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**Official Report
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(Hansard)**

Wednesday 1 May 2013

**Journal
des débats
(Hansard)**

Mercredi 1^{er} mai 2013

**Standing Committee on
Regulations and Private Bills**

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

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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 1 May 2013

Mercredi 1^{er} mai 2013

The committee met at 0900 in committee room 1.

The Chair (Mr. Peter Tabuns): For those who are not paying attention, good morning. Will the Standing Committee on Regulations and Private Bills come to order?

The items on the agenda are as follows: Bill Pr8, An Act respecting The Beechwood Cemetery Company; Bill Pr13, An Act to amalgamate The Sisters of St. Joseph of Hamilton, The Sisters of St. Joseph of the Diocese of London, in Ontario, The Sisters of St. Joseph of the Diocese of Peterborough in Ontario and Sisters of St. Joseph for the Diocese of Pembroke in Canada; and consideration of the draft report on regulations, 2011.

**BEECHWOOD CEMETERY
COMPANY ACT, 2013**

Consideration of the following bill:

Bill Pr8, An Act respecting The Beechwood Cemetery Company.

The Chair (Mr. Peter Tabuns): We'll now proceed to the first item on the agenda. The first item is Bill Pr8. Mr. McNeely will be sponsoring the bill.

Would the applicant please come forward? I would ask the applicant to introduce himself for the purposes of Hansard.

Mr. Richard Wagner: Good morning, Mr. Chairman. My name is Richard Wagner, and I am the agent for the Beechwood Cemetery Company.

The Chair (Mr. Peter Tabuns): Does the sponsor, Mr. McNeely, have any comments?

Mr. Phil McNeely: Yes. The board of directors of Beechwood Cemetery Company—"the company"—has applied for special legislation to amend An Act to incorporate the Beechwood Cemetery Company of the City of Ottawa. It's a very important cemetery.

The applicant represents the company that owns and operates Beechwood Cemetery in Ottawa which, in addition to serving Ottawa and the surrounding area, is the National Military Cemetery of Canada, the RCMP National Memorial Cemetery, a national historic site and the National Cemetery of Canada.

The applicant would like to amend the act to take into account changes to the law governing cemeteries, to modernize some of the provisions relating to the governance of the board of directors and to remove limitations on the borrowing powers of the company.

The Chair (Mr. Peter Tabuns): Does the applicant have any comments?

Mr. Richard Wagner: No, Mr. Chairman, except to invite all members at some point to come and visit the Beechwood Cemetery, because it is really a gem that we're building, not only for Ontario and Canada but for the community of Ottawa–Carleton.

As Mr. McNeely said, the object of this amendment—because the Beechwood Cemetery was incorporated by an act of the Legislature way back in the 19th century, we're now asking that parts of it be amended to update it to allow us to increase the board from five to 15 members, to allow more stakeholders on to the board and also to modernize a few provisions that have, over the years, become a bit stale-dated.

The Chair (Mr. Peter Tabuns): Okay. Are there any comments from the government? None. Any questions from other committee members?

Are members ready to vote? Okay.

Shall section 1, as amended, carry?

Interjection.

The Chair (Mr. Peter Tabuns): Sorry, my apologies. It's always good to have a capable Clerk steering the hand of the Chair.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

Shall section 5 carry? Carried.

Shall section 6 carry? Carried.

Shall section 7 carry? Carried.

Shall section 8 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Done. Thank you very much.

**CONGREGATION OF THE SISTERS
OF ST. JOSEPH IN CANADA ACT, 2013**

Consideration of the following bill:

Bill Pr13, An Act to amalgamate The Sisters of St. Joseph of Hamilton, The Sisters of St. Joseph of the Diocese of London, in Ontario, The Sisters of St. Joseph

of the Diocese of Peterborough in Ontario and Sisters of St. Joseph for the Diocese of Pembroke in Canada.

The Chair (Mr. Peter Tabuns): We will now proceed to the second item of business on the agenda, Bill Pr13. Mr. Crack will be sponsoring this bill.

I see the applicants have come forward. I would like the applicant to introduce himself or herself for the purposes of Hansard.

Mr. Terrance Carter: Good morning, Mr. Chair, members of committee. My name is Terrance Carter. I'm legal counsel for the four congregations. It's a pleasure to be with you today. Our purpose is to seek passage of Bill PR13 be it an act to amalgamate four congregations into one congregation, to combine with the canonical unity which has taken place back in November 2012.

What I would like to do is ask Sister Veronica, who is the congregational leader for the congregation of Peterborough, to provide a bit of background.

Before I do, I'd just like to introduce the other members of the congregations who are here with us today. We have Sister Anne Karges, who is the congregational leader for the Sisters of St. Joseph of Hamilton; as well, we have Sister Loretta, who is representing the Sisters of St. Joseph of the Diocese of London, in Ontario; then we have Sister Veronica O'Reilly beside me, to my right, who is the congregational leader of the Sisters of St. Joseph of the Diocese of Peterborough; and also Sister Mary McGuire, who is the congregational leader of the Sisters of St. Joseph for the Diocese of Pembroke in Canada.

So with your permission, Mr. Chair, I'd like to have Sister Veronica provide just a bit of background concerning the reason for the request for the legislation. Sister Veronica?

Sister Veronica O'Reilly: Thank you and thanks for the opportunity to speak here.

The Sisters of St. Joseph began their ministry here in Ontario in 1851, not far from here, down on Power Street around Queen and Parliament. There were four of them and they were very poor but they brought with them from France a 200-year-old tradition of serving the disadvantaged. Their immediate concerns here were those immigrants who faced starvation in Ireland. The orphans in particular, as well as the frail elderly, the physically and emotionally disadvantaged, were in need of shelter, health care and, in the case of the children, education.

So in Hamilton, London and Peterborough, and up at the head of the lakes and centres throughout southern Ontario, the basic social work that the Sisters began evolved into orphanages, schools, homes for the aged and hospitals. The congregation grew greatly in numbers, and in the latter half of the 19th century, foundations at Hamilton, London and Peterborough became independent congregations separated from Toronto at the instigation of diocesan bishops. In the early 20th century, the Pembroke congregation was similarly separated from the Peterborough group, which was operating schools in Pembroke diocese. The individual congregations continued in the 20th century making foundations across

Canada, and moving into the Southern Cone, Africa and China.

In the last half-century, as governments and educated laypersons assumed more and more responsibility for education, health care and social work, the Sisters moved on to other needs: refugees, chaplaincy, retreat and spiritual direction centres, environmental concerns, the homeless, the addicted, and advocacy for many justice issues.

Membership decreased as their institutional presence lessened, and our St. Joseph congregations began contemplating ways to best manage this fact so that we could continue to serve as well as possible, as long as possible. We met together over a period of three or four years to discuss the question of uniting, and the groups Hamilton, London, Pembroke and Peterborough came to the conclusion that an amalgamation of our congregations, our corporations, was a good thing. It could deepen our basic spirit of unity and help us strengthen the now smaller groups by sharing resources, community life and leadership personnel.

Besides this process of civil amalgamation, we sought canonical, or church, approval to proceed. We exist not only as civil corporations, but as approved juridical entities in communion with the Holy See. As such, we needed Rome's permission to change our juridical status. Two things were necessary for this: one was proof of approval from at least two-thirds of our membership; and the second was the same due diligence necessary for application to the provincial government.

In the spring of 2012 we applied to Rome and received canonical approval and a few months later it became operative. In November 2012, we held leadership elections and a general chapter for the combined congregations.

It's our hope that the combined approval of the church and our provincial government will enable our larger congregation to strengthen certain ministry initiatives, realize some efficiencies, and provide a stronger platform to engage the challenges that lie before us.

0910

Mr. Terrance Carter: Mr. Chair, just a couple of comments about the legislation, if I could.

The structure of the legislation has been worked on carefully in conjunction with Bonni Harden of the Ministry of Government Services. As well, we want to thank Susan Klein of legislative counsel for her assistance concerning it. We have needed to proceed by amalgamation by special legislation because of the complexities involved with the history of the four corporations, and that's set out in the preamble. It was determined to be the best course of action to have the amalgamation occur by special legislation because there were certain provisions in previous legislation that would need to be repealed. As a result, the amalgamation that is being requested by this piece of legislation will bring the four corporations together into one and then will continue the corporation as one corporation under the name of the Congregation of the Sisters of St. Joseph in Canada, and

it will be a general act corporation. It will not be a special act corporation any further; instead, it will be an amalgamated corporation under the Corporations Act. That will provide flexibility for the corporation to make other changes and to be like every other general act corporation in Canada.

The second thing we're doing by the legislation is to clarify the charitable objects, and the objects are set out in section 2 of the legislation. That better defines what the four congregations have done in the past and what they're going to do together as a single corporation. We have worked with the Public Guardian and Trustee of Ontario. We've also communicated with the Canada Revenue Agency to obtain their pre-approval concerning the objects, because the congregation will continue as a registered charity.

The last part of the proposed legislation deals with the continuation of the tax-exempt status that is currently under two pieces of private legislation, one dealing with the congregation in London, the other one dealing with the congregation in Peterborough. We have communicated with city solicitors in both cities and there has been no objection to the continuation of those pieces of legislation.

Finally, in section 7 there are repeals of certain sections and certain acts of previous legislation that are required to ensure that there is clarity in the new legislation so that it does not create any confusion in the minds of the public concerning the predecessor legislation.

Mr. Chair, that's the outline for the legislation that we're seeking today under Bill Pr13. Thank you.

The Chair (Mr. Peter Tabuns): Thank you. Mr. Crack, as sponsor, do you have any comments?

Mr. Grant Crack: Yes, thank you very much, Mr. Chair. I'd just like to welcome the four sisters and solicitor Mr. Carter to Queen's Park. As Sister Veronica had indicated, if I could quote her, this is a good thing, amalgamating into one. I think it's going to set them up well for the future. Our government will be supporting this legislation.

The Chair (Mr. Peter Tabuns): Are there any interested parties in the room who want to speak to this matter? Mr. Crack, I'll take your comments as the government comments.

Mr. Grant Crack: Thank you.

The Chair (Mr. Peter Tabuns): Are there any questions from any other committee members? Are members ready to vote? Great.

Bill Pr13: Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

Shall section 5 carry? Carried.

Shall section 6 carry? Carried.

Shall section 7 carry? Carried.

Shall section 8 carry? Carried.

Shall section 9 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? Passed. Thank you very much.

Sister Veronica O'Reilly: Thank you.

Mr. Terrance S. Carter: Thank you.

Mr. Joe Dickson: Mr. Chair?

The Chair (Mr. Peter Tabuns): Mr. Dickson.

Mr. Joe Dickson: May I say one thing? First of all, my relatives originally came from Tipperary in 1846—

Mr. Grant Crack: That's a long way.

Mr. Joe Dickson: It's a long way. The families are the McGriskins, the Kennedys, the Teefys. This young gentleman beside me, Monte Kwinter, has seen and visited with more popes than I could in my entire life, but I always say to the clergy, regardless of denomination, faith or place of worship, please always keep me in your prayers. I thank you for being here. Thank you, Mr. Speaker, for the latitude.

The Chair (Mr. Peter Tabuns): You're welcome. Thank you very much.

Sister Veronica O'Reilly: Thank you.

DRAFT REPORT ON REGULATIONS

The Chair (Mr. Peter Tabuns): Members of the committee, the next item is consideration of the draft report on regulations, 2011. Research officer Karen Hindle will introduce the report. Karen?

Ms. Karen Hindle: Good morning, members. Before I get into the report, I thought I would give you a brief overview as to the role of the committee and specifically its counsel dealing with the regulations review.

The regulations committee gets its authority from the Legislation Act as well as the standing orders. You can see on pages 23 and 24 those sources of authority. First, there's section 33 of the Legislation Act, which requires that every regulation be permanently referred to this committee and that the committee has the ability to review all of these regulations and ultimately to report to the House.

On page 24, it outlines standing order 108(i), which outlines the specific grounds upon which the committee is required to review the regulations that are made each year. I would like to note in particular that the committee is unable to review regulations based on policy grounds. Rather, the focus is on whether the government or the cabinet, depending on who was responsible for making the regulation, had the requisite authority, whether it, for instance, violates the charter, whether the regulation attempts to exclude the jurisdiction of the courts or impose a tax. There's a list of different grounds provided in the standing orders. Those factors are those which counsel, through the legislative research service, undergoes its review of the regulations each year.

So this report addresses the regulations that were made by the government during the year of 2011. In 2011, there were 468 regs that were made. This number, as you can see in the statistics from page 1 to page 3, is typical of previous years. In most cases, the government will

make approximately between 400 and 500 regulations a year. Like in previous years, the vast majority of the regulations, 345, are amending regulations. In comparison, there are much fewer new regulations and regulations that revoke previous regulations.

Page 3 outlines the totals of each of the different types of regulations. You will note, however, that there are regulations—this in 2011—that are both new and revoking. That was a designation that was put on by legislative counsel and as such we have, in compiling these statistics, adhered to the characterization made by legislative counsel.

Starting on page 4, the report outlines those regulations that were made in 2011 for statutes that had no prior regulations.

As you can see, starting on page 5, the bulk—there are 17 new regulations under the Ontario Infrastructure and Lands Corporation Act. These are interesting regulations in that while they fall under the Ontario Infrastructure and Lands Corporation Act, they actually amend regulations under other legislation. For example, O. Reg 202/11 amends a regulation made under the Education Act.

0920

Mr. Randy Hillier: Chair, just before we get on to that section—

Ms. Karen Hindle: Of course.

Mr. Randy Hillier: I just want to bring to the attention of the committee, and get your response—as we see in this report, there were 464—

Ms. Karen Hindle: Yes, 468.

Mr. Randy Hillier: —468 parent regulations that were new regulations.

Ms. Karen Hindle: Regulations, yes.

Mr. Randy Hillier: I just want to put this on the table for discussion sometime in this discussion. There's no consistency, in my view, on what regulations are and how we measure and quantify them.

If you might recall, last year, as Minister Duguid at the time mentioned, we had 484,000 regulations. Later on, that was qualified into 484,000 regulatory steps. We also heard that there were 80,000 regulatory steps removed, even though we've had some difficulty finding out what those particular regulatory steps were.

I think it would be wise for this committee to maybe look at how we measure and quantify regulations so that we have some consistency in what a regulation is, and an easy manner and mechanism on how to measure them that gives us a clear view of what is happening with the Legislative Assembly and our laws. Clearly, when we state something like there were 468 regulations created but we had 84,000 regulatory steps removed—we can see what these parent regulations are, but it's difficult to see what these regulatory steps are.

I think it would be good for the public at large, for their knowledge and their awareness, but I think it also would be great for all members of the assembly that we have a consistent fashion on what a regulation is and how it's measured.

Comments?

The Chair (Mr. Peter Tabuns): Well, Mr. Hillier, today what we're doing is just going through this. If you want to bring forward, at our next meeting, a proposal for research, for reporting by legislative counsel, I would be happy to have that, as—

Mr. Randy Hillier: Sure. Yes, I just wanted to put that on the table while this report was going on.

The Chair (Mr. Peter Tabuns): Sure.

Mr. Randy Hillier: Maybe I'd ask right now if we could have the Clerk do some research for our next meeting on how different jurisdictions measure and quantify regulations, and if there is any consistent yardstick that is used.

The Clerk of the Committee (Ms. Tamara Pomanski): That would be a research request.

The Chair (Mr. Peter Tabuns): Yes. And I gather from the committee there's no objection to having that sort of research done. Is that correct? Fair enough. Research to be done.

Ms. Karen Hindle: Thank you, Mr. Hillier.

Starting on page 6, the report outlines those regulations that, in the estimation of counsel, should be considered by the committee for reporting.

Counsel, on behalf of the committee, wrote to 10 ministries about the 2011 regulations and, in particular, about 15 regulations. We received responses to all of our letters, but there remain four regulations that we continue to have concerns about and that we would propose that the committee consider reporting.

The first of these regulations is Ontario regulation 30/11 under the Funeral, Burial and Cremation Services Act, 2002. This falls under the Ministry of Consumer Services. In this case, there is a provision in the regulation which is virtually identical to a provision in the parent legislation. We contacted the ministry and informed them of this duplication. They acknowledged that this was an error and that they would address the duplication. However, as of early April, this has not occurred.

As a possible recommendation, we suggested that the committee recommend that the Ministry of Consumer Services address the nearly identical provisions in section 171 of O. Reg 30/11 and section 101.1(1) of the Funeral, Burial and Cremation Services Act, 2002.

On page 8, we raise concerns about O. Reg 137/11—

The Chair (Mr. Peter Tabuns): Excuse me, Ms. Hindle. What we're going to do is consider recommendations one by one. We appreciate that.

Do members have any comments on this report or questions for legislative research regarding this recommendation?

Mr. Bill Walker: Mine would just be a friendly amendment to the recommendation that we put some date stamp on there, because my fear is this again could be another two or three or 25 years before we ever get it done. I don't know what a fair time frame is, but the very minimum, I think by December 21, 2013, would be a date that we should strive for.

The Chair (Mr. Peter Tabuns): You've moved that amendment.

Are there any other comments or questions?

Mr. Joe Dickson: The focus was on the words "strive for."

Mr. Bill Walker: "Shall."

The Chair (Mr. Peter Tabuns): Shall.

Mr. Joe Dickson: "Shall" makes it—

Mr. Bill Walker: Well, at some point we've got to get it done—

The Clerk of the Committee (Ms. Tamara Poman-ski): Sorry, Mr. Walker. There is an option, after we get through the whole report, that when you agree to the report and the Chair presents it to the House, we can recommend to the House we want a response back within 120 days. That means that then a letter would be sent on behalf of the Chair, so each recommendation, moving forward—that could be an avenue of getting a response back from the ministry. And we did that in the past, last year, as well.

Mr. Bill Walker: I'm acceptable of the 120 days. Thank you.

The Chair (Mr. Peter Tabuns): The mechanism works? Okay. So we'll go back to this. Are there any other questions for Ms. Hindle on this item? Any further debate regarding the recommendation?

All those in favour? All those opposed? Being none, carried.

On to the next recommendation.

Ms. Karen Hindle: The second regulation that counsel had concerns about was Ontario regulation 137/11, registration under the Chiropractic Act, 1991, which falls under the jurisdiction of the Ministry of Health and Long-Term Care. In this particular case, there are two provisions which we identified as potentially problematic, so perhaps, Mr. Chair, I will address section 18(2) and then go on to section 18(3). Is that all right?

The Chair (Mr. Peter Tabuns): Fine by me.

Ms. Karen Hindle: Now, O. Reg 137/11 is a new regulation made by the council of the College of Chiropractors of Ontario under the Chiropractic Act. This regulation deals with the registration of members of this particular college. So section 18(2) addresses the automatic revocation of members who have failed to pay their annual fees. Section 18(2) provides that the college will revoke a suspended member's certificate of registration if it has been "more than two years from the date of the suspension."

Counsel, in its letter to the ministry, expressed concern that the phrase "more than two years" was unclear, in that it suggests that at any time beyond the two years, a member's certificate could be revoked. By way of an example, we provided the language which is enunciated in the Midwifery Act, which provides that a certification of registration will be revoked "one year after the day of suspension." So what counsel had suggested to the ministry was that in comparison to this specific language, which provides a date upon which it will automatically

be revoked, that the council of chiropractors instead chose much more general language.

According to the ministry, it is the intention of the college to automatically revoke a suspended member's certificate of registration two years to the date of their suspension, but it remains our concern that this isn't entirely clear upon reading through section 18(2). The ministry suggested that there hadn't been any complaints about the language of section 18(2), but despite that, counsel felt that the language could be revised or tightened in order to make it clear to members of the college, as well as members of the public, the circumstances under which a chiropractor's certificate of registration would be revoked.

0930

The Chair (Mr. Peter Tabuns): Are there any questions or comments on this draft report? Ms. Wong.

Ms. Soo Wong: Thank you, Mr. Chair. I just want to get some clarification. Are other colleges having a specific date or—because I'm hearing from the report that the Midwifery Act is more specific, whereas the College of Chiropractors is not. How about the other colleges?

Ms. Karen Hindle: It was our sense that most of the other colleges were providing more specificity. But if you would like, we can go back and take a look, for example, at the doctors, the dentists, other health professionals to be able to identify the specific language they use in order to determine whether this is sufficient.

Ms. Soo Wong: The other thing I would be very—I'm not sure of other members; I'm just going to speak for myself. What was the rationale for the College of Chiropractors—it's their college that is responsible for this kind of determination because they're self-regulated. How did it come about, when they proposed the automatic revocation of the members, that it came to be for more than two years' suspension compared to other self-regulated disciplines?

That's really important because this is a self-regulated body. I would not want any government, whether it's ours or anybody, telling them what to do. Second of all, it would be important for us to look across the board, because why has one discipline decided two years, another discipline one year, another discipline—like, do we have uniformity? Why has one particular college that is self-regulatory decided to go this very relaxed way to deal with their members?

Ms. Karen Hindle: The committee can't specifically address the amount of time upon which a certificate can be revoked. That would be a policy matter that would fall solely within the discretion of the college and probably in consultation with the ministry. However, it was our feeling that if the college, which we found out through the ministry had indicated that it was their intention to revoke certificates of regulation the second anniversary upon the suspension of that particular member—that if that is in fact their policy or their approach, they should make it clear in the language of the regulation.

But that being said, I would be happy to go back and take a look and see what language other colleges have

used. It was my sense that other regulatory bodies or other health profession colleges had used much more specific language than the chiropractors had.

Ms. Soo Wong: Thank you very much.

The Chair (Mr. Peter Tabuns): Mr. Walker?

Mr. Bill Walker: A point of clarification, and I may then have another comment once I have that answer, if I could, Mr. Chair.

Your recommendation—I support what you’re doing. I’m just questioning, is there a reason from a technical side that you’re not more specific? My thinking would be that we would just make the recommendation change, that the revocation automatically takes effect the day after the two-year anniversary of the member’s suspension. Then you’ve already got your date; it’s clear and it’s done. Yours is a little bit still ambiguous the way it’s written, and I just needed clarification on why.

Ms. Karen Hindle: I think the reason why we have included something that was more general was to give the opportunity to the ministry and the college to be able to craft their own language that they felt more comfortable with, but at the same time identifying the particular problem with the language as it already exists.

Now, if you would like us to be more specific in our recommendation, we’re happy to do that.

Mr. Bill Walker: I mean, it’s obviously the point of the committee, but my suggestion would be, let’s be specific and get this thing done and behind us and move on to some more stuff because, to go back, they’re just going to come back again.

The Chair (Mr. Peter Tabuns): You have an amendment to move—

Mr. Bill Walker: I would amend that the committee recommends that the Ministry of Health and Long-Term Care amend regulation 137/11 of the Chiropractic Act, 1991, to state that revocation automatically takes effect the day after the two-year anniversary of the member’s suspension.

The Chair (Mr. Peter Tabuns): I will take that on board as an amendment. Are there any other amendments? Does the committee agree to that amendment? Agreed.

Is there any further debate regarding the recommendation as a whole? None? All those in favour of passing this recommendation, as amended? Opposed? Carried.

Will you read out the amendment, please?

Ms. Karen Hindle: The committee recommends that the Ministry of Health and Long-Term Care amend section 18(2) of O. Reg 137/11 under the Chiropractic Act, 1991, to state that revocation automatically takes effect two years after the date of suspension.

The Chair (Mr. Peter Tabuns): That’s my understanding of it. Mr. Walker?

Mr. Bill Walker: Yes, I used the words “the day after the two-year anniversary,” but—

Ms. Karen Hindle: Okay, two years after—

Mr. Bill Walker: Of the member’s suspension.

Ms. Karen Hindle: Okay.

The Chair (Mr. Peter Tabuns): Okay. Ms. Hindle?

Ms. Karen Hindle: Section 18 goes on to a further subsection, which provides the circumstances in which a member whose certificate has been revoked can apply to be reinstated. In this particular case, the counsel on behalf of the committee expressed concern about two potential issues related to subsection 18(3).

The first one was that counsel questioned the payment of the amounts that the College of Chiropractors requires for an individual to apply for reinstatement. Under this particular regulation, a member whose certificate has been revoked, as a condition of application, not as a condition of reinstatement, has to submit an application as well as pay all of those monies of annual fees that they would have otherwise incurred had they been a member of the college during that particular time. According to bylaw 13 of the College of Chiropractors of Ontario, this amount is \$1,050 each year. By way of example, if a member’s certificate had been revoked for, say, a period of three years, as a condition of application they would have to pay over \$3,000 as well as any applicable penalties and fees, which are not specified in the regulation itself. So counsel approached the ministry and asked whether it was, in fact, a condition of reinstatement or whether it was a condition of application. Counsel for the ministry said, “The amounts to be paid relate to a member’s application for reinstatement. The provisions do not provide that every application for reinstatement will be granted. A person whose certificate was revoked under the regulation and who applies for reinstatement is required to pay the amounts set out in the subsection, whether or not his or her application is successful.”

In this particular case, we are constrained in that we cannot comment on the policy that is underlying the decision of the College of Chiropractors to require its former members to pay these amounts as a condition of application. But we would recommend to the committee that it consider requiring the college to make it clear that those monies are a condition of application, not of reinstatement, and that the counsel, in consultation with the ministry, consider whether or not this is, in fact, a tax that goes beyond what the regulatory costs would be to consider a former member’s application.

The ministry, in response to our concern about whether or not this constituted a tax, said that the payments were not unreasonable and that the ministry does not consider it to be a tax.

0940

According to the ministry, “The provision’s requirement to pay these amounts is the result of non-compliance with the regulatory scheme and is part of the process for an application for reinstatement. As such, the amounts are neither excessive, nor do they impose anything in the way of a tax on a member in these circumstances.”

Despite the ministry’s letter, which attempted to explain the conditions under which these payments would be made, and the ministry’s opinion that these amounts are not unreasonable, counsel nonetheless remained concerned about this. Despite the fact that apparently no

former members have complained about this, this is perhaps something that the college, in consultation with the ministry, should reconsider.

For example, under the Dentistry Act, a former member would only have to pay fees for those years in which they practised. That is an example of a different approach that was used by a different regulatory college. It doesn't mean that the College of Chiropractors has to adopt this particular approach; rather, counsel is recommending to the committee that it consider putting forward a recommendation that they go back and look at this again.

The Chair (Mr. Peter Tabuns): The recommendation is here before us. Does anyone have questions or comments—questions for the researcher, comments on this process? Mr. Kwinter.

Mr. Monte Kwinter: I'd just like clarification. I think in your comments you said that whether their application is accepted or not, they have to pay the fee.

Ms. Karen Hindle: Yes, that's right.

Mr. Monte Kwinter: It would seem to me that if someone has had their certificate suspended and they've been away for two years, and they have to pay to be able to leave when they're already suspended—I don't quite understand the rationale behind that.

Ms. Karen Hindle: What would happen is, if a member had been suspended, and then subsequently their registration was revoked, say five years down the road they decided, "Oh, actually, you know what? I want to be a chiropractor again," and they were to apply to the college for reinstatement, at that point they would have to pay as a condition of application, regardless of whether or not their application was successful, the amounts for each of those years in which they didn't practise, as well as fees and penalties.

Mr. Monte Kwinter: Well, that's where I have the problem. I can understand if they had been absent for five years and they say, "If you want to be reinstated, you're going to have to pay all of the back fees that you would normally have to pay." But if you apply and they say, "Sorry, we're still not accepting you, but you've got to pay the five years anyway even though you've been suspended"—I don't quite understand—which means you literally have to pay to quit, whereas it would seem to me that the way to do it is you pay to get reinstated, but you've got to pay up all your arrears.

Ms. Karen Hindle: From what I understand, this was a policy choice made by the college, that it requires these payments. You're right that regardless of if a member's application is successful or not—they could pay, for example, \$5,000 only to be told—

Interjection: "Sorry."

Ms. Karen Hindle: —"Sorry."

The Chair (Mr. Peter Tabuns): So in your recommendation, you try to clarify that exact problem.

Ms. Karen Hindle: Yes.

There is also one other issue.

Interjection.

Ms. Karen Hindle: Sorry, I—

The Chair (Mr. Peter Tabuns): Go ahead, and then I'll take Mr. Walker.

Ms. Karen Hindle: Okay. In our original letter to the ministry, we also questioned whether or not the college had the requisite statutory authority to be able to pass one small element of section 18(3), and the ministry didn't actually address that particular concern. That is addressed in the third paragraph of the proposed recommendation, so I do think that that should be included as well.

The Chair (Mr. Peter Tabuns): Okay. Mr. Walker.

Mr. Bill Walker: Mine is a point of clarification. I apologize again. This is all relatively new to me, so I'm just trying to make sure I understand. I think what you said earlier is if it's a policy decision of the governing body, we really can't get into that. So that \$1,000 fee, or whether it was a \$5,000 fee, doesn't really matter.

But what you're suggesting to me currently is if I was a chiropractor and was suspended and sat out for five years, I would have to pay that \$1,050 fee for five years upon my wishing to be reinstated, with no guarantee whatsoever that I would be reinstated, yet I've received nothing for that five years because I didn't practise. But we can't comment on that portion?

Ms. Karen Hindle: You're right. We cannot comment on the policy decision to charge the \$1,050 a year, but what the committee can do is suggest that it might take the form of a tax and that it goes beyond the costs that the college would need in order to process the application.

The other piece of that is that the regulation, in our view, should make clear that the payment is a condition of application and not a condition of reinstatement, so that individuals know that the amounts that they're paying—they're taking a chance, and they could end up out of pocket, without reinstatement, in the end.

The Chair (Mr. Peter Tabuns): Mr. Walker, any further comments or questions?

Mr. Bill Walker: No. That's helpful. Thank you.

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

Mr. Randy Hillier: Yes, I might just add a comment, hopefully for clarification. I agree with the recommendations. I've known many professionals who have decided to leave the country for a year or two or do other things. We want to make sure that the province is welcoming for people to get back to work as well, when they decide to come back to work. So I'm all in favour of that.

I think the key point here is, there can be a fee for an application to be reinstated. But if the fee can be many different—it can be \$1,000 or \$5,000 or \$10,000—then it can be viewed more as a tax than an application fee. So I think the chiropractors may have a little—I think, for clarity, this is what we should do: Proceed with this recommendation.

The Chair (Mr. Peter Tabuns): Okay. Any other commentary? Yes, Mr. Dickson?

Mr. Joe Dickson: Just a clarification, Mr. Chair, if I could: The college is the governing body, and that's the college's policy—

The Chair (Mr. Peter Tabuns): Can you bring your microphone down a bit? You're just a bit faint to my ears.

Mr. Joe Dickson: Sorry. The college is the governing body, and that is their policy. Correct me if I'm wrong. So we could make a recommendation, but we certainly have no authority. Does the Ministry of Health have jurisdiction over that?

Ms. Karen Hindle: My understanding is that the colleges consult with a ministry when developing these regulations, but—

Mr. Joe Dickson: I said "Ministry of Health"—any particular ministry, you know.

Ms. Karen Hindle: But I don't know whether there is a government body that oversees the colleges. I do believe that the ministry or the government tends to have representatives on the council or whatever the governing body is of a particular professional organization. But in fact, I don't know whether the ministry or another government entity, in fact, has oversight, I guess, or the ability to direct the college.

Mr. Joe Dickson: Okay. Just a hypothetical case, Mr. Chair: I'm just trying to think—if it was later in life, and I was a doctor of chiropractic, and my wife became very ill, I would even shut down my business to spend two or three years with her while she was still here. So I would have those fees to pay for each of those years, even though I'm not working.

Somewhere down the road, I might meet another lady—God strike me, if my wife ever came down from heaven and hit me—but she might recommend that I go back to work and make some money so she can live modestly.

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Is there a way around that? I see some heads over there and I know that—either side of me—they're saying there's a problem there. Can you make a recommendation?

Ms. Karen Hindle: Well, in this case, the provision that's of particular concern only deals with those members who have been suspended for failure to pay fees. And then, as a result of their continued suspension beyond two years, their application has been revoked. I would think—and I would have to go back to the original regulation—that the college probably has other provisions dealing with members who sort of voluntarily choose to withdraw their membership for a period of time. So they might take a leave of absence—to be honest, I don't know. It has been some time since we originally went through this regulation, but it is something that we can do.

The Chair (Mr. Peter Tabuns): May I say, Mr. Dickson—and I may be corrected by eminent people on either side of me—there seemed to be problems with the way the regulation was written. We can't actually rewrite the regulation, but we can make recommendations saying, "We think you have a problem here." And there seems to be a problem in that there's a lack of clarity, that people don't know that the money they pay is not

automatically going to reinstate them. It's just the price of consideration.

There's concern that the back payments may be onerous and unjustifiable and that needs to be looked at. And there's concern here that there may be a lack of statutory authority for one particular piece.

So if we adopt this recommendation, we're going to go back to, I assume, the Ministry of Health and say, "This committee has reviewed this. We think there are problems here we want you to reconsider."

We can't correct an awful lot of problems, but where we see there is an issue, we can bring them to the attention of those who are involved in the decision-making.

I'm going to go to Mr. Kwinter and then Mr. Walker.

Mr. Monte Kwinter: Just on a practical matter, I can understand if you want to get reinstated, there's a fee. Whatever that fee is—it could be onerous; it doesn't matter—you do it. Your application gets turned down. What method do you have to collect that money? What leverage do you have to say to him, "You've got to pay for it or we're going to sue you for not being accepted"?

The Chair (Mr. Peter Tabuns): I'll let Ms. Hindle respond to that, but that's not really within our range of consideration at this point.

Ms. Karen Hindle: No. What happens is that the regulation—like you said, it provides that in order to apply, you must pay these fees. You can get turned down, and the college will hold back the fees.

Now, I understand that colleges do have I guess what would be considered an appeals process in the event that somebody is unhappy with a decision that is made by the college. But I'm not entirely clear that somebody could go through the courts in order to recover those monies, specifically since the regulation provides that, essentially as a condition of application, you're required to pay these fees. So they would be out that money.

Mr. Randy Hillier: Yes, I think that—

The Chair (Mr. Peter Tabuns): Sorry, Mr. Hillier, I think I have Mr. Walker ahead of you, and then I'm happy to go to you. Not a problem.

Mr. Bill Walker: I'm happy, Chair, to defer to Mr. Hillier on this note. Mine's more to the amendment, so once we're ready to explore the amendment, I just want to—

The Chair (Mr. Peter Tabuns): Okay, Mr. Hillier, if you have a comment.

Mr. Randy Hillier: I guess that's what it just comes down to: It provides clarity. The recommendation provides clarity to somebody putting out that money that this is not a reinstatement fee; this is an application fee and is subject to loss. So it provides that clarity to the individual engaging in the process.

The Chair (Mr. Peter Tabuns): Mr. Walker.

Mr. Bill Walker: Thank you, Mr. Chair. Mine would just, again, be a friendly amendment to the existing recommendation that we add that 120-day time limit to it.

The Chair (Mr. Peter Tabuns): I'll do that in bulk, for everything.

Mr. Bill Walker: Great, thank you.

The Chair (Mr. Peter Tabuns): I am assuming there's no further debate. All those in favour of adopting this recommendation, please raise your hands. Opposed? Carried.

Ms. Hindle.

Ms. Karen Hindle: Now, the next regulation falls under the jurisdiction of the Ministry of the Attorney General. It's Ontario regulation 147/11 (General—Games of Chance Held Under a Licence) under the Gaming Control Act. In this case, 147/11 amended the original or parent regulation, which was 197/95 under the Gaming Control Act. It's interesting in that 147/11 is just a housekeeping amendment; all it does is remove references to “of Alcohol and Gaming.” Rather than having “Registrar of Alcohol and Gaming” in the regulation, it provides just the term “Registrar.”

However, in reviewing this particular regulation, we identified a problem with the parent regulation. As I mentioned, in the standing orders every regulation is permanently referred to this committee, so it doesn't matter that the original regulation might have been made in the 1990s. This committee has the ability to review all regulations, no matter at what time they were made.

In this case, counsel identified a problem with one of the sections, because it provided that registered gaming services suppliers must implement an internal control system that complies with policies established by the registrar. In this case, we were unable to find sufficient statutory authority to require gaming services suppliers to, in fact, do this.

In response to counsel's questions, the ministry provided sections in the act that it felt provided sufficient statutory authority for the internal control systems. However, counsel, upon reviewing those regulations, nonetheless felt that this remained an issue—that there wasn't explicit statutory authority to do so.

There isn't a recommendation for this particular regulation, because in 2012, the parent regulation, 197/95, was in fact revoked. In some respects, it's a bit of a moot point in that this issue no longer exists, because the original regulation no longer exists, but that being said, counsel thought that it was of sufficient concern that it should be reported, in particular, that the sections cited by the ministry as sufficient for statutory authority—that perhaps the committee did not agree that that, in and of itself, was enough.

The Chair (Mr. Peter Tabuns): Is there any recommendation here for us?

Ms. Karen Hindle: No.

The Chair (Mr. Peter Tabuns): No.

Are there any questions on this section before we go to the last recommendation? There being none, thank you.

Ms. Karen Hindle: The last regulation that might potentially be reported is Ontario Regulation 430/11 (Forms) under the Land Titles Act. This falls under the jurisdiction of the Ministry of Government Services. This forms regulation requires that applicants who are seeking to register an inhibiting order in a non-electronic format provide any evidence that the director of titles or land registrar may require.

In other words, in making an application, the registrar can require under the regulation as it exists now that the applicant provide certain types of evidence. This all deals with land titles. Now, the problem is that in this case, the regulation was made by the director of titles. Unfortunately, the act does not permit the director of titles to make this type of regulation; rather, it has to be made by the minister.

Interjection: The minister?

Ms. Karen Hindle: Yes, that only the minister has the authority to make regulations governing evidence. As a result, counsel wrote to its counterparts at the Ministry of Government Services and identified this problem. The counsel for the ministry acknowledged that this was an error and informed us that they intended to remake this particular provision. However, as of early April, this provision has not been remade, so there remains an outstanding concern about the statutory authority for section 14(1).

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The Chair (Mr. Peter Tabuns): Thank you. Are there questions? Commentary?

All those in favour, please raise your hand. All those opposed, please raise your hand. Carried.

Thank you for going through that report for us. Shall the draft report, including recommendations—

The Clerk of the Committee (Ms. Tamara Poman-ski): As amended.

The Chair (Mr. Peter Tabuns): Ah, sorry; thank you. Shall the draft report, as amended, including recommendations, carry? Mr. Walker?

Mr. Bill Walker: Chair, may I ask a point of clarification?

The Chair (Mr. Peter Tabuns): Yes.

Mr. Bill Walker: The rest of the report that's here—for example, I'm looking at Regulations Reported in First Report 2010—

The Chair (Mr. Peter Tabuns): Yes.

Mr. Bill Walker: I'm looking at the current status: “As of the time of writing, the ministry has not amended section 2 of O. Reg 282/98 to include either property class.” I'm just questioning, are we not doing any action with this to get these finalized and finished? By accepting the report, my concern is we're not taking any action on these ones that are still outstanding.

The Chair (Mr. Peter Tabuns): Okay. Could you speak to that, Clerk?

The Clerk of the Committee (Ms. Tamara Poman-ski): Yes, as I mentioned last year, we agreed as a committee to report back and to report to the government, so we sent out letters recommending them to change things. I think we've heard back from all ministries based on all the recommendations. Is this the one that—was that their response?

Ms. Karen Hindle: No. We went back as far as the April 2010 report—that goes back, for regulations, as far back as 2008—in order to follow up, I guess, on the committee's original recommendations and to determine whether or not the ministry had, number one, responded

by way of a letter, but also whether or not they had addressed the underlying recommendation. So each of these sections outlines those regulations that were addressed in a prior report. It provides the recommendation that was made by the committee, the initial ministry response and the current status.

Mr. Walker, you're right that there are circumstances in which the ministry might have committed to do something; for example, with the Assessment Act, which is the first entry on pages 13 and 14, where they said that they intended to amend the regulation by prescribing the residual property class and the resort condominium property class as classes for the purposes of the act. However, to date, they have not done so. There are also other situations where a ministry has said, "We've taken your recommendation into account and we don't agree." So, obviously, they have not taken any further action on that, but there are circumstances where the ministry has indicated that they intend to follow up on the recommendations that were made by the committee, but they have not yet done so.

Mr. Bill Walker: My question of clarification is, within the scope of this committee, is it within our wherewithal to actually go back to these and request that ministry, again, with a timeline, to have that done? Otherwise, to me, we just continue adding to the churn. We ask for a report, we get it and they do nothing. We come back a year later, we ask for a report, they give it and we do nothing. When does this act ever get actually enacted or the revisions enacted?

The Chair (Mr. Peter Tabuns): I ask the Clerk for her advice in this matter.

The Clerk of the Committee (Ms. Tamara Poman-ski): I'd have to double-check, but I'm under the assumption that we can only recommend to the ministries to do something. I don't think we have the jurisdiction to tell them what to do; we can recommend. So, if you notice in the recommendation, "the committee recommends"—I know, going back, actually, Mr. Walker, when you were talking about 2010, I was referencing when I was speaking with you and I got confused; it was 2012. So, last year when we met there were six, I think, recommendations. We sent out responses or letters asking them to revise their recommendations based on our recommendations. I think we heard back from every single one and I think all of them were changed—Karen?—or close to it. There was a response with a lot of them.

Ms. Karen Hindle: Most of them, I think, were, but I don't believe all of them.

The Chair (Mr. Peter Tabuns): Did you have a further follow-up on that?

Mr. Bill Walker: Well, I guess, having received that information, I think I would be prepared to put a motion that we, as a committee, send to any of those that are outstanding and have not been enacted a recommendation that we would like to see them either implemented within a time period or have a reason why they have not.

The Chair (Mr. Peter Tabuns): Could you—

Mr. Bill Walker: Write that up? Sure.

The Chair (Mr. Peter Tabuns):—draft that? Will you draft that? In the interim I'm going to have Mr. Hillier and Mr. Dickson.

Mr. Randy Hillier: Yes, I just thought for clarity it might help—this draft report, we've gone through a portion of it for 2011, the regulations for 2011, but there's all this subsequent material in here as well. If we took the opportunity sometime to go through the rest of the report for the regulations that start on page 13 and continue through, and maybe at that time, after we get a little bit more understanding and clarity of what remains outstanding, we provide either further recommendations to the ministry or table a report to the House at that time that there are a number of outstanding concerns that have not been addressed by ministries.

The Chair (Mr. Peter Tabuns): Mr. Walker, have you drafted your amendment?

Mr. Bill Walker: I have not, and I am amenable to further review. Then I will create a recommendation for the next meeting.

The Chair (Mr. Peter Tabuns): Okay, because I think where we're going is we may want to hold this down, come back and do that review.

Mr. Dickson.

Mr. Joe Dickson: I'm probably saying the same thing they are—just that if you do a piece of business/professional correspondence back to them—asking them for an update within 90 days, and proceed from there.

The Clerk of the Committee (Ms. Tamara Poman-ski): For all the outstanding—Karen, do you want to clarify—

Ms. Karen Hindle: Yes. We have received letters in respect of most of these. We could write letters dealing with those recommendations that were not addressed in some form. So either a ministry could have gotten back to the committee to say, "We do not agree. We still believe that it's valid"—that situation is different than another ministry or another situation where a ministry has said, "We agree that there is a problem here. We should change it," but then they never did.

We would be happy to send letters for the latter situation.

Mr. Joe Dickson: And that would be carte blanche. Whatever is outstanding should be done so that the committee has all of that information at their fingertips.

The Chair (Mr. Peter Tabuns): Would that satisfy the members of the committee, writing to all of those ministries where action is outstanding and asking for a report back, given that they have promised, in a number of cases, to take action and have neglected to do so?

The Clerk of the Committee (Ms. Tamara Poman-ski): Based on from what year to what year?

The Chair (Mr. Peter Tabuns): Well, I would say from 2010 forward.

Ms. Karen Hindle: From the report that was—

The Clerk of the Committee (Ms. Tamara Poman-ski): From your reporting list?

The Chair (Mr. Peter Tabuns): From the reporting list. Sorry, the 2010 report refers back to—

Ms. Karen Hindle: To 2008.

The Chair (Mr. Peter Tabuns): —to 2008-09, but from the reporting list, 2010 forward.

Mr. Randy Hillier: I would just say we don't mind looking at it. It appears that the second half of that 2010 report—most of the stuff has been dealt with, but there are just a few that remain outstanding. We may want to consider what the actual response has been from the ministries on those that are still outstanding.

The Chair (Mr. Peter Tabuns): In this case, simply sending a letter at this point saying “We want you to respond” is not the direction you want to go in. You want us to come back and look at the responses we received to date.

Mr. Randy Hillier: Yes, and maybe I'll just put this to the committee. The last one that's on page 21, for example, from the Pharmacy Act: We raised concerns about the Charter of Rights and Freedoms, and the response from the ministry—I'm sure there was far more response than what is shown here, but it basically just said, “We don't consider that that's a charter violation and we're not acting on it.” I think it would be proper for the members of the committee to actually review some of this response in detail before we—

Interjection.

Mr. Randy Hillier: Yes.

The Chair (Mr. Peter Tabuns): Okay. I think I have a sense from the committee, then, to hold this down. We aren't adopting this report at this time. We're going to come back. We're going to go through the outstanding items of business, consider those and a course of action. Is that a fair summary? I'm not seeing any violent disagreement. We will hold that over, given our proximity to question period.

Mr. Randy Hillier: May I ask one additional question? On page 23, you have section 33 of the Legislation Act, and just for clarity here, if the Clerks could give us some—subsection 4 refers to, “The standing committee may examine any member of the executive council or any public servant designated...” For clarity, does that public servant mean someone who is in the broader public service? I'll give you an example: somebody who works for a local public health unit but is administering provincial regulations. Would that person qualify?

The Clerk of the Committee (Ms. Tamara Poman-ski): Mr. Hillier, I'd have to get back to you on that one.

Mr. Randy Hillier: Okay, if you'd just—and also, one other question: if there is a provincial administrator

who's also possibly administering federal regulations, if that includes federal acts.

The Chair (Mr. Peter Tabuns): Mr. Walker.

Mr. Bill Walker: A point of clarification, Mr. Chair: By not adopting or approving this report in its entirety today, because we have further work to do, does that negate any action happening with the recommendations? My concern would be that we want that clock to start ticking as quickly as possible on that 120 days.

The Chair (Mr. Peter Tabuns): Yes, it's on hold until we adopt the report as a whole.

Mr. Randy Hillier: We'll be back next week?

The Chair (Mr. Peter Tabuns): We can be back next week

Mr. Bill Walker: If not, then I think we should take a look at parcelling those pieces out so we can move those forward and get those clocks ticking. But if we're going to meet next week, we can address it then.

The Chair (Mr. Peter Tabuns): I would suggest we meet next week. A week is not going to make that big a difference and we can see how far we can get.

Mr. Bill Walker: Sure. Thank you.

The Chair (Mr. Peter Tabuns): There being no further business—Mr. Dickson?

Mr. Joe Dickson: Just a question: We are going to do correspondence?

The Chair (Mr. Peter Tabuns): That is going to be decided by this committee when it comes back in a week, because there are a number of questions that have arisen about this. So before we send out letters, let's have the committee meet and work issues through; hopefully at that point, we will clarify our course of action, adopt this report, and letters, in some instances, will go out.

Mr. Joe Dickson: Just because if there's close to 500 pieces we may look at, I'm not interested in looking at them. I'm interested in looking at those that may be of question, and that might be three or four or five or six.

The Chair (Mr. Peter Tabuns): For clarification—

Mr. Joe Dickson: I'm not interested in spending a few months on this.

The Chair (Mr. Peter Tabuns): Maybe I am unwise in making this prediction, but I don't think this committee will look at 500 regulations. I think this committee will look at the four that we were looking at for the year before and the ones that are included in the report.

Mr. Joe Dickson: Thank you, Mr. Chair.

The Chair (Mr. Peter Tabuns): I understand your concern, Mr. Dickson.

This committee stands adjourned.

The committee adjourned at 1013.

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