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Wednesday 14 May 2003

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des débats
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Mercredi 14 mai 2003

**Standing committee on
regulations and private bills**

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

Chair: Rosario Marchese
Clerk: Trevor Day

Président : Rosario Marchese
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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 14 May 2003

Mercredi 14 mai 2003

The committee met at 1004 in committee room 1.

DRAFT REPORT ON 2001 REGULATIONS

The Chair (Mr Rosario Marchese): I call the meeting to order. Just to remind those of you who are here to deal with the bill, Mr Jackson is on his way. He is a few minutes late, so I thought, rather than waiting, we might deal with the report that we have as the second item of business. Why don't we deal with that, if that's OK with everyone. OK.

Mr Ted McMeekin (Ancaster-Dundas-Flamborough-Aldershot): In case Mr Jackson doesn't arrive, this venerable institution is in my riding, and I would be quite prepared to speak to it.

The Chair: I was quite prepared to move without Mr Jackson, but because he wants very much to be the sponsor we thought we'd wait a couple of minutes. Otherwise, if he's very late, we'll do that.

We've got the draft report on regulations, 2001, prepared for the standing committee on regulations and private bills by Andrew McNaught, researcher, who is here.

Andrew, would you like to give a little introduction to the report before we see whether there's some discussion or debate?

Mr Andrew McNaught: Good morning. I'm Andrew McNaught. I'm with the Research and Information Services branch of the legislative library.

You should have in front of you a copy of standing order 106(h), which the clerk is handing out right now, as well as the committee's draft report on regulations for 2001.

I'll just give you a brief reminder of the committee's role with respect to regulations. The committee's mandate is set out in standing order 106(h). It requires the committee to review the regulations made under Ontario statutes each year and that this review be conducted in accordance with the nine guidelines set out in the standing orders.

For example, you'll see that guideline number (ii) requires that, "Regulations should be in strict accord with the statute conferring of power...." In plain terms, that means there should be authority in the statute to make the regulation.

The current review procedure is as follows. The research branch conducts the initial review of regulations

and identifies potential violations of the guidelines set out in the standing order. We then write letters to the legal branches of the ministries responsible for those regulations. If a ministry's response suggests there has been a possible violation of the guidelines, we include a discussion of that regulation in a draft report to the committee.

That's where we are today. You have in front of you a draft report concerning regulations made in 2001. You see that the report is divided into three parts. The introduction, on page 1, briefly outlines the committee's mandate. The second part, on pages 1 and 2, contains some statistics, including a comparison of the number of regulations filed between 1991 and 2001. The third part of the report begins at the bottom of page 2, under the heading "Regulations Reported," and that section discusses regulations that contain potential violations of the committee's guidelines.

You'll see that in this report we have commented on eight regulations. At the top of page 3, we've reported a regulation made under the Ministry of Correctional Services Act. That regulation concerns requests for a temporary absence from a provincial correctional facility. The regulation provides that inmates must submit a request for a temporary absence to the superintendent of the institution and that, upon receiving the request, the superintendent has three options: the superintendent may authorize the request, deny the request or defer the decision. Our concern was that the meaning of the word "defer" in this context was unclear, since there's no reference to a specific time requirement to make a final decision. Accordingly we raised this as a potential violation of committee guideline number (iii), which provides that a regulation must "be expressed in precise and unambiguous language."

The ministry's response was that the authority to defer a decision is implied in the authority to grant or deny a request. The ministry said it would be redrafting the regulation so that there was no reference to the option of deferring a decision. In fact, that's what they did earlier this year. The regulation was amended so that there is now no reference to deferring a decision to grant a temporary release.

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In the next section, at the bottom of page 3, we have reported seven regulations made under the Planning Act as potentially in violation of the committee's guideline

on retrospectivity. Unless a regulation states otherwise, it takes effect on the day it is filed with the Registrar of Regulations. In this case, the regulations were filed on March 1, 2001, but each regulation states that it is to come into force on February 19, 2001. As a result, each regulation was in effect retroactive by 10 days.

The committee's fourth guideline provides that regulations should not have retrospective effect unless there is specific authority in the statute under which the regulation is made. As the Planning Act does not authorize retroactive regulations, we asked the Ministry of Municipal Affairs and Housing for their explanation. The ministry's response, you'll see, is that due to a clerical error, regulations were filed 10 days later than scheduled. The ministry says it will be implementing administrative procedures to ensure that filing requirements are met in the future.

That's the report. As I say, it's a draft report and can be changed as the committee wishes; otherwise it can be adopted and reported to the House. If there are any questions, I will be happy to answer them.

The Chair: Thank you, Andrew. Questions or comments on the report?

Mr Pat Hoy (Chatham-Kent Essex): I just want to make a comment that it would appear that under the two responses from ministries as to your concerns—the committee's concerns—about retrospectivity and language, they appear to be making the proper corrections. I would ask: have we had a regulation come forward since that time that did not adhere to the stated goal of correcting, specifically in retrospectivity aspects?

Mr McNaught: This covers 2001, and we're currently reviewing the 2002 regulations. We are almost finished those, and there may well be.

Mr Hoy: But we haven't seen one that is retroactive since they said they would correct it?

Mr McNaught: No, we haven't.

Mr Hoy: So perhaps they will do exactly that.

Mr Gilles Bisson (Timmins-James Bay): To get back to something we talked about last fall, part of the difficulty we have as legislators is that as we get bills into the House at second reading we're void of being able to see any of the regulations. As we know, many of the details of how a bill will actually work are left to the regulations. Far too often we find ourselves in a position, not only at second reading but at third reading, of being without regulations and being asked to vote on a bill that may confer on the minister a fairly large ability to do things that in our view may not be wise to be put in the bill.

I come to what I raised last fall, which is that maybe one of the things we want to add in this report is that the committee would be interested, where possible, in being able to have an opportunity to vet some of those regulations. They might not be able to do it at second reading, because I understand that sometimes the regulations aren't drafted until after we've done the actual debate; I understand the technical problems there. But I think it probably would not be a bad use of time for the members of the committee to spend some time vetting some of

those regulations prior to their being adopted, so there is some consistency between what the debate was in the House and what the government intended and purported to be the intention of the bill, and what is finally put in the regulations. I'm just interested to see what the government has to say about that.

Mr Morley Kells (Etobicoke-Lakeshore): The honourable member makes a good point, though I'd like to point out a couple of things that have happened in the past.

In support of your point, back when the Liberals were the government, they passed a rent review act and I had the opportunity to serve on that board—there was an NDP rep, a Conservative rep and 25 Liberals. The regulations were written well after the bill, and the regs couldn't implement the bill. The bill was badly bungled at its passing; there were about 54 amendments thrown into the bill in the House at the last minute. The chore of writing the regs fell to the staff, and they were incomprehensible. The regs could not implement the bill. I thought it was the most barbaric experience I had ever had as a politician or working on anything involving government legislation. So I sympathize with you.

But quite often it is impossible to write the regulations. Right now I know, for example, there are some bills we have passed that still do not have regs, and we've had to go outside to get the regs written because we don't have the legal staff inside to do the chore. But I think your point, from the committee's perspective, is a good one. I don't know how we resolve it as a government, or how any government would resolve it, but it certainly is a real problem for legislators when the bill tells you what the government policy is but how it's going to be implemented is hung out to dry for a long period of time. It's hard to even comment on it when the bill is going through the House.

Mr Bisson: I'd like to make a suggestion. I think we've all seen those types of things happen at times, no matter who the government is. I think what happens often is that the government may have good intentions in trying to bring a law forward, but in their haste to do so, either because it's something they truly believe in or there's some urgency to the matter to pass it, politically or practically, we end up in that kind of situation. I can think of examples in my years here where I've seen that basically from all stripes of government.

My suggestion is that we can do one of two things. One of the things we can report back to the House—because this committee has the ability to order its own business; as I understand it, we don't need the authority of the House to decide what business we deal with, provided it falls within the purview of what this committee is charged to do—is that we agree at the beginning of a session such as this that the committee would ask the clerks to inform the committee by a short report—we don't need a thesis on what regs are being built—a short synopsis of what regs are currently being looked at by way of the research department and which ones the committee might be interested in, in order to take a look at them here. That would be one way to do it.

The other way to do it would be that each of the parties can order up any of those regs, those reported to us, in much the same way that we do at the estimates committee. I don't believe we want to order up reg after reg, but basically, in rotation, each party can select one particular bill and take a look at the regs. We can limit ourselves by way of time, how long we want to spend on it, because I wouldn't want to get caught up, as you wouldn't want to get caught up, in looking at the minutiae of regs on a bill, but I think there's some good work this committee could do in being helpful to the drafters and to what the intent of the legislator is.

I would suggest we do one of two things: either, by agreement of the committee, we decide, based on the recommendations of the clerk and research, which of the regs we should spend some time on, and/or, if we want to go the other way, we can say each party can select in the session a reg that we may want to look at, and the committee can spend a day, or whatever we decide, looking at each of those particular bills.

The Chair: Any response to that suggestion? Mr Kells?

Mr Kells: I really don't have any objection to it, but it's still after the fact.

Mr Bisson: That is the problem, yes.

Mr Kells: I don't know how we get around that.

Mr Bisson: You need an order of the House to get around that one.

Mr Kells: Yes. And it's impossible, the way things move, to bring the regs into the House at any time. It just wouldn't work, obviously.

Mr Bisson: No, unless we change the rules of the House.

Mr Kells: Right. Well, that's an argument for another day. From my point of view, I think it would be worthwhile to go along with the honourable member's suggestion. It can't do any harm. It doesn't matter to me which option you're talking about.

Mr Bisson: I think it would be helpful if we—

The Chair: The suggestion you're agreeing to is—

Mr Kells: I'm saying that either one of his options has merit.

The Chair: We understand that, but we should do something that's workable and something that's clear.

Mr Bisson: Well, I'd like to hear from the people who have the expertise of having to read those pesky little regs.

Mr McNaught: I'm not entirely clear what you're proposing. If you're suggesting that regs be made available to the committee before they are published, that's not in the standing order. You would have to get an amendment to the standing order.

Mr Kells: With all due respect, and the honourable member will speak for himself, what he's suggesting is that, as part of our responsibilities here, each of the parties could pick a specific reg they want to look at, or your other option. In other words, this would be after the fact. We're not trying to change the standing orders.

1020

Mr Bisson: No. We need to change the rules of the House to be able to do it the other way. I wouldn't want to spend an inordinate amount of time on it, but I think it's good for us as legislators as a sort of check. We had the debate in the House at second reading, and we had the vote; we had the debate in the House at third reading, and we had the vote. We know what the intention of the law was. We could go back and take a look at the regs as a measure of how close those regs are to what we wanted as legislators in the House, so that at the end of that process we then have some target to go toward in saying, "Well, maybe we do need to change the rules of the House, because this committee finds that when we do pass second and third reading bills, the regs really don't reflect what we thought they were going to reflect. So therefore we've got to change the rules."

The Chair: Because there is some agreement between your suggestion and the government member saying it's something we could look at, should we have it in sub-committee perhaps, to work out what is possible and/or feasible that is agreeable to the members?

Mr Bisson: That would be fine. I don't know if we even need to go there. We're not asking to get the regs before they're printed; it's obviously going to be after the fact. So all I really want from the research staff is for them to basically, as they did today, give us a list of what bills the regs were drafted to. Each of the parties then can select one, and then this committee can spend some time on each of those bills, taking a look at the regs as this committee meets.

We don't normally meet for a long time—30 minutes for a group such as we're about to meet. The rest of the morning we can say, "OK, we're going to start with the Liberals and we're going to look at their bill, and we'll take a look at those regs and what they mean," move in rotation, and away we go.

Mr Kells: I don't have any concern with that. As the honourable member says, it doesn't matter who the government is; the problem will be there.

Mr Bisson: It's not a partisan issue.

Mr Kells: It's an honest way to try and—

Mr Bisson: —try to clean up the process a bit.

The Chair: OK, so the idea is, after the fact, after regulations are done, we would have a sense of what regulations are before us, the committee would choose one regulation—

Mr Bisson: One bill. We would look at the bill, because there may be more than one regulation in the bill, obviously.

What we need from research—as you did this morning: you presented us with your report, which we'll order back to the House; there are a number of ministries that came before regs, and then you listed in appendix D the actual bills. So what we need to know from you is not so much which ones, because we know that; we need to know which ones, in your mind, the committee probably should spend some time on because there was some difficulty in the drafting. That's all I want.

The Chair: Is that OK, Andrew? Andrew is nodding approval. OK, so that's workable.

Mr Bisson: We're going to give you more work.

One last comment: one of the reasons we don't have enough staff to be able to do the regs, quite frankly, is the reduction in staff that we've had here at the Legislature when it comes to the work they do.

Mr Kells: I thought it was because we passed so many good pieces of legislation.

Mr Bisson: Well, the House hasn't sat in 104 days, and we're certainly not debating anything right now.

The Chair: I am convinced a new government, whichever that is, will fix that problem.

Any other comments and/or suggestions to the report?

OK. Andrew, thank you for your report. We'll move on to adoption of the report. Would somebody move that? Mr Kells.

Mr Kells: I move we adopt it.

The Chair: Mr Kells moves adoption. All in favour? Any opposed? That carries.

Mr Kells moved that the draft report be adopted and reported to the House. All in favour again? OK. No disagreement there.

REDEEMER UNIVERSITY COLLEGE ACT, 2003

Consideration of Bill Pr14, An Act respecting Redeemer University College.

The Chair: Moving on to Bill Pr14. Mr Jackson is the sponsor. Would you like to come forward? Introduce the applicants, and then we'll come to you if you have a comment with respect to the bill.

Mr Cameron Jackson (Burlington): To my immediate right is Dr Justin Cooper, the president of Redeemer University College. Next to him is Dr Jacob Ellens, vice-president, academics. We have Dr John Vriend, director of teacher education, and Mr Bert Bakker, QC, legal counsel. I will provide the proper spellings for those in a moment.

Mr Chairman, thank you and the committee for the opportunity to present this private member's bill this morning.

Redeemer University College is a highly respected, not-for-profit Christian university with a strong liberal arts background. It offers over 20 disciplines. In 1980 it received its initial charter. It's been educating thousands of Ontario students. In 1998 this committee, in its wisdom, granted the college the opportunity to grant bachelor of arts and bachelor of science degrees. In 2000 the committee authorized the name change to Redeemer University College. It is a full member of the Association of Universities and Colleges of Canada. Its graduates have been accepted for post-graduate studies at over 70 universities and are employed in a wide variety of professional fields.

Redeemer has applied to the Ontario College of Teachers for initial accreditation of its teacher education program; in fact, that is what the bill that is before the

committee today will enable us to do. A very favourable outcome is anticipated once this process is completed by the fall of this year. The accreditation process will begin as soon as the appropriate degree-granting authority is approved by the Legislature.

Passing this charter amendment will enable Redeemer University College to contribute to the growing need in Ontario for new teachers for elementary and secondary schools. By passing the charter amendments previously, and these, we will allow more and more of these students to receive their education here in Ontario instead of having to go to the United States, which is one of the significant achievements in which the Legislature supported Redeemer University College.

The committee may wish to ask our colleagues some questions. Dr Cooper is here to share a few words as well.

The Chair: Thank you, Mr Jackson. Do any of the applicants have comments?

Dr Justin Cooper: We're pleased to be present today to seek approval for a B Ed degree for our teacher education graduates. As you've heard, Redeemer has a solid track record, also in teacher education, as has been demonstrated in its academic review. I think it's also clear that there is a pressing need for more qualified teachers in this province, so we trust that the committee will respond by recommending approval of a B Ed degree for the graduates of an accredited program at Redeemer University College.

The Chair: Are there any other comments by the applicants? Very well. Mr Kells, your comments.

Mr Kells: As far as the government is concerned, we wholeheartedly support this amendment. There are no negative comments whatsoever; it's positive all the way. We are very pleased to support the bill.

Mr McMeekin: Let me just echo the kind and very appropriate words that have been spoken today with respect to Redeemer. This venerable institution is in my riding, and it enjoys an incredibly positive reputation. I've had the good fortune to spend a fair bit of time with many of the very promising students at Redeemer and can attest to this institution's growing importance on the educational scene as well as their clear ability to do their due diligence and to be out front in terms of planning to respond to the challenges that are presenting themselves.

In addition to my desire to see this bill passed and to affirm the leadership of this university, for the record I can add that I polled all the incumbent members in the area and I concur that there is absolutely no disagreement among any of the Hamilton and area members of the Legislative Assembly. We're all very strongly of the view that we should be insisting that this institution move forward in this way. Therefore we are prepared to support this without hesitation or reservation.

1030

Mr Bisson: I just have a question. As you well know, we passed a similar bill a couple of years ago—I don't exactly remember the date. We gave you degree-granting ability then. What's different now?

Dr Cooper: The bill in 1998 gave us bachelor of arts and bachelor of science degrees. The amendment in 2000 changed our name to reflect the university status. So this time what's new is the bachelor of education degree specifically.

Mr Bisson: My question to the Chair or to the clerk is that—OK, I thought we had given the right to grant. I didn't realize they had to come back every time there's a new degree to be granted.

The Chair: I'm not quite sure what the—Mr Kells?

Mr Kells: I'm not quite sure either, but I assume we're back here to get the approval and to put a new bill. So I'm assuming that they have to—

Mr Bisson: My point is that I thought we gave them the ability to be able to grant degrees based on some sort of mechanism in the bill that would allow them to grant future degrees.

The Chair: It was bachelor's degrees then. Mr Jackson for clarification.

Mr Jackson: Mr Chairman, if I may, the procedures and approvals for the Ontario College of Teachers, the new process established by the government in the last few years, is that when we are expanding the number of graduates, there's a separate stream and a separate process that's involved in granting—

Failure of sound system.

Mr Jackson: —approval and have worked out the fine details and will continue with the college, as was referred to, as well as with the ministry to make sure that they follow the criteria, which is a little different from just granting an ordinary degree in the province.

Mr Bisson: That's not so much my question. I have no problem giving you authority on the bill and letting it pass. My question is this: if a university in Ontario decides it's going to add a new program, Laurentian University, Ottawa, U of T or whatever, I don't recall this committee every time having to grant the ability to grant a new degree at a university. What's different? Is it because it's having to grant the degree in a teaching program?

Mr Jackson: Yes.

Mr Bisson: Is it only that?

The Chair: Mr Cooper?

Mr Bisson: I'm asking leg counsel.

The Chair: I'm not sure—

Mr Bisson: No, but I'm asking leg counsel.

Ms Susan Klein: I'm not sure of the, let's say, public universities, what their legislation says exactly, but the legislation for Redeemer specifically lists the degrees they can grant. So if they want to grant a different degree, they have to amend their legislation.

Mr Bisson: I've got it. So because they're not a public university—because under a public—

Ms Klein: I don't know if you can say—

Mr Bisson: If there's a new program added, there's a mechanism within the ministry to approve the new program.

Ms Klein: There may be.

Mr Bisson: Yes. OK. And there isn't because it's a private—yeah, got you. That's all I needed to know.

Mr Toby Barrett (Haldimand-Norfolk-Brant): Just to clarify, in 1998, as Mr Jackson said, this committee in its wisdom did grant Redeemer the ability to grant both BA and BSc degrees in addition to the theological degrees. I was very pleased to be the Chair of the committee at that time. I understand they were required to go through several reviews, which I also understand they passed with flying colours, and also made amendments to ensure that proper student protection methods were also in place and had met the requirements of that as well.

I have a question. My riding of Haldimand-Norfolk-Brant is to the south of Hamilton. Many, many students have gone through your institution, students for example who have graduated from Jarvis Christian school, which is directly south of Hamilton, as you know. We're all aware that changes to the Ontario Income Tax Act are certainly confirming our commitment to fairness and parental choice. I know the favourable impact that's having with parents and families who send their students to Jarvis Christian school and as they move up through the system. I just wondered if you could comment on the impact of those changes to the Income Tax Act on Redeemer college and your student body.

Dr Cooper: There is no direct impact, since the legislation does not apply directly to us, I think, as you understand. Indirectly, we get about half of our students from public and separate schools; we get half of our students from independent schools. I think it's fair to say that this may make it easier for students from independent schools to afford to come to Redeemer University College. So there may be an indirect positive benefit or impact.

Mr Barrett: OK. Thank you.

The Chair: If there is no opposition to this—and clearly most people are supportive—are we ready for the vote?

Mr Kells: Yes.

Mr Bisson: Indeed.

The Chair: So we're going to move on to voting on the bill.

Shall section 1 carry? All in favour? Any opposed? Carried.

Shall section 2 carry? Carried.

Shall section 3 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? Carried.

The bill is passed. Thank you, applicants. Thank you, sponsor. Further, sponsor?

Mr Jackson: If I may, on behalf of the faculty, the friends, and the family of Redeemer University College, to quote the Psalms, we'd like to express our appreciation: "This is the day the Lord hath made. Let us rejoice and be glad in it." Thank you.

The Chair: Thank you, Mr Jackson.

There is no other item of business. Thank you very much. The meeting is adjourned.

The committee adjourned at 1036.

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