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**Official Report  
of Debates  
(Hansard)**

Wednesday 4 April 2012

**Journal  
des débats  
(Hansard)**

Mercredi 4 avril 2012

**Standing Committee on  
Regulations and Private Bills**

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

Chair: Peter Tabuns  
Clerk: Tamara Pomanski

Président : Peter Tabuns  
Greffière : Tamara Pomanski

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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 4 April 2012

Mercredi 4 avril 2012

*The committee met at 0901 in committee room 1.*

**SUBCOMMITTEE REPORT**

**The Chair (Mr. Peter Tabuns):** In session. First item is the report of the subcommittee.

**Mr. Randy Hillier:** Mr. Chair, I'd like to table the draft report of the subcommittee.

**The Chair (Mr. Peter Tabuns):** Do you want to move adoption?

**Mr. Randy Hillier:** I move adoption, yes.

**The Chair (Mr. Peter Tabuns):** Would you please read it into the record?

**Mr. Randy Hillier:** I will.

Your subcommittee on committee business met on Monday, April 2, 2012, to consider the method of proceeding on Bill 16, An Act to amend the Animals for Research Act and the Dog Owners' Liability Act with respect to pit bulls, and recommends the following:

(1) That the committee meet for the purpose of holding public hearings on Wednesday, April 18, 2012, and Wednesday, April 25, 2012, in Toronto.

(2) That the clerk of the committee post information regarding the hearings on the Ontario parliamentary channel and the Legislative Assembly website.

(3) That the clerk of the committee arrange for the committee hearings to be streamed, if possible.

(4) That interested people who wish to be considered to make an oral presentation on Bill 16 should contact the clerk of the committee by Thursday, April 12, 2012, at 5 p.m.

(5) That, in the event that all witnesses cannot be scheduled, the clerk of the committee provide members of the subcommittee with a list of requests to appear, following the deadline.

(6) That the length of presentations for witnesses be 10 minutes, and up to five minutes for questions on a rotational basis.

(7) That the deadline for written submissions be Wednesday, April 25, 2012, at noon.

(8) That, for administrative purposes, the deadline for filing amendments to the bill with the clerk of the committee be Monday, May 7, 2012, at noon.

(9) That the clerk of the committee provide copies of the amendments received to committee members by the morning of Tuesday, May 8, 2012.

(10) That clause-by-clause consideration of the bill be scheduled for Wednesday, May 9, 2012.

(11) That the research officer provide the committee a summary of the presentations by Friday, April 27, 2012, at 5 p.m.

(12) That the clerk of the committee, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements to facilitate the committee's proceedings.

I move that the report of the subcommittee be adopted.

**The Chair (Mr. Peter Tabuns):** A motion has been moved by Mr. Hillier. Is there any debate? Mr. Walker.

**Mr. Bill Walker:** May I just offer a friendly amendment, to add a time to the first bullet? April 18 and 25 at—just so we're clear on what time.

**The Chair (Mr. Peter Tabuns):** April 18—I'm sorry. Which number?

**Mr. Bill Walker:** Number one.

**The Chair (Mr. Peter Tabuns):** So April 18, 2012, and amend the time to—

**Mr. Bill Walker:** To 8 a.m. Thank you.

**The Chair (Mr. Peter Tabuns):** To 8 a.m. Mr. Sergio.

**Mr. Mario Sergio:** Just curiosity more than anything else, Mr. Chair. We have no problem with supporting this; I have no problem with supporting this. But why are we dealing with this particular item here on this committee and not through the proper channel, which is the legislative committee of the assembly?

**The Chair (Mr. Peter Tabuns):** This committee was formed by the House and the bill was directed to this committee by the House.

**Mr. Mario Sergio:** Upon Mr. Hillier's request?

**The Chair (Mr. Peter Tabuns):** Upon the vote that was held in the legislative chamber.

**Mr. Mario Sergio:** My subsequent question to you, Chair, is, are we going to accept at this committee here anything that the House will send to this committee, to be deferred to another committee then for a public hearing? Is this the intent of this particular committee here?

**The Chair (Mr. Peter Tabuns):** As I understand it, any business that the Legislature refers to this committee, this committee has to take.

**Mr. Mario Sergio:** I appreciate that. Wouldn't it have been better or have shortened the process if this were to

be sent directly to the legislative committee from the House upon the request of Mr. Hillier?

**The Chair (Mr. Peter Tabuns):** In fact, Mr. Sergio, we are a committee of the Legislature, and the Legislature referred this bill to this committee. We're following the directions of the Legislative Assembly.

**Mr. Mario Sergio:** I understand that. I won't harp on this. My question is, Chair, that this committee—it's not going to become something that from the House it comes here and from here it's going to go to another committee?

**The Chair (Mr. Peter Tabuns):** No. It will come here, be dealt with and go back to the Legislative Assembly.

**Mr. Mario Sergio:** Okay, because I'm sure that my colleagues on the other side are well aware that there are plenty of avenues open to their colleagues there to deal with matters of justice. So as long as this doesn't become a habit—sending things from the House to this committee here, then to be referred to another committee.

**The Chair (Mr. Peter Tabuns):** Okay. We can take that information—

**Mr. Randy Hillier:** Chair?

**The Chair (Mr. Peter Tabuns):** Mr. Hillier?

**Mr. Randy Hillier:** Just for clarification, anything that's referred to this committee by the House is dealt with by this committee. There's nothing in the standing orders that prevents any private member from referring a public bill to this committee. That does not create another process; it's the same process. Once this bill is dealt with here in this committee, it will be referred back to the House or whatever the committee desires.

**The Chair (Mr. Peter Tabuns):** Is there any further debate on the amendment?

**Mr. Mario Sergio:** What was the—

**Mr. Randy Hillier:** That we start at 8 a.m.

**The Chair (Mr. Peter Tabuns):** That the hearings will start at 8 a.m.

Since there's no debate, carried? Carried.

And then the report itself, any further debate? None? Carried.

*Interjection.*

**The Chair (Mr. Peter Tabuns):** Carried, as amended. Thank you, Clerk.

#### DRAFT REPORT ON REGULATIONS

**The Chair (Mr. Peter Tabuns):** Consideration of the second draft report on regulations, 2010: Mr. McNaught?

**Mr. Andrew McNaught:** Good morning. So you should have in front of you a copy of the committee's second draft report on regulations made in 2010. It reflects a couple of items that were discussed at last week's meeting. As well, you have one final regulation to consider, which is on page 16.

First of all, as I've indicated in the cover memo, the recommendations are now numbered 1 through 6. Page 7: Last week I was asked about a statement in the first draft which indicated that we had not received responses with respect to three of our inquiries. In fact, we have now

received responses from all the ministries; it's just that when that first draft was submitted in May 2011, we had not yet received those responses. We subsequently received those in the summer. So that text has been changed to reflect that we now have responses to all our inquiries.

On page 11 is recommendation 2. There was discussion last week about adding some text to that recommendation, and you see the new text underlined in the recommendation box. So perhaps you want to discuss that now.

**The Chair (Mr. Peter Tabuns):** Is there any debate about this amended recommendation? If there is no debate, carried? Carried.

Mr. McNaught.

#### 0910

**Mr. Andrew McNaught:** Okay, so last week we left off at the top of page 16. There you'll see a regulation that was made under the Pharmacy Act. That regulation deals with the reinstatement of former members of the Ontario College of Pharmacists, that is, members who have resigned or ceased to be members for whatever reason and who now want to become members of the college again.

The relevant provision of the regulation is section 24(3), which we've reproduced for you in the middle of page 16. That regulation provides that former members of the college are ineligible for reinstatement if they have been the subject of a proceeding involving any of the offences listed in subsection 24(3)(b). So that is if they have been involved in any of those proceedings at any time since ceasing to be a member of the college.

This section, I think, stands out because, unlike other parts of the regulation dealing with eligibility for registration, this one does not say that the former member is ineligible because they had been convicted of one of these offences or because he or she is the subject of a current proceeding that is still ongoing; it simply provides that the former member is ineligible by virtue of having been the subject of a proceeding at any time since ceasing to be a member, regardless of the outcome of that proceeding.

The effect of this is that even if you've been involved in a criminal or professional disciplinary proceeding and acquitted of all charges, or the case had simply been thrown out, you would still be ineligible for reinstatement under this provision. It appeared to us that this regulation may be denying a right on the basis of a presumption of guilt.

So we wrote to the ministry and asked whether the regulation had been considered for compliance with section 11(d) of the Canadian Charter of Rights and Freedoms. That's the section of the charter that guarantees presumption of innocence in a criminal or penal proceeding.

In its response to our inquiry, the ministry noted that the purpose of the regulation is simply to provide a fast-track way for former members to become re-registered, as long as they can show that they don't have any

outstanding matters that might be of concern to the college. The ministry says, “Well, there’s no charter issue here because even if you don’t meet the criteria for this fast-track registration process, you’re free to apply for reinstatement by using the ordinary registration process that’s available to anyone else.”

Our position is that this doesn’t change the fact that the regulation could be rendering someone ineligible for reinstatement on the basis of what amounts to a presumption of guilt. Our recommendation, which we have in the middle of page 17, is that the ministry reassess section 24 of the regulation for compliance with section 11(d) of the charter and the ministry report back to the committee.

**The Chair (Mr. Peter Tabuns):** Okay, are there questions? Mr. Hillier, then Mr. Sergio.

**Mr. Randy Hillier:** Thank you, Chair. This is one of these regulations that, I think, justifies this committee being here. This regulation can have such an impact on an individual; it can take away an individual’s livelihood just by being an allegation. It’s a pretty broad regulation that’s in any jurisdiction, any professional or proceeding at all—any proceeding. So I really think on this one I would recommend that we strengthen that recommendation as well, that it goes back to the ministry with a time frame, so that this committee can actually track and know if this regulation has been dealt with and not have it buried if there’s a possible election or sometime later on, where the next committee might be another year or two away or whatever. So I would like to put a fairly specific time frame on this—maybe three months might be in order—that the ministry report back to this committee that this has been reassessed. Thank you.

**The Chair (Mr. Peter Tabuns):** Just to let you know, as well, that at the end of the discussion of this report we can ask for a report back to the House within 120 calendar days.

**Mr. Randy Hillier:** On the whole report?

**The Chair (Mr. Peter Tabuns):** Yes. But you want a specific time on this one.

**Mr. Randy Hillier:** For this one. This one is—

**The Chair (Mr. Peter Tabuns):** That’s fair.

**Mr. Randy Hillier:** —in my view, a regulation that should be dealt with.

**The Chair (Mr. Peter Tabuns):** So you are moving an amendment to this.

**Mr. Randy Hillier:** That we include a time frame of three months for the ministry to report.

**The Chair (Mr. Peter Tabuns):** Okay. Mr. Sergio, you had a commentary?

**Mr. Mario Sergio:** No, actually that was my point, that the recommendation does not include a time limit within which the minister is to report back, so yes, it’s exactly that. I would like to see that in the recommendation: 90 days or whatever.

**The Chair (Mr. Peter Tabuns):** Everyone is all right with that recommendation, that amendment?

Is there further debate on the recommendation, as amended? No further debate? We have amended it.

All those in favour of the recommendation, as amended? Opposed? It’s carried.

**Mr. Mario Sergio:** Mr. Chair, just for clarification, that’s 120 days or 90 days?

**The Chair (Mr. Peter Tabuns):** It’s 90 days.

So, having gone through all the recommendations, shall the draft report, including—

**Mr. Randy Hillier:** There’s one other. Starting on page 17 and moving over to 18—

**The Chair (Mr. Peter Tabuns):** There’s a commentary.

**Mr. Randy Hillier:** —there’s another note on here about another regulation that’s under appeal at the present time, Shoppers Drug Mart, and I just want to ask counsel or the clerks if they have heard anything back. I know it has only been slightly over a year since the leave to appeal, but has there been any decision rendered on that as far as you’re aware?

**The Chair (Mr. Peter Tabuns):** Fair question.

**Mr. Andrew McNaught:** It is a fair question. I’m going to have to look into that. I’m not sure. I don’t think there is a ruling, but I’ll report back on that.

**The Chair (Mr. Peter Tabuns):** You can report back to us at our next committee meeting?

**Mr. Andrew McNaught:** Sure.

**The Chair (Mr. Peter Tabuns):** Excellent.

With that question, there being no further debate, shall the draft report, including the recommendations, as amended, carry? Carried.

Who shall sign off on the final copy of the draft? It could be myself, the Chair. All those in favour? Opposed? It’s carried.

Upon receipt of the printed report, shall the Chair present the report to the House and move adoption of its recommendations?

All those in favour? Agreed.

We have a potential last resolution. Shall I request that the government table a comprehensive response to the report within 120 calendar days of presentation of the report to the House pursuant to standing order 32(d)? Any further discussion?

**Mr. John Vanthof:** Does that request supersede our other 90-day—

**The Chair (Mr. Peter Tabuns):** No. It’s in addition to. Any further debate?

All those in favour? Opposed? Carried.

So we’re done with that item of business.

0920

## STANDING ORDERS REVIEW

**The Chair (Mr. Peter Tabuns):** The next item of business is consideration of motions filed by Randy Hillier with respect to standing order changes. Mr. Hillier.

**Mr. Randy Hillier:** Thank you, Chair. Do you care which order I go in on these two motions?

**The Chair (Mr. Peter Tabuns):** Motion number 1 would be easiest. It would keep the linear flow going, less confusion in the record.

**Mr. Randy Hillier:** I've sent off to the other committee members, and I hope and trust everybody's received, that research package that Andrew had done up. You've received it, Grant?

**Mr. Andrew McNaught:** I have copies of it.

**Mr. Randy Hillier:** Okay. You've got it. I sent it off to everyone.

**The Chair (Mr. Peter Tabuns):** I wouldn't mind a copy.

**Mr. Randy Hillier:** I'll start by reading off the motion and then I'll give some of my justification/rationale for it. The motion is:

That the Standing Committee on Regulations and Private Bills recommend to the Standing Committee on the Legislative Assembly that the standing orders of the House pertaining to the Standing Committee on Regulations and Private Bills be amended to include that the committee shall review regulations to ensure that the regulation does not make any unusual or unexpected delegation of power.

Now, when this committee was created, it was originally created due to a royal commission called the Royal Commission Inquiry into Civil Rights. It was chaired by the High Court Chief Justice of Ontario of the day, James McRuer. The royal commission inquiry was to look at where government encroaches into liberties and freedoms of people. It's five volumes in length in total, but it undertook a very broad study over about five years to look at the law, the legislation and the implementation and creation of it to protect civil rights for people.

One of those recommendations was the creation of this committee, a body of legislators to review and scrutinize subordinate legislation of the House. Up until that time, we had no mechanism to review that subordinate legislation, and as we know, that is our role: to provide oversight and accountability to the laws that affect our constituents. All of us will probably agree that we have quite a significant number of regulations in this province. Many of our constituents' concerns that we hear every day in our offices are the result of regulations.

In that royal commission, they provided for 10 recommendations for this committee, 10 very specific prescribed criteria that we should review regulations by. For some reason, we adopted nine of those 10 and not the 10th. Even though the House at the time said there could not be any improvements on the recommendations for creating this committee and that we should adopt all 10 criteria, we only adopted nine. According to the research done by our good clerk Andrew here, there is significant evidence to suggest that there was a typographical error many decades ago and the 10th criterion fell out of place. I'd like to rectify that error from decades ago.

I think it should be obvious to us when we look at those very prescribed criteria, as we've just done on the first draft report, where this committee was created to not

look at the merits of a regulation, not look at the underlying policy of the regulation. It was viewed that this committee would be a non-partisan committee that would just look at these very prescribed criteria, such as precise and unambiguous language, that the regulations ought not to impose fines and penalties, and without going through the other nine, this 10th one, does the regulation create "any unusual or unexpected delegation of power?" I would say to this committee that if that 10th recommendation had been included earlier, possibly we might not have seen things such as the G20 fiasco. Maybe we wouldn't have seen the present Ornge scandal if this committee had been able to look and determine if a regulation had undue or unexpected delegation of power.

These recommendations are not radical. The UK government has the same or very similar wording in their committee. Australia has the same criteria in their parliamentary system. The Manitoba Legislature's committee provides a little greater and broader scrutiny of regulations, as well as India's. And I think we have seen at least three other provinces that have "unusual or unexpected delegation of power" included in their regulations committee.

I think that many of the problems we deal with as legislators, on behalf of our constituents, are the result of regulations. The more we can do to empower this committee to ensure that there is legislative oversight of regulations—proper, thoughtful legislative oversight—maybe our constituents will have a little bit of an improved relationship with government and we'll have a little bit less workload in our constituency offices if we do have that initial, improved oversight of regulations.

I think I'll leave it at that. I'd be happy to take any questions if there are any. I guess one last part I'll put in there—no, I'll leave that for the other motion. This is in a number of Parliaments throughout the Commonwealth, and I think it would improve the legislative and regulation making bodies that we never see, except once every year or two after they've been made, in a report by this committee.

**The Chair (Mr. Peter Tabuns):** Mr. Hillier, for proper form, so that it's in Hansard, could you please read the full text?

**Mr. Randy Hillier:** Okay. Did I not do that? Oh, I didn't move it.

I move that the Standing Committee on Regulations and Private Bills recommend to the Standing Committee on the Legislative Assembly that the standing orders of the House pertaining to the Standing Committee on Regulations and Private Bills be amended to include that the committee shall review regulations to ensure that the regulation does not make any unusual or unexpected delegation of power.

**The Chair (Mr. Peter Tabuns):** The motion has been moved by Mr. Hillier. Is there any debate?

**Mr. Michael Coteau:** Just a quick point: Does the Standing Committee on the Legislative Assembly currently do the review of—do they review it currently?

**Mr. Randy Hillier:** Review for “unusual or unexpected delegation”?

**Mr. Michael Coteau:** Just the standing orders that come forward that you’re talking about. Is it a repetitive piece, like if you have one committee reviewing those standing orders and regulations and then asking them to be sent here?

**Mr. Randy Hillier:** I’ll just provide the rationale, maybe, for that.

**The Chair (Mr. Peter Tabuns):** Just a second.

**Mr. Michael Coteau:** Through you, Mr. Chair.

**The Chair (Mr. Peter Tabuns):** The mandate of the Standing Committee on the Legislative Assembly is to review the standing orders.

0930

**Mr. Michael Coteau:** So we’re asking that some of those standing orders that may be classified as an unusual or unexpected delegation of power be sent here to be reviewed as well?

**Mr. Randy Hillier:** May I?

**The Chair (Mr. Peter Tabuns):** You may.

**Mr. Randy Hillier:** The rationale behind here, Michael, is: This committee is tasked with reviewing the regulations. No other committees are. For us to broaden our scope and to look at unusual or unexpected delegations, we would require a change to the standing orders of the House. So I’m asking this committee if they believe that there’s merit to this, that this committee in future look at unexpected or unusual delegations of power. If we believe that that’s justified, this motion would then go to the Legislative Assembly committee for their review and their discussion to determine if it should be adopted into the standing orders of the House.

**Mr. Michael Coteau:** Okay.

**The Chair (Mr. Peter Tabuns):** Mr. Vanthof.

**Mr. John Vanthof:** Not specifically to the motion, but in Mr. Hillier’s explanation he said that the reason was simply an omission, and I’d like to bring to the committee’s attention that there are potentially other reasons why this was omitted.

On page 3, “On the other hand, a former registrar of regulations was of the opinion that the omission was not inadvertent. In his view, it was more likely that the ‘unusual or expected use’ guideline was rejected because it would allow the standing committee to consider the policy underlying a regulation.”

So, as we discuss this, I think we have to keep that in mind.

**The Chair (Mr. Peter Tabuns):** Thank you, Mr. Vanthof. Is there further debate on this matter? Mr. Sergio.

**Mr. Mario Sergio:** Mr. Chairman, more for clarification than anything else: I have no problem supporting both motions as they are, but what I would like to see—I think there are merits and consequences attached to both motions. It is very hard to try and pay attention to what Mr. Hillier is saying and read this brief report, which I have seen for the first time today.

Also, I would like to see, from the proper—I don’t know which ministry would be dealing with this—that either it be present, or ask for a report on the effect of the motions here, because today may affect the working of the particular government or particular ministries. Tomorrow, it may affect another government and particular ministries as well. The last thing we want to do is delay any request or any regulation that may come to this committee.

There could be serious consequences due to the content of the two motions here. If there isn’t, wonderful, but if there is, I think I would like to delve deeply into the merits of both motions here and hear from the proper ministry, either being present here so we can have questions or ask for a report from them and then bring them back to the committee.

**The Chair (Mr. Peter Tabuns):** Mr. Sergio, and with the committee’s permission: Mr. McNaught, could you speak to the practical application of this motion?

**Mr. Andrew McNaught:** It’s hard to know since we’ve never applied it before this, but it’s a criterion that is applied in other jurisdictions, as Mr. Hillier mentioned, including Ottawa. The joint standing committee of the House and Senate on regulations there applies this criterion. I know that as of a few years ago, at least, it was the criterion most frequently cited in that committee’s reports on regulations. I view it as an extension, perhaps, of the statutory authority criterion that we currently apply, which says that there should be authority in the enabling statute to make the regulation in the first place. So I see it as another variation on that theme.

I don’t think it would create too much of an extra burden for us in reviewing the regulations; the issue is more how the ministries would view this. I’ve indicated in the memo that there was some concern expressed many years ago, I think by Mr. Scott; I’m afraid I don’t actually have my copy of the memo in front of me.

Without having actually applied this criterion before, I can’t give you a very specific indication of how it would affect the review.

**Mr. Mario Sergio:** Because of that, we don’t want to put you in a spot and answer to our satisfaction the content which may not reflect our views in here, especially on page 3 here with respect to the recommendation by then-Attorney General Ian Scott and his comments in here. Would you like to comment on that yourself, Mr. McNaught, today? Or again, going back to my questions before, I would like to see someone here to ask questions or have a report to this committee so we know the full implications of the two motions.

**Mr. Andrew McNaught:** Really, I don’t think I’m prepared to comment on the implications of the two motions. It’s best for you to decide—

**Mr. Mario Sergio:** You’re not. Okay. So, based on that, Mr. Chair, I don’t think it’s an undue demand on the committee or a question of time. I don’t think we are pressed for time. But I think I would like to see some comment on our report on the effect that this may have, because the recommendation by Mr. Scott here is quite

clear, that there are some implications. I would like to have clarification from the Attorney General or whoever is responsible.

**Mr. Andrew McNaught:** I should just clarify, now that I have the memo in front of me: Mr. Scott's concerns in 1989 were that if this guideline were adopted, it might allow somehow the committee to consider the enabling legislation as opposed to the regulation itself. I don't think that's the intent of the guideline, but that was the concern expressed by the minister at that time. It was really a concern that it might extend the committee's mandate to look at the legislation as opposed to the delegated legislation—the statute as opposed to the regulations.

**Mr. Mario Sergio:** Well, yes, okay. This is part of my problem with it. We have another committee that looks at legislation, so are we trying to get more power in this committee to look at the working of another, existing committee here? The expression of Mr. Scott as well addresses the significant cost, potential conflict and responsibilities of government or ministries as well. I think I would feel more comfortable if we were to have a quick report from the proper ministries. And I would move that, Mr. Chair.

**The Chair (Mr. Peter Tabuns):** Mr. Sergio, you're moving a deferral?

**Mr. Mario Sergio:** Yes.

**The Chair (Mr. Peter Tabuns):** And a report from?

**Mr. Mario Sergio:** Who would it be, Mr. McNaught? The Attorney General? Which ministry would be more—

**Mr. Andrew McNaught:** Well, the 1989 date—I guess it was the Attorney General many years ago.

**Mr. Mario Sergio:** Okay. So if we could have that by next committee or whatever.

**The Chair (Mr. Peter Tabuns):** If you'll excuse me a moment while I check.

So, Mr. Sergio, you've moved deferral of consideration pending a report by—

**Mr. Mario Sergio:** The Attorney General. I don't know within how much time they could provide our committee with a report.

**The Chair (Mr. Peter Tabuns):** Apparently, we cannot specify. We cannot tell them what their timetable is going to be.

**Mr. Mario Sergio:** I see. We cannot attach a time limit? No?

**The Chair (Mr. Peter Tabuns):** Apparently not.

**Mr. Mario Sergio:** Okay.

**The Chair (Mr. Peter Tabuns):** We can request, but we can't require; we can't compel.

**Mr. Mario Sergio:** Okay. Then let's say, "Very kindly, we request a report within six months." Is that enough?

**Mr. Randy Hillier:** Chair, could I interject?

**The Chair (Mr. Peter Tabuns):** Yes.

**Mr. Randy Hillier:** Maybe I could provide some clarification that may alter—

**The Chair (Mr. Peter Tabuns):** I've got the amendment on the floor. If you want to speak to that amendment, please, Mr. Hillier.

**0940**

**Mr. Randy Hillier:** First off, what happened 40 years ago, nobody will be able to ascertain with absolute clarity. Right? Why this came about, you know—it's just not going to happen. But I will read one little bit and then provide what I hope is some clarification.

The first report of this committee in 1978—and this is on page 2—made the following recommendation, and this was the whole committee: "After studying and comparing the criteria adopted by the six jurisdictions mentioned above, as well as the guidelines recommended by the former Chief Justice of the High Court, Mr. McRuer, we have come to the conclusion that we cannot do better than to endorse in total his recommendations and we do so."

If you take a look at the actual wording in the royal commission, word for word is what is in our standing orders of the House, except for that one item, item (i).

Now, to Mario's point about seeking advice from the Attorney General, I'll say this: As this committee does right now with the nine criteria, when we review a regulation with respect to those nine established criteria, that applies to any regulation that the committee looks at in all, because all regulations are permanently referred to this committee. It's over all ministries and over whatever regulations have created other agencies for those ministries. So it's not a case of one ministry having a greater knowledge or depth of understanding of this committee. It applies to all.

The same with the 10th recommendation that I've moved today: That would apply to all ministries. It may impact the Attorney General in some fashion. Depending on what their legislation is, it may impact the Ministry of Health in a totally different fashion. It all depends on what regulations they have created under their statutory authorities.

I don't know if a report from the Attorney General would provide much light or enlightenment to us. If and when that regulation is created and we take a look at it and see that it should be in strict accord with the statute, particularly concerning personal liberties, that it be expressed in precise and unambiguous language, etc., we'd also be looking at, does it create a mechanism for unusual or unexpected delegations of authority? If our good counsel decided that it did and provided the recommendation to us, we would deal with it in exactly the same manner as we just did with the draft report. We would look at the advice from counsel and we would either accept, reject or amend as a committee of this House.

But really, I take it that a number of people haven't seen this research previously. I had expected that we had gotten it all out to everybody, but if the committee wants to sit back and contemplate and reflect on this recommendation, this motion, and come back at another time once they've had further information themselves, I think that would be worthwhile as well.

**The Chair (Mr. Peter Tabuns):** Mr. Sergio.

**Mr. Mario Sergio:** I don't want to dwell too much on it. Again, I'm trying to hear Mr. Hillier, then go through this little report at the same time. We have already heard that our counsel really doesn't want to deliver on the report, but further to the recommendation which was read by Mr. Hillier on page 2, again the response by Mr. Scott follows—as quickly I'm trying to go through the report—that, “While the government is prepared to consider this recommendation, it is concerned about the scope of the recommendation and whether it contemplates extending the mandate of the committee to review legislation to determine if a regulation-making power authorizes an unusual or unexpected use of delegated power.”

I have no problem with Mr. Hillier, with the two motions here, Mr. Chair. I'm just not sure that I'm doing the right thing myself to say that it's fine and then something is going to come back and bite us in the future. So if it's not too much of an imposition on the committee and say that you want to do it in 60 days—I know we cannot attach a particular time to ask for the minister to respond—I think I would feel much more comfortable. Perhaps then we can have a much clearer view of any possible implications. Again, I'm basing my comments on Mr. Scott's comments here.

**The Chair (Mr. Peter Tabuns):** Members of the committee, if you'd just permit me for a moment, I have some information that may be helpful.

First of all, Mr. Sergio, this is a recommendation to the Standing Committee on the Legislative Assembly. We don't have final say on this; it's just our committee saying to them, “While you're reviewing the standing orders, we would recommend that you add this to those standing orders.”

Secondly, the Standing Committee on the Legislative Assembly is currently reviewing the standing orders, so a decision by us now puts it into the hopper while they're actually considering the matter. They intend to be wrapped up by June. June is not that far away, so if we're going to actually be part of their considerations, we should actually do it relatively soon rather than six months from now. I'm not saying a deferral for a week or two weeks is a bad thing, but keep in mind that if you go too long, you're out of that cycle.

The third point I just want to make—and Mr. McNaught could correct me if I'm wrong—we will not have regulations coming to this committee every week for us to review. This is to add another item to the checklist that counsel will utilize when they do their annual review of regulations. So on an annual basis, when we get the report that we went through this morning, instead of nine criteria there will be 10, giving us an assessment as to whether or not the regulations reflect the appropriate power given in the legislation passed by the chamber. It is not as though every week we will be going through regulations and assessing them.

That said, if you want to continue with your motion of deferral, might I suggest—we're not sitting next week—

defer for two weeks so you can talk to your House leader, if you feel deferral is necessary.

**Mr. Mario Sergio:** Again, I would like to see something as soon as possible, even if we cannot demand that the minister responds by a particular time. I don't know if we should leave it up to the Chair and have the Chair request that the minister respond as soon as possible.

**The Chair (Mr. Peter Tabuns):** So we have your motion for deferral before us—

**Mr. Mario Sergio:** A deferral with the request.

**The Chair (Mr. Peter Tabuns):** Yes, correct. And we have the wording captured?

*Interjection.*

**The Chair (Mr. Peter Tabuns):** Sorry, could you repeat—

**Mr. Mario Sergio:** Clarifications on the two motions, or the content of the motions, really.

**The Chair (Mr. Peter Tabuns):** Okay. Mr. Hillier.

**Mr. Randy Hillier:** I just want to reiterate the Chair's statement for the members on the government side. At the present time, the Legislative Assembly committee is conducting significant reviews. I was in there last week and both the Clerk and Deputy Clerk of the House were making presentations to the Legislative Assembly committee. They're in this process.

We do have a number of checks and balances in our system. This is why I've put this motion in this fashion, to take advantage of those checks and balances and make sure that we get it right, that we don't have an omission.

So I really would encourage all members to go with this motion, adopt the motion as it is, have it go to the Legislative Assembly committee. They are tasked, and they will be bringing in subject matter experts, such as the Clerk and the Deputy Clerk and others, who will scrutinize any motion before them as well. If this motion proceeds, I'll be at that Legislative Assembly committee as well making representations on these motions—I would think there will be many people. I don't want to miss that cycle and miss that opportunity to correct what, in my view, is a 40-year-old typographical omission when we look at the complete bundle of evidence before us from research. I would again encourage all members to support this motion, as it is, to the assembly.

**0950**

**Mr. Mario Sergio:** Chair, my intention is not to delay the motion. I have no problem sending it through. At the same time, aside from moving this ahead, can we ask for a comment from the ministry without delaying the process here?

**The Chair (Mr. Peter Tabuns):** Are you withdrawing your motion for deferral?

**Mr. Mario Sergio:** I will withdraw my motion. I understand what the member is saying, and I can see the time limit we have on our hands as well. I will be satisfied to let it go, move it up and request a comment from the Attorney General on the two reports.

**The Chair (Mr. Peter Tabuns):** I'll effectively take that as a third resolution from you that we will consider

after we go through these two. The third resolution from you is a request to the Attorney General to comment.

**Mr. Mario Sergio:** Okay.

**The Chair (Mr. Peter Tabuns):** Fair enough. We'll go back to the main motion moved by Mr. Hillier. Is there any further debate? Are the members ready to vote? I assume you are.

Shall the motion carry? All those in favour, please raise your hands. All those opposed? Carried.

Mr. Hillier, motion number 2. And please, "I move..."

**Mr. Randy Hillier:** Yes, I'll get it right this time.

**The Chair (Mr. Peter Tabuns):** Me too. Keep going.

**Mr. Randy Hillier:** I move that the Standing Committee on Regulations and Private Bills recommend to the Standing Committee on the Legislative Assembly that the standing orders of the House be amended such that any member is permitted during Introduction of Bills to table a motion requesting a review and debate upon the merits of any regulation filed with the registrar of regulations.

If this motion is passed, the government will ensure the motion is debated within that session of Parliament and allow up to two hours of debate.

**The Chair (Mr. Peter Tabuns):** Would you like to speak to the motion?

**Mr. Randy Hillier:** Sure. Thank you, Chair. This speaks to the other element of the royal commission inquiry into civil rights, of keeping our committees non-partisan and recognizing that the assembly is a partisan environment. Of course, we want to keep that partisanship out of our committees as much as possible.

But once again, we as legislators have no way to look at the merits of a regulation at the present time. There is no avenue. I know there are a number of new people on this committee, first-time members of the Legislative Assembly. I'll just give my perspective of being here for four and a half years.

When legislation is adopted by the House—this applies to all parties throughout time immemorial—it is indeed called enabling legislation, and the regulations that come forth afterward are created by the ministry that is empowered with that statute. We as individuals don't ever get to comment on or discuss or review that regulatory power except for this one committee that has a very prescribed look at regulations and only those that are brought forward from counsel. So there's no means or mechanism to actually see or understand if there is merit to or unintended consequences from that regulation.

I'll say this: We're in a very unique time in this Parliament. We are in a minority Parliament. That is the exception, not the rule, in Ontario. All majority Parliaments move in a certain direction, and again, it doesn't matter what party we're talking about. All majority Parliaments move in a direction that minimizes the role of individual members of the Legislature through time. Minority Parliaments are that one opportunity—so seldom do we get it—that allows private members to move that pendulum back a little bit and be empowered to be significant representatives of their constituents.

That is my rationale behind this motion: to actually give individual members an opportunity to bring forth and discuss the merits of a regulation in the House.

Of course, we would want to put on time frames and constraints as to how many regulations would be able to be entered into the House. I don't want to presuppose that I know best, but I have looked at other vehicles to bring forward debate on the merit of regulations. I've looked at the Committee of the Whole House. I've looked at ballot day items, such as we do at private members' business. I do believe that unfettered access into the assembly, for a private member to bring a regulation forward—of course, before the debate could begin, there would have to be approval, a majority vote of members in the House, to see if indeed there is justification to debate that merit. But I do believe, in the long run, it will be far better for this institution if members have a vehicle to represent their constituents on regulations. I do believe, in the end, it will provide much better government for our constituents and a much more empowered role for members of the Legislative Assembly.

**The Chair (Mr. Peter Tabuns):** Thank you, Mr. Hillier. Is there further debate? No? Okay.

There being none, shall the motion carry? Those in favour, please raise your hand. The motion is carried.

Mr. Sergio and the clerk have had an opportunity to refine his motion, and we're waiting for copies to come, if you'll just stand by for a few minutes. Thank you.

**Mr. Mario Sergio:** [*Inaudible*] both motions, Mr. Chair. They were very similar.

**The Chair (Mr. Peter Tabuns):** We'll just circulate—I think yours are straightforward.

**Mr. Randy Hillier:** Chair, may I ask if anybody from the Clerk's office would know [*inaudible*]*—*in the subcommittee report, we asked about streaming for the Bill 16 hearings.

**The Clerk of the Committee (Ms. Tamara Pomanski):** Yes, it's actually possible, that they're going to be live-streamed. I was actually going to, in terms of—did you want all three meetings live-streamed or just the public hearings?

**Mr. Randy Hillier:** Public hearings and the clause-by-clause.

**The Clerk of the Committee (Ms. Tamara Pomanski):** Public hearings and clause-by-clause? It will be arranged with broadcast, yes.

**Mr. Randy Hillier:** Thank you very much.

**The Clerk of the Committee (Ms. Tamara Pomanski):** Just as a note, though, we're going to have to be in room 151, in our normal room, to do the live-streaming for that. They have all the technology in that room.

**Mr. Randy Hillier:** Nobody has talked about kicking us out of our room?

**The Clerk of the Committee (Ms. Tamara Pomanski):** Not yet.

**The Chair (Mr. Peter Tabuns):** You never know when the rumour will start.

**Mr. Randy Hillier:** Oh, absolutely. Absolutely.

**The Chair (Mr. Peter Tabuns):** Thank you. Mr. Sergio, if you would read into the record, “I move—”

**Mr. Mario Sergio:** Yes, I’m ready. I move that the committee write to the Attorney General and ask for his opinion on these proposed changes and that these opinions be forwarded to the Legislative Assembly committee for their consideration.

**The Chair (Mr. Peter Tabuns):** Thank you. Any further debate? You seem an agreeable group.

All those in favour of that motion? It is carried.

Our business is concluded.

We stand adjourned.

*The committee adjourned at 1001.*

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