaux and George Sumner and let them take it from here.

1010

Mr Max Marechaux: Mr Chair, ladies and gentlemen, thank you very much for this morning. With respect to Wycliffe College, this is a matter of housekeeping basically. When we did a review of our governance we found there were some deficiencies in the 1916 legislation, which we have cleared. It has run the gauntlet of the various committees, including Mr Maurice Cullity, who is one of the leading experts on estates and trusts. I certainly commend it to you. If you have any questions I'd be more than happy to answer them. Thank you.

The Chair: Let me read for the record the commissioners' report.

“Re: Bill Pr 2, An Act respecting Wycliffe College

“We have reviewed the provisions of the above bill. They are not, in our opinion, in conflict with the public policy reflected in the principles administered by the Superior Court of Justice in the exercise of its *parens patriae* supervisory jurisdiction over charities. On the contrary, insofar as the bill is intended to facilitate efficient administration of the property held for the benefit of Wycliffe College, it is, in our opinion, entirely consistent with such principles.

“One drafting change that would be helpful, in the event that the provisions of the bill ever require to be interpreted by a court, would be to replace the words ‘the property of’ in subsections 5(1), 5(2) and 5(3) with the words ‘vested in’. This rather more technical language would not restrict the effect of the provisions and would be consistent with that of the original act as well as the language of public statutes such as the Charities Accounting Act and the Charitable Gifts Act and that of section 56 of the Charities Act, 1993 (UK) which is designed to achieve the same general purpose as that of the bill.

“A consequential change to section 3 of the bill would be to amend it to read:

“3. The trustees shall govern the college and manage its affairs and the property vested in it.”

“Yours very truly,
“Estate Commissioners.”

I understand the parliamentary assistant will introduce an amendment to that effect at the appropriate time.

Any other comments? Very good. Before we get to questions, we'll have the parliamentary assistant.

Mr Kells: I have nothing to add except that the Honourable Dianne Cunningham, Minister of Training, Colleges and Universities, also agrees with what you're trying to do.

The Chair: Very good. Let's get some questions, if there are any.

Mr Gilles Bisson (Timmins-James Bay): A very simple question: I take it the amendment that's being proposed is OK with you?

Mr Marechaux: Yes, absolutely.

The Chair: Any other questions? Seeing none, we'll get to the amendment as we get to the section. We're ready for the vote.

Shall section 1 carry? But I'm assuming there's an amendment here, right? So perhaps we should introduce the amendment to the section first.

Mr Kells: I find this wording a little mixed up, but maybe it's correct.

I move that section 3 of the act, as set out in section 1 of the bill, be amended by striking out “manage its property and affairs” and substituting “manage its affairs and the property vested in it.”

The Chair: That's the amendment. Are you asking for any input perhaps from anyone here to comment on that?

Mr Kells: No.

The Chair: Are the sponsors—

Mr Kells: Do you want me to read all three of them? Wouldn't that be better maybe?

The Chair: No, because that's section 1. Those are presumably in other sections.

Mr Kells: We only have one section.

The Chair: We'll vote on each one as they go. You've heard the amendment. All in favour? Any opposed? That amendment carries.

Mr Kells: I move that subsection 5(1) of the act, as set out in section 1 of the bill, be amended by striking out “is the property of the college” and substituting “is vested in the college.”

The Chair: Any questions or comments? All in favour? Any opposed? That carries.

Mr Kells: Finally, I move that subsection 5(2) of the act, as set out in section 1 of the bill, be amended by striking out “is the property of the college” and substituting “is vested in the college.”

The Chair: Questions or comments?

All in favour? Any opposed? That carries.

Mr Kells: It appears I have another one.

Mr Bisson: Yes, there's one more.

Mr Kells: I move that subsection 5(3) of the act, as set out in section 1 of the bill, be amended by striking out “becomes the property of the college” and substituting “vests in the college.”

The Chair: Questions or comments? Seeing none, all in favour? Any opposed? That carries.

Is there another amendment?

Mr Kells: No. I had four and I've read four.

The Chair: Shall section 1, as amended, carry? That carries.

Shall section 2 carry? That carries.

Shall section 3 carry? That carries.

Shall the preamble carry? That carries.

Shall the title carry? That carries.

Shall the bill carry? That carries.

Shall I report the bill, as amended, to the House? The bill passes.

Rev George Sumner: As your neighbours on Queen's Park, we're grateful. Come and stop by Wycliffe College when you can.

The Chair: Thank you very much.

Seeing no other business, the committee is adjourned.

The committee adjourned at 1017.

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