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Wednesday 8 October 2008

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des débats
(Hansard)**

Mercredi 8 octobre 2008

**Standing Committee on
Regulations and Private Bills**

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

Chair: Michael Prue
Clerk: Sylwia Przedziecki

Président : Michael Prue
Greffière : Sylwia Przedziecki

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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 8 October 2008

Mercredi 8 octobre 2008

The committee met at 0859 in room 228.

1068080 ONTARIO LIMITED ACT, 2008

Consideration of Bill Pr14, An Act to revive 1068080 Ontario Limited.

The Chair (Mr. Michael Prue): We'll call the meeting to order. I'd like to call Bill Pr14, An Act to revive 1068080 Ontario Limited, and would call forward—they're already here. Thank you, Mr. Martiniuk and others. Could you please introduce yourselves for the purposes of Hansard?

Mr. Gerry Martiniuk: I'm Gerry Martiniuk, the member for Cambridge, on behalf of the applicants, Pasquale Giglio and Bob Nahiddi, who represent the defunct corporation.

In this case, if I may, the corporation, which is a numbered company, carried on an active business and still does. A notice was sent out that the proper number of directors was not appointed in order to fill all the vacancies of the board of directors. Unfortunately, that notice went astray and nothing was done. Therefore, the corporation was then terminated and its assets escheat to the crown. This corporation is an active corporation. It is still carrying on business. That's the present situation.

The Chair (Mr. Michael Prue): Any further discussion from the applicants?

Mr. Pasquale Giglio: Just to add to the comments—

The Chair (Mr. Michael Prue): First of all, please introduce yourself so we have the right name.

Mr. Pasquale Giglio: I'm Pasquale Giglio. I've been the director of the numbered company since 1994, when it was incorporated.

We've been carrying on business there since that time with the recent notice, not knowing that we've had important filing deficiencies. Once we were aware of it, it was too late. We took steps to try to get back on track, and this is where we are.

The company has been operating at the same location. We've had no major issues with PST, GST or corporate taxes. Most of our business is referral, and this is why it's important to reinstate the company. It would really hurt us if we had to start over again, especially with the banks and the business environment out there. It's very competitive. The family has a lot at stake with this numbered company.

The Chair (Mr. Michael Prue): Any further discussion?

Mr. Bob Nahiddi: Everything seems to be summarized quite well, actually.

The Chair (Mr. Michael Prue): Since you said something, though, could you please say your name?

Mr. Bob Nahiddi: I'm Bob Nahiddi.

The Chair (Mr. Michael Prue): Okay. Everything here is satisfied. Are there any other interested parties in this matter? Anybody else in the audience? Anybody else interested in the matter, to say anything?

Seeing none, parliamentary assistant, are there any comments from the government?

Mr. Mario Sergio: I would assume that Mr. Martiniuk is in support of the bill?

Mr. Gerry Martiniuk: Yes, of course.

Mr. Mario Sergio: The bill has been reviewed by the Attorney General and the Minister of Finance as well as the Minister of Municipal Affairs and Housing. They have no problem with the bill, so we're ready to move support of the bill.

The Chair (Mr. Michael Prue): Are there any questions from committee members?

Mr. Paul Miller: I just wondered if I could ask, were there any lawyers involved in this situation? On your board, did you report to any lawyers? They usually receive the information from the ministry on regulations. You said the paperwork went astray. Was that because of the lawyer's office?

Mr. Pasquale Giglio: No. The mailing address— notices were sent to our principal residence. That's my understanding. No notification was sent to the lawyer. We did have a lawyer from time to time, but we weren't notified by the law firm in any way.

Mr. Paul Miller: So basically, it was just an oversight on the director's part by not following through with the notification.

Mr. Pasquale Giglio: We didn't dot our i's and cross our t's, and we didn't secure our mail properly.

Mr. Paul Miller: Maybe you guys ran out of stamps or something. No, I hear you. That happens. We've had a lot of that in the last couple of years. I don't have a problem with it.

The Chair (Mr. Michael Prue): Further questions before I go back to the applicant or the sponsor? Any further questions? Back to Mr. Martiniuk.

Mr. Gerry Martiniuk: I forgot the most important part. The applicant is a constituent of my seatmate, colleague and friend, Peter Shurman. I'm appearing on his behalf this morning.

The Chair (Mr. Michael Prue): Are the members ready to vote?

Mr. Mario Sergio: Yes.

The Chair (Mr. Michael Prue): Shall section 1 carry? 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.

DRAFT REPORT ON REGULATIONS

The Chair (Mr. Michael Prue): All right, members of the committee, the next item is consideration of the draft report on regulations. I would ask the staff to come forward. We're going to have a discussion on this report. I don't know who is taking the lead on this, but if one of you would be so kind—Andrew? Okay. Lead us through the report and your recommendations.

Mr. Andrew McNaught: I'm Andrew McNaught of the legislative library's research and information services branch. With me here today is Marta Kennedy of our office. We are here to present the committee's draft report on regulations made in 2007. I'll begin with an overview on the committee's role and our role in this review process, and then Marta will take you through the report, since she prepared it.

So just by way of background, the Standing Committee on Regulations and Private Bills is required under section 33 of the Legislation Act as well as under standing order 107(i) to conduct a review of regulations made under Ontario statutes each year. For the purposes of this review, the researchers/lawyers of the library act as counsel to the committee. As you know, unlike bills, regulations are not debated in the House, so the purpose of the regulations review is to provide a sort of independent oversight of the way in which regulations are being made.

Mr. Tony Ruprecht: Mr. Chair.

The Chair (Mr. Michael Prue): Is this a point of order?

Mr. Tony Ruprecht: It is. Before we get into the substance of all of this, can I ask you a question? How was this distributed? Because our caucus office never got a copy of it. I'm wondering before we get into this—

The Chair (Mr. Michael Prue): Well, that's actually a point of privilege, but it's well taken. Did people not have a copy of this?

Mr. Mario Sergio: I just got it this morning.

Mr. Tony Ruprecht: Our caucus office did not get a copy of it. She was surprised today when she saw the report. So I'm just wondering whether we're prepared

even to make any recommendations or provide any thoughts as to the validity of this report.

The Chair (Mr. Michael Prue): If I could draw the member's attention to the front page, it is stamped in red letters: "Confidential: For committee use only." It was intended for committee use, not caucus. I don't know the legality of that.

Mr. Andrew McNaught: It should have been distributed to members—

The Chair (Mr. Michael Prue): Yes, it has been distributed to members. Does every member have a copy of this?

Mr. Tony Ruprecht: Yes.

The Chair (Mr. Michael Prue): I don't know the legality of why—

Mr. Mario Sergio: I got mine this morning. I don't question that the report was mailed, but I didn't get it. I got it this morning. I wonder, since I have the floor, Mr. Chairman, would it be so difficult to defer it perhaps until next meeting?

The Chair (Mr. Michael Prue): I understand that at the end there were to be some motions to receive, but it is possible, and I would suggest, since we have some time, that research take us through. If you want to leave the motion to the next meeting, we can do that, but it seems a shame to have research staff come here and not—

Mr. Mario Sergio: I can appreciate that. We can go through with the research presentation.

The Chair (Mr. Michael Prue): If there is a desire from committee at the end—

Mr. Mario Sergio: To proceed.

The Chair (Mr. Michael Prue): —to proceed, we can proceed. If there is a desire to hold down the motion until the next meeting, we can do that as well. Okay? Please proceed.

0910

Mr. Andrew McNaught: Just to go back a bit, in conducting this review of the regulations, the committee is asked to ensure that regulations have been made in accordance with nine guidelines that are set out in standing order 107(i). It should be stressed that the guidelines are simply technical rules that should be followed when regulations are being made. They do not authorize the committee to look at the policy underlying the regulation itself. So, for example, guideline 2 provides that there should be statutory authority for a regulation before it's made.

The procedure that we follow is as follows:

We will review the regulations on behalf of the committee and identify potential violations of the guidelines. We then write letters setting out our concerns to the various legal branches of the ministries that are responsible for those regulations. If we feel that a ministry's response does not adequately address our concerns, we would include a discussion of that regulation in our draft report to the committee.

Once the committee has the draft report, you have basically three options:

(1) You can make a recommendation to the ministry responsible for the regulation.

(2) You could simply include a discussion of the regulation and acknowledge the ministry's response.

(3) You could simply decide to not include the regulation in the report at all.

Once the report is finalized, of course, the final report is tabled in the Legislature.

That's the basic outline of the review procedure, and I'll turn it over now to Marta, who prepared the draft report that you have today.

Ms. Marta Kennedy: Thank you. As Mr. McNaught said, my name is Marta Kennedy, and I'm also a research officer and lawyer with the Legislative Library.

What I'd like to do is, first, take you through the way the report is set up, so that you have a sense of what's in the report, and then actually go through the report itself.

You should have received a cover memo, sent out last week, which gives you a brief overview of what's involved in the report. But just skipping past that, the report starts off with a number of statistics. I'm not going to go into those at all. There's nothing unusual or different from previous reports, really. Some additional statistics have been added, but there's nothing particularly unusual there.

The next section of the report, the meat of the report, is "Regulations Reported." That's where there's an actual discussion of the regulations that possibly violate the committee's guidelines.

The following section of the report discusses two recent cases that were decided by the courts, in which the regulations were affected and in which the regulations at the time had not been changed.

The final section of the report is some appendices that give you some further information about ministries and the number of regulations that the various ministries have filed.

If we go through to page 5 of the report, the "Regulations Reported" section, as Andrew said, we wrote to a number of ministries, making inquiries about 25 regulations this year. When we received the responses, for 14 of the regulations that we had asked about, we were satisfied with the response. Those regulations are not included in the report.

There were four regulations for which the ministry responded and agreed with the points we had raised and have said that they will make certain changes to the regulations. Those regulations are included in the report.

There are five regulations where we believe that the ministry has not adequately addressed the concerns we have raised about the regulations. Those regulations are also in the report and I will flag those as we get to them.

What I'd like to do first is just quickly go over the four guidelines we've used that appear to have been violated under these regulations that we are reporting.

We're going to be talking about guideline number 2, which is, "Regulations should be in strict accord with the statute conferring of power." What that means is that there has to be statutory authority to make the regulation.

If the act says that you can make a regulation about drivers' licences, you can't go off and make a regulation about licence plates, for example.

The next guideline, number 3: "Regulations should be expressed in precise and unambiguous language." That's the one we call the clarity-of-language guideline. It's just that regulations should be in language that people understand and it should be clear what is required of a person.

Guideline number 5: "Regulations should not exclude the jurisdiction of the courts." That's about appeals. Say, for example, a person applies for a licence and they're denied the licence. In certain circumstances, the person can appeal that decision to a court. However, it's possible through a statute to say, "There is no appeal. A decision of the minister," say, "is final." You can do that by statute, but this guideline prohibits that happening in a regulation. If you want to do it, you have to do it by statute.

Guideline number 9 says, "General powers should not be used to establish a judicial tribunal or an administrative tribunal." That's about setting up a court or a tribunal like the workers' compensation tribunal by regulation. Again, you can do that, but you have to do it in the act and not by regulation.

I'll start with the regulation made under the Ontario College of Teachers Act, 1996. This is one of the regulations where there is a dispute with the ministry about whether or not the regulation violates the committee's guidelines. This is being reported under the statutory authority guideline. The question is, is there authority in the act to make these regulations?

This regulation is about the Ontario College of Teachers and their council. We're looking at the sections of the regulation that deal with members of a council of the Ontario College of Teachers. More specifically, we're looking at the sections that say what sanctions can be imposed on members of the council who, say, don't come to meetings. The regulations say that a member can either be disqualified from council or suspended from council. The regulation-making authority in the act says that you can make regulations in which a member is disqualified. It seems that the regulation-making authority and the regulation don't seem to be in compliance.

We wrote to the ministry about that. They responded and they said that they believe that they have the ability to make regulations both disqualifying a person and suspending a person. We've provided a recommendation on page 7, recommendation number 1, which is that the Ministry of Education amend their regulations to remove that reference to suspension.

The Chair (Mr. Michael Prue): Since there are a number of bills and a number of questions, let's stop there and see if there are any questions on this particular aspect.

Mr. Mario Sergio: Maybe some feelings here, Mr. Chairman. Is that going through every aspect of the report here?

The Chair (Mr. Michael Prue): Yes, they will be doing them all, but I'm trying to break them up. There's

no sense in them talking about all eight items and then asking if there are questions. Let's just deal with one item at a time.

Mr. Mario Sergio: That's the point that I was trying to make. Perhaps we should defer the whole thing until the next meeting because we have not been briefed on this. I know that staff is here, but I don't think we are prepared to go into questions on the whole report today.

The Chair (Mr. Michael Prue): May I ask why? This is the function of the committee, to hear these regulations.

Mr. Mario Sergio: I appreciate that. I haven't reviewed the bill. I haven't reviewed the report here. If the people are ready to deal with it—otherwise, we defer it.

0920

The Chair (Mr. Michael Prue): I am also reminded that the report is confidential until it is tabled in the House. So I don't know what instructions you're going to seek and from whom.

Mr. Mario Sergio: It's a good point. Is it strictly for members of the committee to see the material?

The Chair (Mr. Michael Prue): Yes, it's strictly for members of the committee. If the committee wants to go out and seek instructions after having heard what is being discussed, we don't have to vote on it today. I understand there may be some trepidation.

Mr. Paul Miller: I don't think this is a major problem. I think what's going on here is that they've reviewed the ministries and their regulations, and, if I understand, you're trying to determine which are regulations that fall under the statutes—which should go to statutes; some that should stay as regulations. You're basically defining which category you have concerns about the direction the ministry's going, because it's sending mixed messages from the ministry and statutes are being mixed up with regulations. Is that your understanding?

Ms. Marta Kennedy: What we're looking at is whether or not they have done by regulation only what they're allowed to do.

Mr. Paul Miller: The ministry?

Ms. Marta Kennedy: The ministry.

Mr. Paul Miller: So your concern is that they've exceeded their authority in some areas.

Ms. Marta Kennedy: Yes.

Mr. Paul Miller: So this is simply a discussion to determine for which parts of the act there's been an oversight or they've gone above their ability to control that situation.

Ms. Marta Kennedy: Or which parts of the regulations exceed their authority.

Mr. Paul Miller: Exactly. Basically, it's just a little housework here. We're cleaning up to make sure that the ministry follows their guidelines and regulations are in the place they should be. Is that your understanding?

Ms. Marta Kennedy: Yes.

Mr. Paul Miller: So it's not any major changes to the ministry or to any bills coming forward, other than the bill to deal with the situation we have.

Interjection.

The Chair (Mr. Michael Prue): I think I'm going to let her answer the question first. Marta, please.

Ms. Marta Kennedy: It's not a challenge to any statutes or bills. The question is whether or not certain provisions of regulations are valid. They may not be valid if they are outside of the authority given by the statute.

Mr. Paul Miller: So, basically, like I said, and I'll reiterate, it's housekeeping, to make sure the ministry is aware of their guidelines and where they have exceeded their guidelines and they have to pull their horns in on certain areas where it's not their jurisdiction. Would that be a fair estimate?

Ms. Marta Kennedy: Where they've exceeded the authority that had been given to them by the statute.

Mr. Paul Miller: Correct. So I don't see what the threat here is. We're simply reviewing it at this point. If you're concerned about it, we don't have to vote on it. Actually, I kind of want to know more about this, and how better than to have the people here who are—so you've obviously had complaints that have been sent in about determining what's a statute and what's a regulation; right? Is this why you're acting on this?

Ms. Marta Kennedy: No. This is—

Interjections.

The Chair (Mr. Michael Prue): Wait a minute.

Interjection.

The Chair (Mr. Michael Prue): I have a couple of speakers, but just before I do that, nothing changes until we report to the House—nothing. We're bringing to the attention of the House some things that may not be correct. I understand the trepidation that some government members may have in terms of their respective ministries and what's going to happen, but nothing is going to happen today if you don't want to vote today. But I would like to hear the discussion through, because this committee is responsible for hearing where there may be possible inconsistencies in regulatory authority through various ministries and to correct those, because if you don't do that, the courts will.

Having said that, I have down on the list Mr. Ruprecht first and then the independent member. You are a member of the committee? Excellent.

Mr. Bill Murdoch: I always was. I don't know—

The Chair (Mr. Michael Prue): Okay, terrific. I guess so.

Interjections.

The Chair (Mr. Michael Prue): I guess he could—and then I have the parliamentary assistant. So, in that order, Mr. Ruprecht.

Mr. Tony Ruprecht: I appreciate what Mr. Miller has been saying. The whole issue is if it's housekeeping or not. But the major point is this: If the parliamentary assistant, who, on our side at least, has got the lead on this, is not prepared, if he only received this information a few days ago or this morning in the mail, then it's incumbent upon us at least to see that there may be some changes, and we should postpone it as he's requesting.

The Chair (Mr. Michael Prue): We're not making any decision today.

Mr. Tony Ruprecht: It doesn't matter, Mr. Chair. The parliamentary assistant, who's got carriage of this, should be prepared, in any circumstance, to look at the details of this and should be prepared ahead of time so that he can make his comments to the committee.

The Chair (Mr. Michael Prue): Well, when it comes to him, if he wants to make a motion to adjourn the meeting, that's within any member's purview. They can do it.

Mr. Bill Murdoch: Chair, I'm just wondering: Do the ministries know about this, each ministry it may affect?

Ms. Marta Kennedy: Once we found a regulation which appeared to violate the committee's guidelines, we wrote letters to the ministries and said to them, "This appears to violate the committee's guidelines. Would you please comment?" We received back their letters. In some cases, their letters satisfied our concerns, and the matter has been dropped. In other cases, it appears that there still may be a violation of the guidelines, and those are the regulations that are being discussed in this report.

Mr. Bill Murdoch: I just wanted to know where they were, because this might be a long, drawn-out thing before we're all done. But anyway, that's fine. We've got to discuss it and start, whatever.

The Chair (Mr. Michael Prue): Before I recognize the parliamentary assistant, I just want to remind members that it is to this committee that all regulations stand permanently referred. That is our job. All regulations that are made by every government ministry are permanently referred to this committee at all times.

Now, the parliamentary assistant.

Mr. Mario Sergio: We have no problem with that, Mr. Chairman. You are saying either don't vote on it, or just receive it. I'd like to know, Mr. Chairman, since this is fresh from staff, is there any area within the report, any changes that require the action or recommendation of this committee?

Ms. Marta Kennedy: I'm sorry, any change that requires the action of the committee?

Mr. Mario Sergio: Absolutely. My point is this: I don't think it is appropriate to have such a report and then say we just receive it or no vote. What area within the report requires the attention and the vote—any changes to this particular content of the regulations here, from this committee?

Mr. Paul Miller: On a point of order: I think they actually explained that quite nicely. They said there were four that are questionable and five that they have concerns about. The other whatever number it was, they're satisfied with. Really, the four are negotiable, and the five they're concerned about.

The Chair (Mr. Michael Prue): Okay, it's not a point of order, but you made your point. A point of order is that he's asking the wrong question.

Mr. Mario Sergio: Mr. Chairman, I guess what I'm getting at—

The Chair (Mr. Michael Prue): Okay, what are you getting at?

Mr. Mario Sergio: There are some areas in some of the regulations that require the attention of this committee. I don't think it is fair to just say, "We're going to receive it and send it on." I think there is some action required by this committee. Am I correct or not with that?

Ms. Marta Kennedy: There are a number of recommendations in the report. There are several recommendations there in which there are options for the committee to choose between this recommendation or that recommendation. As Andrew McNaught said as well, the committee could decide to remove certain portions of the report or not make a recommendation at all and simply make an observation.

Mr. Mario Sergio: Okay. Mr. Chairman, I'm ready to hear the staff presentation here.

The Chair (Mr. Michael Prue): Okay, fine. I have Mr. Martiniuk and then Mr. Balkissoon.

Mr. Gerry Martiniuk: I don't consider these recommendations housekeeping. This is the never-ending battle between the Legislature and the executive. The executive have encroached, possibly—we don't know—on the jurisdiction of the Legislature. I think it's incumbent on this committee to hear both sides, to hear not only from counsel but also from the ministry and their justification for the actions they've taken. I would like to have them both. If I listen to counsel's description at this stage and then two weeks later I hear from the ministry, I may not remember everything that might be relevant.

So I think it's a very important matter. It's not a matter of housekeeping; it's a matter of ensuring that the Legislature and the executive keep to their jurisdictions, and I would therefore like to hear from both parties.

0930

The Chair (Mr. Michael Prue): Mr. Balkissoon.

Mr. Bas Balkissoon: I hope somebody can clarify this: I read this extensively, and initially I was a little confused. Now that I'm sitting here and you've explained things, I understand what I'm doing. The recommendation that has come from legislative staff—they're asking me to agree with it or disagree with it, because there's a disagreement between the ministry staff and themselves.

But I want to turn to page 7, just to deal with the first one. It says, "Since the act authorizes regulations regarding disqualification, but not suspension," this is why they're making the recommendation. I'm sitting here saying, "Okay, legislative staff is telling me that's what the act says," but I have no exact transcript from the act to compare to what they're recommending. Without doing my own research, you're telling me to rubber-stamp the recommendation that is coming. I have to take your word for it; you're legal, and you're reviewing it. But do you know what? I'm really not here making a decision then; I'm just here to agree with what you're saying. The only time I will disagree is if I personally think there's a technical issue here that bothers me.

I feel uncomfortable with the way the report was written, because, to be honest with you, until I walked in here—this is the first time I've sat with this committee to

do with regulations, so pardon my inexperience—I really didn't know what I was coming to do until it was explained. Without the actual section of the act that authorizes this regulation, I'm not sure what I'm doing.

The Chair (Mr. Michael Prue): Okay. Just let me take the chair for a minute.

We are the body to which all regulations are sent. It is our job in this committee, every few months, to sit down and look at staff recommendations when they perceive that regulations may not be in accordance with the law. Our job is not to arbitrate between whether the minister or the staff is right. Our job is to receive the report and, if we are satisfied that the staff has made at least a prima facie case, forward it to the Legislature for the Legislature's information. It is merely for us to tell the respective ministries that their regulation may not be in accordance with the law and request that they go back and review it. We are not changing the law.

Mr. Bas Balkissoon: But am I not agreeing with the research staff if I accept the recommendation?

The Chair (Mr. Michael Prue): You are suggesting that the research may indicate a problem, and therefore the ministry should look at it.

Mr. Bas Balkissoon: But, Mr. Chair, my point to you is this: I have the staff recommendation and I have the wording of the regulations, but I don't have in front of me the wording of the clause in the act that deals with regulations regarding authorization. So I find it inappropriate for me to pass judgment that the research is correct.

The Chair (Mr. Michael Prue): I would draw your attention to the bottom of page 6, because you were referring to page 7. It starts with the words, "However, the regulation-making authority in the act, s. 40(1) para. 5, refers only to regulations respecting the disqualification of elected members, and not their suspension," and then things flow from that. That's what we're going to do, if we agree with this on this date or the next: We are going to refer it to the Legislature and say, "There may be a problem here, Madam Minister"—in this case it's education. "Review it." That's our job.

Mr. Mike Colle: On a point of order: I would like to call a 15-minute recess.

The Chair (Mr. Michael Prue): I don't think that's a point of order. When it's your turn to speak, I will recognize that. A point of order is not calling a recess.

Mr. Mike Colle: Isn't a motion to recess always in order?

The Chair (Mr. Michael Prue): When it's your turn to speak, you can do it. I have you down right after Mr. Miller. Mr. Miller?

Mr. Paul Miller: The confusion here is mind-boggling. I don't understand. The legislative staff have brought forward some concerns—and I do believe it's housekeeping; I don't agree with the former speaker—to this committee about some of the statutes and where regulations govern statutes and statutes govern regulations. All they're doing is trying to clarify their concerns about these types of situations. We're not making

decisions; we're simply sending it on, saying that we have some concerns about this part of the act that oversees this regulation or vice-versa. All we're doing is passing it on to the ministry to discuss it. We're not making a call. Our recommendation is going there for them to do further studies on this particular thing because, obviously, you don't know; I don't know. We're not quite sure, and we're just saying, "We would like someone to verify it for us." Obviously, the ministry and the legislative staff have to work this out and come back with a final decision.

Mr. Bas Balkissoon: But then why do they need us?

Mr. Paul Miller: They need us because it goes through this committee. It's part of our job to determine regulations and statutes, so I don't understand—what do you mean, "What do they need us for?" That's what this committee's for.

The Chair (Mr. Michael Prue): Mr. Colle.

Mr. Mike Colle: Again, I'd like to call a 15-minute recess.

The Chair (Mr. Michael Prue): I have a motion for a recess for 15 minutes. Is there any discussion on the propriety of that? None? All those in favour of the 15-minute recess? Opposed? Okay, a 15-minute recess.

The committee recessed from 0935 to 0949.

The Chair (Mr. Michael Prue): I call the meeting back to order. All members being present, even though it's only 14 minutes, let's proceed.

I'm given to understand from the parliamentary assistant that there may be a motion that he wishes to make.

Mr. Mario Sergio: Mr. Chairman, it would be a direction by this committee to invite whatever ministry, whatever staff would like to attend, invite them from the Chair, and defer the full report until the next meeting.

The Chair (Mr. Michael Prue): We have a motion of deferral with instruction to the Chair. Is there any discussion on that? Any discussion? Seeing no discussion, all those in favour? Opposed? I think the ayes have it. So this matter will be deferred until the next meeting, which is scheduled for—it's at the call of the Chair. It could be next Wednesday. We'll see. I'll consult with the parliamentary assistant. We'll try for next week. Failing that, we'll go for the week after that.

Mr. Bill Murdoch: Give me a chance to check with my caucus to see if it's all right.

The Chair (Mr. Michael Prue): All right.

Mr. Bill Murdoch: My research is a little low these days too, so—

The Chair (Mr. Michael Prue): Okay. And I'm given to understand—just so it's part of the record—from Ms. Kennedy that there may be some additional minor changes that she will forward post-haste so that all members will have those.

Mr. Mario Sergio: Further changes to this report?

The Chair (Mr. Michael Prue): To this report, because this report was prepared before the recess, so it has been around for quite a while, and there have been some recent very small developments to be added to it.

All right? Just so that that's part of the record and everyone understands.

COMMITTEE BUSINESS

The Chair (Mr. Michael Prue): This brings us down to other business. I ask that on other business we discuss a number of matters.

We have had some bills referred to the committee from private members' public business in the House. There are how many bills?

The Clerk of the Committee (Ms. Sylwia Przedziecki): Two.

The Chair (Mr. Michael Prue): Two bills, one of them being from Mrs. Jeffrey. Is that one of the bills? Yes, that's one of the bills, the other one being from—

The Clerk of the Committee (Ms. Sylwia Przedziecki): Mr. Levac.

The Chair (Mr. Michael Prue): Mr. Levac. It is the committee's prerogative to hear those bills. As the Chair, I'm going to suggest that we hear them: that we schedule time to hear the bills and we make a recommendation to the House, following the procedures, any debate or witnesses who might wish to come forward on the bills, and that we forward them.

Mr. Mario Sergio: May we know what the two bills were and why this particular action is being taken to call the meeting in this—

The Chair (Mr. Michael Prue): Bills are referred to committee so the committee can deal with them and then forward them to the House for third and final reading. Some committees choose to only deal with the bills upon instruction of the government House leader—

Mr. Mario Sergio: But which two bills—

The Chair (Mr. Michael Prue): —and others, but there is no requirement that that be done.

Mr. Mario Sergio: But which two bills were those ones?

The Chair (Mr. Michael Prue): Mrs. Jeffrey's bill involves fire sprinklers, and Mr. Levac's bill is about the Ukrainian Holocaust.

Mr. Mario Sergio: Further, if I hear what you're saying, it's the prerogative of this committee to deal with these bills at this committee?

The Chair (Mr. Michael Prue): Yes.

Mr. Mario Sergio: It is.

The Chair (Mr. Michael Prue): Yes. It is our prerogative to do it. Some committees choose not to do it because they don't want to do it if the government House leader isn't going to call it for third reading. But I think we have an obligation to the members who have referred the bill in good faith to hear it out and to forward it with whatever recommendation we have. Whether it's ever called for third reading is not up to this committee, but up to the government House leader. Okay?

The independent member.

Mr. Bill Murdoch: This is nothing new. We've done this before with private members' bills. Do you need a motion to move that we accept them?

The Chair (Mr. Michael Prue): Well, no. I'm just going to suggest that, unless I hear to the contrary, I intend to schedule them.

Mr. Bill Murdoch: Okay, that's fine, but we've done this before.

The Chair (Mr. Michael Prue): I can speak to Mrs. Jeffrey's now and to Mr. Levac's later, but you might as well, if you're here—this could and should be done in one day, if possible. Do you anticipate that witnesses would be called or can we deal with it simply in committee?

Mrs. Linda Jeffrey: Mr. Chair, can I just speak to your preamble as to bringing this other business forward? It's not an accident that I'm here today. I was aware that you would be raising this issue at this committee. My first thoughts are, hooray, that's great. This is an issue that I care about deeply and have worked on for the last five years. But, on the other hand, as a standing committee Chair myself, I understand the role of a Chair is to help bring issues forward that are referred from the House. We're essentially the traffic managers of legislation that comes before us. But I also understand the role of the subcommittee, and that's the group that I rely on to help do the planning for the committee work that comes before us. That's a process that's part of my role as standing committee Chair, and yours, Mr. Chair.

The Chair (Mr. Michael Prue): Are you suggesting a subcommittee discuss this?

Mrs. Linda Jeffrey: I am saying that I would be much happier if the process worked its way through. I really feel strongly about sprinkler legislation and I want to make sure all three parties feel the way I do and that it goes with the endorsement of all three House party leaders.

I'm not comfortable with bypassing that process. If it goes through the subcommittee and it comes back with that recommendation and all three House leaders are prepared to send it to a hearing, then I'm satisfied that the process has been followed. But this is too important to me to have us bypass the process, so I'm not comfortable with us going and bypassing that process. That's how I feel about my bill being dealt with in that manner.

The Chair (Mr. Michael Prue): If I could ask for the learned opinion of the clerk, I do not believe that we are bound by any House leaders' accord. This is an independent committee.

Interjection.

The Chair (Mr. Michael Prue): Yes. She's referring—the committee may set its own business. Does the committee want to hear these bills or not hear these bills? It's up to the committee. It would be up to the government House leader, in consultation with the House leaders of the two opposition parties, to determine whether or not it comes forward for third reading, but I don't know—are you saying that you don't want the committee to exercise its jurisdiction?

Mrs. Linda Jeffrey: I think what I'm saying is, I believe there's a process in place. Maybe the clerk can correct me if I'm wrong, but it's my understanding that

all three House leaders must agree that a subcommittee can go forward with hearings. That's been the process in the past. I am uncomfortable with us bypassing that process. I think the subcommittee is the one that sets the agenda of the committee.

The Chair (Mr. Michael Prue): I would remind the member—and here's the authority, standing order 109(a): "Standing and select committees shall be severally empowered to examine, inquire into and report from time to time on all such matters as may be referred to them by the House."

The House referred your bill and you suggested this committee. I was there; you suggested this committee. According to the legislative act, we are empowered to examine your bill, to inquire into your bill and to report your bill to the House, which sent it here—not to the House leader and not to the House leaders, but to the House. If you don't want to do that, if the committee says, "We don't want to deal with your bill," I'll take a vote right now and we won't.

Mrs. Linda Jeffrey: With respect, Mr. Chair, if I still have the floor?

The Chair (Mr. Michael Prue): Okay, please.

Mrs. Linda Jeffrey: I would prefer that it went through subcommittee and then returned to this committee. If the subcommittee itself agrees that they want to proceed with this, then I defer to their wisdom on that.

The Chair (Mr. Michael Prue): All right. You are asking for a subcommittee of this committee to determine whether or not it proceeds.

Mrs. Linda Jeffrey: Yes. I want the process to go in its full manner, the way it normally does in other standing committees, because I want to make sure all three parties—I think this has been sprung on some of the members here today. I want them to understand what they're doing.

The Chair (Mr. Michael Prue): All right. I'm not sure who constitutes the subcommittee because I don't think we have ever had a subcommittee meeting of this committee.

Mr. Paul Miller: Yes, we have.

The Chair (Mr. Michael Prue): Have we? And who constitutes the subcommittee?

Mr. Paul Miller: Me.

The Chair (Mr. Michael Prue): Okay. Mr. Miller, Mr. Martiniuk—

Interjection.

Mr. Paul Miller: Mr. Chair, if I get the floor?

Mr. Gerry Martiniuk: No, I have the floor.

The Chair (Mr. Michael Prue): —and Mr. Sergio. Okay.

Mr. Paul Miller: Wait a minute. Who's first?

The Chair (Mr. Michael Prue): Wait a minute. I just want everyone to know the subcommittee is constituted of Mr. Miller, Mr. Martiniuk and Mr. Sergio. Are you making a motion that this be referred to the subcommittee to report back to our next committee meeting?

Mrs. Linda Jeffrey: I think what I'm doing is asking this committee to have that conversation. I'd like to listen to the others first and I'll make a determination after that.

The Chair (Mr. Michael Prue): But I need a motion to debate. If that's your motion—you know, if you've listened to the others and you don't agree with your motion, you're free to vote for it or against it. Are you making that motion?

Mrs. Linda Jeffrey: Yes.

The Chair (Mr. Michael Prue): All right. The motion has been made. Discussion? Mr. Miller.

Mr. Gerry Martiniuk: I'm sorry, Mr. Chair; I believe I would have been recognized first in that I had my hand up first.

The Chair (Mr. Michael Prue): Okay, fine. I apologize, Mr. Martiniuk.

Mr. Paul Miller: All right. I don't care. He can go first. I'm not—

Mr. Gerry Martiniuk: Very shortly, I support that. The proper procedure is not for the Chair to make that decision, but in fact the committee. The procedure under the committee is to use the subcommittee. Their recommendation comes to this committee, and then it's discussed. So I support the motion.

The Chair (Mr. Michael Prue): Mr. Miller.

Mr. Paul Miller: I don't have a problem with the subcommittee. I dealt with that, but I'd just like to tell the member you're not going to get any guarantees that everybody on the subcommittee is going to agree with what your situation is. So I don't know what kind of comfort you're going to get out of it, because if two of the three people agree to send it on, it's going on anyway.

Interjection.

Mr. Paul Miller: Yes. In my situation, there was one person who was against, but the two of us voted to go forward, and Bill 6 not only did not get read, but it was shot down by the government.

I don't think you have to have an agreement with the House leaders to go to subcommittee; they have nothing to do with it. We are an independent body, as a subcommittee, to deal with sending it on to the main committee. We can do it, and I don't have a problem with that, but you seem to be a little insecure; you want some kind of guarantees from the subcommittee or the House leaders that you're moving in the right direction. I don't think you're going to get that if that's what you're looking for.

I'm confused: Why this particular bill? They've got a majority. Usually, a subcommittee is called when we haven't got a chance of its going through. You've got the majority; it would go through—or whatever you want to do.

You brought the bill forward. It's your baby. You've been working on it for five years. So I'm confused as to why you need a subcommittee, but if you want that, it's part of the process. I can't argue process, if you want it. I don't know what you're going to get out of it.

The Chair (Mr. Michael Prue): Okay. Any other discussion on whether or not to have the subcommittee meet?

Mr. Mario Sergio: Mr. Chairman, for clarification: The motion is on the floor that we send it for review by the subcommittee of this committee?

The Chair (Mr. Michael Prue): Yes. That's the motion.

Mr. Mario Sergio: That's the motion?

The Chair (Mr. Michael Prue): The motion is that the subcommittee meet and report back to this committee on recommendations on hearing these two bills.

Mr. Mario Sergio: Okay. We're ready to vote.

The Chair (Mr. Michael Prue): Okay? All right, we have a motion. Everybody clearly understands the motion. All those in favour of the motion? All those

opposed? It's a tie, so I'm going to vote in favour of the motion and have the subcommittee report back at the next meeting.

All right, is there any other business for today?

Mr. Mario Sergio: No, please. Not for today.

The Chair (Mr. Michael Prue): Not for today? I thank all the parties who showed up today in such an argumentative mood. The meeting is adjourned until the call of the Chair either a week or two weeks from today.

The committee adjourned at 1002.

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