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Wednesday 24 February 2016

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des débats
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Mercredi 24 février 2016

**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 24 February 2016

Mercredi 24 février 2016

The committee met at 0901 in committee room 1.

The Chair (Ms. Indira Naidoo-Harris): Good morning, everybody. The Standing Committee on Regulations and Private Bills will now come to order. We're here this morning to consider three private bills that will be followed by consideration of the draft report on recommendations made in 2014. But first, we're going to get started with the three private bills this morning.

**ASSOCIATION OF MUNICIPAL
MANAGERS, CLERKS AND
TREASURERS OF ONTARIO ACT, 2016**

Consideration of the following bill:

Bill Pr32, An Act respecting the Association of Municipal Managers, Clerks and Treasurers of Ontario.

The Chair (Ms. Indira Naidoo-Harris): We're going to ask the sponsor and the applicant for Bill Pr32 to come up and take a chair at the front here and introduce yourselves, please.

Thank you. Good morning. Would the sponsor please make any comments and introductions?

Ms. Eleanor McMahon: Good morning, Chair. It's my pleasure to introduce to you here today, and to the committee, Chris Wray, president of AMCTO, as well as Jody E. Johnson, solicitor.

The Chair (Ms. Indira Naidoo-Harris): The applicant: Do you have any comments that you'd like to make?

Mr. Chris Wray: Good morning. Thank you very much for seeing us here today and considering our bill. Special thanks to MPP McMahon, who has generously offered to sponsor the bill. My name is Chris Wray and I'm the president of the Association of Municipal Managers, Clerks and Treasurers of Ontario, or AMCTO. To my right is Jody Johnson, who is our legal counsel. Jody will soon speak to our act, but for context, I'd like to give you just a quick sense of who we are and what we do.

AMCTO is a self-regulating organization that fosters and sustains municipal professional excellence. AMCTO is Canada's largest voluntary association of local government professionals and the leading professional development organization for municipal administrative staff.

The association provides leadership, education and services to the municipal profession through its accreditation programs, learning opportunities, governing and

discipline mechanisms, and government advocacy work. In this way, we advance skill development for municipal professionals and fulfill a public protection function as well.

Our organization represents about 2,400 municipal professionals across the province of Ontario with membership in all of the 444 municipalities. We also work closely with other associations: staffing associations such as the Municipal Finance Officers' Association and political organizations like the Association of Municipalities of Ontario, Rural Ontario Municipal Association, Ontario Good Roads, etc.

Ms. Jody Johnson: Thank you very much, Chris. Thank you very much for your sponsorship of the bill this morning. It's greatly appreciated.

The AMCTO has applied for special legislation to re-enact its governing act. As a brief bit of background, the association was originally incorporated by letters patent dated November 20, 1962, under the name of the Municipal Clerks and Finance Officers Association of Ontario. It changed its name by supplementary letters patent dated October 8, 1965, to the name of the Association of Municipal Clerks and Treasurers of Ontario, and it was continued under that name by the Association of Municipal Clerks and Treasurers of Ontario Act, 1985.

The association changed its name to its current form by supplementary letters patent dated February 17, 2000, but it still goes by the acronym known around the province as AMCTO even though there are now two "M"s.

The governing act also establishes the AMCTO designations, which include the accredited municipal professional, the accredited municipal clerk, the certified municipal officer and the accredited municipal clerk-treasurer.

I know you have the compendium which outlines the objectives of AMCTO's act, but we've also provided a chart today that briefly summarizes the changes from the 1985 act to the proposed bill that's in front of you today.

There are four main changes to draw the committee's attention to. First and foremost, the governing act would reflect the true name of the association which, as I indicated, was updated in 2000. This was really one of the main reasons that started AMCTO down the road of updating the governing act.

Second, AMCTO wanted to update the designations that the act establishes. Some of these designations have

changed over time through the association's bylaws and some of them no longer exist and aren't included, but these changes have yet to be reflected in the governing act. The re-enacted legislation will do just that.

Third, at the same time, the association wanted to undertake some general housekeeping steps to modernize the act. Certain definitions were improved; certain provisions were removed and are really better placed in the association's bylaws, such as the corporate governance matters, so that we don't end up with conflicting pieces of information as times goes on.

We thank very much and give our great thanks to Ms. Klein, legislative counsel, for her guidance in terms of language used throughout the act to tighten it up with respect to congruency with other similar types of legislation for professional associations throughout the province.

Finally, the act will repeal the 1985 act.

That is really an overview of what this piece of legislation does. We would be happy to take any questions that the committee might have.

The Chair (Ms. Indira Naidoo-Harris): Thank you so much for your comments. Before we continue, I'm just going to make sure if there are any other interested parties who would like to comment on this before we proceed with questions. Okay, great.

Does the committee have any questions? Any questions from members? Are members ready to vote, then? All right, let's move ahead with the voting.

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 section 10 carry? Carried.

Shall section 11 carry? Carried.

Shall section 12 carry? Carried.

Shall section 13 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? Yes.

Thank you very much for coming in. We very much appreciate your comments.

Ms. Jody Johnson: Thank you very much, Madam Chair and committee members.

STEPHANIE HOLDINGS LTD. ACT, 2016

Consideration of the following bill:

Bill Pr33, An Act to revive Stephanie Holdings Ltd.

The Chair (Ms. Indira Naidoo-Harris): We're going to move to our next private bill to consider this morning. I am going to ask those here with Bill Pr33, An Act to

revive Stephanie Holdings Ltd., to please come on up, the sponsor and, of course, the applicants themselves.

Mr. Peter Tabuns: Good morning, Chair. It's my pleasure to be here to introduce Patricia Virc, who will be speaking on behalf of the applicant. This bill deals with a corporation that lapsed and, it's my understanding, holds a piece of property in my riding that's vacant, contaminated and needs to be cleaned up and sold.

0910

The Chair (Ms. Indira Naidoo-Harris): Does the applicant have any comments?

Ms. Patricia Virc: Yes. My client is Sami Benaich. I'm a lawyer at Steinberg Title. The only comment is that the company lapsed for failure to make its corporate filings and it would like to revive the company in order that it may transact with respect to the property.

The Chair (Ms. Indira Naidoo-Harris): Thank you. Just before we continue with questions or comments, are there any other interested parties here today who would like to come up and speak?

All right. Questions, then, from committee members: Do you have any questions for the applicant? Yes, MPP McGarry?

Mrs. Kathryn McGarry: Thank you very much. Can you describe to us why it lapsed to begin with and why we need to—I guess, what happened to have them lapse?

Ms. Patricia Virc: It was dissolved for failure to make its corporate filings. I have information that it did not file its special notice and pay its fees. In order to make this application, it had to rectify that, which it has done.

Mrs. Kathryn McGarry: Okay. Do you think that there will be any of that in the future, or do you think that, if we pass this, there will be no further issues with filing on time?

Ms. Patricia Virc: I believe that the purpose of the request is so that it can transact with the property, and I presume that means a sale, because the property has been doing nothing for a number of years.

Mrs. Kathryn McGarry: Okay. Thank you.

The Chair (Ms. Indira Naidoo-Harris): Yes, MPP Baker?

Mr. Yvan Baker: Can you just talk about the property and what's been happening on the property since the dissolution?

Ms. Patricia Virc: I was advised that the property was being used by a related party, so that it was not generating any income and the owner of the property just didn't do anything in respect to the property for a number of years.

Mr. Yvan Baker: Okay. And are there any environmental concerns with the property? Has there been any kind of remediation or anything like that that's—

Ms. Patricia Virc: I'm not aware of anything like that.

Mr. Yvan Baker: Okay.

The Chair (Ms. Indira Naidoo-Harris): Further comments or questions from the committee members?

Okay, great. Then are we ready to move ahead, ready to vote? All right.

Shall section 1 of Bill Pr33 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Yes.

Great. Thank you very much.

Mr. Peter Tabuns: Thank you very much.

1709542 ONTARIO CORPORATION ACT, 2016

Consideration of the following bill:

Bill Pr35, An Act to revive 1709542 Ontario Corporation.

The Chair (Ms. Indira Naidoo-Harris): We are now moving on to Bill Pr35, An Act to revive 1709542 Ontario Corporation. Can we have the applicant please introduce themselves—or the sponsor to please introduce themselves?

Mr. Chris Ballard: Yes, good morning, Chair. I'm pleased to be here today to sponsor Bill Pr35, An Act to revive 1709542 Ontario Corporation. To speak further on the bill is the applicant, Mr. To.

Mr. Larry To: Hello. Good morning, committee members. My name is Larry To. I'm from Markham. I'm here to revive the corporation 1709542, which was prematurely dissolved. In order to file a tax return—the file is with the CRA right now—I need to come here to revive this corporation.

The Chair (Ms. Indira Naidoo-Harris): Okay, thank you. Are there any other people in the room who'd like to make a comment? Anyone else?

Great. Let's move on to committee members, then. Do you have any questions for the applicant or sponsor?

Ms. Daiene Vernile: Chair?

The Chair (Ms. Indira Naidoo-Harris): Yes, MPP Vernile?

Ms. Daiene Vernile: If I may ask the applicant: Were you the one who put forward the application to dissolve it? You say it was prematurely dissolved.

Mr. Larry To: Yes. I was ill-advised by my accountant. I misunderstood his intentions.

Ms. Daiene Vernile: Why did he tell you to dissolve?

Mr. Larry To: I wanted to dissolve the company because I no longer needed to use this company, and I was not aware that in order to do some tax returns, I needed the company to be active.

Ms. Daiene Vernile: Okay. Thank you.

The Chair (Ms. Indira Naidoo-Harris): Any further questions or comments from committee members? MPP McGarry.

Mrs. Kathryn McGarry: Thank you very much for appearing today. So is your intention, then—once you file and do what you need to, will you be keeping the

company or will you be dissolving it after you've completed all the tax—

Mr. Larry To: Well, at this time, I'll make sure I'll be doing the proper procedures and I'll dissolve it properly.

Mrs. Kathryn McGarry: Okay. Thank you.

The Chair (Ms. Indira Naidoo-Harris): Further comments? Okay. Are we ready to vote?

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Yes.

Thank you very much. Thank you for coming in.

Mr. Larry To: Thank you, committee members. Thank you, everyone.

DRAFT REPORT ON REGULATIONS

The Chair (Ms. Indira Naidoo-Harris): We are now going to move on to our next item on the agenda, which is the consideration of the draft report on regulations made in 2014.

I'll just wait till the Clerk finishes handing everything out.

Research officer Andrew McNaught is here with us today and he's going to walk us through the report. What we're going to do is proceed section by section, issue by issue. We'll pause after each section or issue to find out if committee members would like to have further discussion on the issue or the recommendations.

Andrew, do you want to go ahead?

Mr. Andrew McNaught: Good morning. I'm Andrew McNaught of the legislative research service, but I'm here this morning as counsel to the committee as it considers the draft report on regulations. I'll just point out, before we start, that the report in front of you was prepared by my colleague Tamara Hauerstock. She cannot be here today, so I'm filling in.

Now, for those of you who may not be familiar with the committee's regulations mandate, I'll just begin with a quick overview of that mandate and then we can go through the report.

The standing committee's regulations mandate is set out in section 33 of the Legislation Act and in standing order 108. These provisions require the committee to examine regulations made under Ontario statutes to ensure that they have been made in accordance with the nine guidelines set out in the standing order. Just at this point, I'd refer you to the separate handout that you should have, and that's a copy of standing order 108(i). You'll see, in the middle of that, the nine guidelines.

It should be stressed that the guidelines are simply technical rules of drafting that should be followed when a regulation is being made. The standing orders expressly state that the committee is not to consider the merits of or the policy underlying a regulation.

The two guidelines that are most frequently cited in committee reports are guideline (ii), which provides that there should be authority in the statute to make the regulation, and guideline (iii), which provides that a regulation should be written in clear and precise language.

0920

Now, for the last many years, the research officers of the research service—that is, those of us who are also lawyers—have acted as counsel to the committee and have conducted the regulations review on the committee’s behalf.

Just very quickly, the review process we’ve developed over the years is as follows: We review all of the regulations made under Ontario statutes each year and identify potential violations of the guidelines. We then write letters setting out our concerns to the ministry legal branches responsible for those regulations. If we feel that a ministry response does not adequately address the issues we’ve raised, we include a discussion of that regulation in a draft report to the committee.

When considering the draft report, the committee has, basically, three options: You can report a regulation with recommendations; you can report a regulation without recommendations; or you can decide not to report the regulation at all. Once the draft report is finalized, it’s tabled in the Legislature.

I’ll just stop there and see if there are any questions about the committee’s mandate or its role. If not, then we’ll go to the draft report.

You’ll see it’s the draft report on all regulations made in 2014. If you turn to page 1, you’ll see that we begin with what is really our standard introduction, which is basically a quick overview of the committee’s mandate. As the Chair just mentioned, we’re going to go section by section here, so I’ll just stop and see if there are any questions about the introduction.

I’ll just give you a very quick overview of the next section, which is the statistical section of the report, at the bottom of page 1. You’ll see that we note here that over the previous 20 years, the average number of regulations filed was 527. The 312 regulations filed in 2014 were well below that 20-year average. This information is set out on the bar chart that you see at the top of page 2.

Starting at the bottom of page 2, we set out a series of tables showing the number of new and amending regulations that were filed in 2014 as well as the number of regulations that were revoked. The statistical section runs to the bottom of page 4, and I’ll just stop there to see if there are any questions about that.

The Chair (Ms. Indira Naidoo-Harris): I’m going to ask the committee members—oh, sorry. MPP Vernile.

Ms. Daiene Vernile: I’m curious about the fact that we’re way down in 2014. Any insights on that, as to why there were so few regulations filed?

Mr. Andrew McNaught: I don’t have any hard evidence, but historically, there’s been less legislative activity in election years, so I think that might partially explain that.

Ms. Daiene Vernile: That makes sense.

The Chair (Ms. Indira Naidoo-Harris): I’m just going to ask the committee: Would you prefer to go through each area, or go straight to the issues that have been highlighted in the report for discussion?

Mr. Andrew McNaught: We’re about to go to that now.

The Chair (Ms. Indira Naidoo-Harris): Okay. All right.

Mr. Andrew McNaught: I just thought I’d go through the introduction. The substantive part of the report begins at the bottom of page 4, under the heading “Regulations Reported.” Now, as Tamara has noted here, we reviewed 312 regulations and wrote letters to nine ministries inquiring about 15 regulations. After considering the ministry responses, we’ve decided to report five regulations under the two guidelines that I mentioned earlier. Those were guideline 2, the statutory authority guideline, and guideline 3, which is the clarity-of-language guideline.

Just again, a word of caution: The issues that we discuss here are very technical, and as I said before, they do not involve a discussion of the merits or the policy underlying a regulation. The question is strictly whether the regulation was drafted in accordance with the committee’s guidelines.

At the top of page 5, under “Ministry of the Attorney General,” we discuss a regulation that was made under the Legal Aid Services Act, 1998. This regulation prescribes several documents that Legal Aid Ontario is required to make available on its website. These documents relate to the financial eligibility requirements that applicants for legal aid certificates must meet.

Tamara has raised a couple of issues here. The first is that, when we looked at the LAO website, the versions of the documents that had been posted there were different from the versions that are mentioned in the regulation. Specifically, the regulation refers to version 1.1 of these documents, whereas the documents posted on LAO’s website were version 1.2. In addition, the title of one of the documents on the website did not match the title mentioned in the regulation. A third issue is that the older versions of the documents were not readily available, as required under the Legislation Act.

The ministry has explained that the version number and title of the documents that were posted on the LAO website were inadvertently changed when the documents were modified to meet accessibility standards. The ministry has also indicated that the correct versions of the documents, as well as the older versions that were required under the Legislation Act, are now posted on LAO’s website. At the bottom of page 5, we’re suggesting that, in light of the ministry’s response, we would report the regulation without any recommendations.

I’ll just stop there to see if there are any questions.

The Chair (Ms. Indira Naidoo-Harris): Questions or comments? MPP Walker?

Mr. Bill Walker: So just for clarification, you’re suggesting, then, that it is in compliance now.

Mr. Andrew McNaught: Yes.

Mr. Bill Walker: Thank you.

The Chair (Ms. Indira Naidoo-Harris): Further comments? Okay. Let's move forward, then.

Mr. Andrew McNaught: Over on page 6, under "Ministry of Education," this is a regulation made under the Education Act and it concerns the calculation of annual grants to school boards. I'll just forewarn you, this is a very technical issue that concerns the precision-of-language guideline.

In reviewing this regulation, we noticed that, in setting out the method for calculating the average daily enrolment, which is a component of the school board funding formula, the regulation refers to "a number" resulting from the calculation. In our view, since the formula calls for the calculation of a very specific number, we wondered why the regulation doesn't refer to "the number."

As it turns out, somewhat to our surprise, the ministry agrees with us and has said that it would consider replacing "a number" with "the number" when the next annual regulation is made. At the bottom of page 6, we're proposing to report the regulation without a recommendation.

The Chair (Ms. Indira Naidoo-Harris): Questions or comments? MPP Ballard?

Mr. Chris Ballard: It's a simple question: Does your office follow up in years ahead to see that "a number" has changed to "the number"?

Mr. Andrew McNaught: Yes, but, first of all, of course, the committee's recommendations are not binding. But we do monitor responses and you'll see, at the end of this report, we do have a chart indicating whether the ministry has followed up in response to our recommendations.

Mr. Chris Ballard: Good. Thank you.

The Chair (Ms. Indira Naidoo-Harris): Shall we move ahead?

Mr. Andrew McNaught: At the top of page 7, under "Ministry of Energy," we are reporting a regulation made under the Electricity Act, 1998. In very general terms, the regulation allows the IESO, which, as you know, is the Independent Electricity System Operator, to make adjustments to the various payments that are made within the electricity system to ensure that electricity pricing reflects the cost of supply.

Now, in making these adjustments, the IESO uses a document called the NAICS, which is the North American Industry Classification System. That document is incorporated by reference into the regulation we are discussing here. Specifically, the regulation refers to the NAICS "as amended or revised from time to time."

Now, a general rule under the Legislation Act is that a regulation may only refer to an external document as it exists at a certain point in time. A regulation may not incorporate documents as they are amended or revised unless there is express authority in the act to do so. This, by the way, is known as "rolling incorporation."

In this case, the Electricity Act does not expressly authorize rolling incorporation, so we raised this issue

with the Ministry of Energy. You'll see, towards the bottom of page 7, that the ministry has committed to reviewing the matter, so we're suggesting that we report the regulation without a recommendation.

0930

The Chair (Ms. Indira Naidoo-Harris): Questions or comments? MPP French.

Ms. Jennifer K. French: Sorry, just in this section here, the ministry stated that it would like to take this opportunity to further review. Does that mean that they are committing to review, or just in a perfect world they'd like to, or—

Mr. Andrew McNaught: Well, it appears to me that they're committing to reviewing the issue; they are not guaranteeing that they're going to change the wording of the regulation.

Ms. Jennifer K. French: There are lots of things I would like to do but I'm not committing, so I was curious if your instinct there is that—

Mr. Andrew McNaught: I have no way of knowing whether they actually considered this when they drafted the next regulation, but that's what they've said in the letter.

The Chair (Ms. Indira Naidoo-Harris): MPP Baker?

Mr. Yvan Baker: I know that NAICS is a pretty standardized classification system. I know it from my business days in the private sector. I understand the flag you've raised, but, pragmatically speaking, is there an alternative? Is this a situation where they need to put something in there and so they've used this classification system, or could the reg work without this?

Mr. Andrew McNaught: What they're trying to do is incorporate the document as it changes over time. The issue we've identified is that the act doesn't explicitly authorize a regulation to do that.

Mr. Yvan Baker: Right.

Mr. Andrew McNaught: In practical terms, yes, they're using this document, as amended, but we're saying, for drafting purposes, there should be authority in the statute to allow for rolling incorporation.

Mr. Yvan Baker: Okay.

The Chair (Ms. Indira Naidoo-Harris): MPP French?

Ms. Jennifer K. French: I recall that we've had enthusiastic discussions at this committee about rolling incorporation before, so I wonder if we're going to see it again as this committee rolls forward. Is this fairly usual, that various acts don't have the authority, or it's not written in the act that they have the authority, to take advantage of the rolling incorporation? Because as I recall, with the bus matter that we had dealt with extensively before, I think we were all appreciating the need for regular updates and incorporating new information and updated documents as we went. Is this perhaps something that, across a number of acts, needs to be added in so that this fine-tuning that we do here isn't necessary?

Mr. Andrew McNaught: Yes. I know that Tamara has raised this issue before and it appears to come up at

least once or twice with each year's batch of regulations. It may simply be a function of the fact that we're dealing with older statutes that predate the Legislation Act, which I think was 2006. That's where it sets out this rule about requiring explicit authority to make regs that allow for rolling incorporation. The Electricity Act was made in 1998, and there is probably a number of other statutes that perhaps should be updated to reflect that rule.

Ms. Jennifer K. French: Is it outside of our scope, recognizing, as you have said, our recommendations are not binding, but can we as a committee recommend that, over time, acts that predate the Legislation Act be considered, that this rolling incorporation be something that they look at for all of them?

Mr. Andrew McNaught: Well, a very literal interpretation of the committee's mandate might preclude that, but I don't see that it would be a major problem, unless somebody wants to object. We could include, I suppose, a general recommendation that the ministries review legislation for this issue.

Ms. Jennifer K. French: Because as I recall, rolling incorporation is something that—we want things to be updated, we want them to use the most current versions of the materials available. It's always going to be “overlook, overlook, overlook,” just let them put it through and have this conversation time after time, which seems a bit silly.

The Chair (Ms. Indira Naidoo-Harris): MPP Baker?

Mr. Yvan Baker: I know where you're coming from on this. To my view, it's been flagged for the ministry. To my view, they have an opportunity now to review this. I know what you're trying to achieve and I respect what you're trying to achieve. I think the flip side is recommending that they update legislation.

I just think we have to be careful about that, because there may be other implications we're not conscious of. My suggestion would be that we leave the report as is and see if they can go back and address the issue.

The Chair (Ms. Indira Naidoo-Harris): Thank you. Other comments?

So the suggestion is to leave it as is because there is a review already suggested to them.

Ms. Jennifer K. French: Reactive versus proactive; got it.

Interjection.

The Chair (Ms. Indira Naidoo-Harris): Shall we move on?

Mr. Andrew McNaught: At the bottom of page 7, under “Ministry of Government and Consumer Services,” we're discussing a regulation made under the Collection and Debt Settlement Services Act. Just by way of background, in 2014, the Collection Agencies Act was renamed the Collection and Debt Settlement Services Act to reflect the addition of new rules for debt settlement companies. Under these rules, registered collection agencies, as well as collectors working for collection agencies, may provide debt settlement services.

The regulation in question amended the general regulation to the act to require collection agencies and collectors that provide debt settlement services to keep records pertaining to debt settlement agreements and to provide those records to the Registrar of Collection Agencies on request.

Now, the issue we've flagged here is that while the act authorizes regulations requiring collection agencies to keep records, it does not expressly authorize regulations requiring collectors who work for collection agencies to keep those records. Again, a very technical point.

The ministry actually acknowledges the lack of explicit authority here, but then says that this authority is implied in another section of the act. That other section provides for regulations dealing with the terms and conditions collectors must meet in order to be eligible for registration under the act. Specifically, the ministry is saying that the authority to make regulations prescribing the terms and conditions of registration includes, by implication, the power to require collectors to keep and produce records.

As Tamara set out here, our position is that the terms and conditions of registration are a separate matter from the requirement to keep records and that there should be explicit authority in the act to require collectors to keep records. So at the top of page 9, we're proposing to report the regulation with a recommendation that the regulation-making power in the act pertaining to records be amended to include a specific reference to collectors.

The Chair (Ms. Indira Naidoo-Harris): Questions, comments? MPP Walker.

Mr. Bill Walker: So a point of clarification: In the descriptor, you suggest that the “debt settlement services keep certain records on their premises.”

Mr. Andrew McNaught: Yes.

Mr. Bill Walker: But in the actual recommendation, you don't include the words “on their premises.” Was there any specific reason for that?

Mr. Andrew McNaught: I can't tell you that. Tamara is the one who drafted that regulation.

Mr. Bill Walker: I can ask Tamara.

Mr. Andrew McNaught: You'd be a good reviewer of regulations. We could certainly add that.

Mr. Bill Walker: It just seems specific, that you want them there. I'm not certain where she was going, but it would seem to me that they want them there so that in a timely manner, if you walk in, you can say, “I want to see these.” Just keeping them—they could be on a cloud somewhere that you're not going to be able to access.

The Chair (Ms. Indira Naidoo-Harris): MPP Baker?

Mr. Yvan Baker: My only point was that maybe if the records are electronic, and as we move more towards electronic records, requiring something—I don't know that that would be considered “on their premises” and therefore requiring it on the premises may impose an unnecessary administrative burden on it. That would be my caution against inserting it, not knowing implications of what that would require.

Mr. Bill Walker: Exactly.

Mr. Yvan Baker: So I'd recommend leaving it as is.

The Chair (Ms. Indira Naidoo-Harris): Further comments, questions? So we'll just move on then.

Mr. Andrew McNaught: Following that recommendation, at the top of page 9 we raise a second potential problem with the regulation under the Collection and Debt Settlement Services Act. Specifically, the act and the regulation each contain sections that deal with the trust accounts that collection agencies are required to maintain to hold the money they collect. We thought it might create some confusion to have two sections dealing with the same issue.

0940

On the one hand you have a section of the act which states that collection agencies are required to maintain trust accounts at banks and other designated financial institutions, but at the same time you have a section of the regulation which essentially restates this requirement and then adds a further requirement: that the account must be named the Collection and Debt Settlement Services Act Trust Account.

The question we had for the ministry is, why are the requirements pertaining to trust accounts set out in two different locations? The ministry didn't really directly address this point in its response, but said that the regulation is necessary because it prescribes the additional requirement that trust accounts must have a specific name.

As Tamara has set out in the middle of page 10, our concern continues to be that a person reading either the act or the regulation in isolation would get an incomplete picture of the requirements pertaining to trust accounts. So our recommendation in the middle of page 10, recommendation 2, is to report the regulation with a recommendation that either the act or the regulation be amended so that the trust account requirements are located in one place.

The Chair (Ms. Indira Naidoo-Harris): Comments on the recommendation? Okay. Let's move forward.

Mr. Andrew McNaught: Okay. Towards the bottom of page 10—you'll be glad to know this is the last regulation we're reporting—that's under the Ministry of Municipal Affairs and Housing. This is pretty straightforward. It was a regulation made under the Line Fences Act, which, you may or may not know, sets out an arbitration process for resolving disputes over fences located in between two properties.

The regulation in question prescribes forms pertaining to this arbitration process, but we notice that whereas the regulation refers to forms dated May 2014, the forms that are actually available on the ministry's website are dated January 2015. You'll see that the ministry acknowledges the inconsistency and has committed to taking steps to amend the regulation so that it refers to the later edition of the forms. At the top of page 11 we're proposing to report the regulation without a recommendation.

The Chair (Ms. Indira Naidoo-Harris): MPP Walker?

Mr. Bill Walker: Just a point, and it's kind of further to MPP French's thought processes: Is there not a way that we can change wording so that if it's a specific date we can add, in brackets, "or the most recent version"? So that we don't have to come back and keep doing this mundane—because it's a point in time. I trust the referencing, but we're always going to be updating. It's back to that rolling legislation. To simply put "or the most recent version," is that something that you would support?

Mr. Andrew McNaught: That would, I guess, address the problem. Again, it's open to the committee if it wants to make a general recommendation about that.

Mr. Yvan Baker: So can you clarify what your recommendation is?

Mr. Bill Walker: I just think in a lot of these—sitting through this committee, we seem to be doing this. Somebody at a point in time put a specific date or reference to a date, and then as soon as there's a new version, that's out of date, so we have to come all the way back and go through this committee to have them review and go through. I don't know why we couldn't just, as protocol, when we're writing this type of thing, say, "May 2014 and/or the most recent version," reflecting the rolling nature of legislation. It just seems we inundate ourselves with bureaucracy and administration that to me is useless.

The Chair (Ms. Indira Naidoo-Harris): MPP French?

Ms. Jennifer K. French: Further to that, I'm not a lawyer and I'm not drafting these things, but if that date in time—in this case it's May 2014. Can you pass along to whoever would be writing these that perhaps the earliest version being that date—you know what I mean? That no version of that document or whatever it is precedes that. There is a starting point, obviously one the regulation intends, but is there legal lingo that would be appropriate that says, "May 2014 or", as Mr. Walker says, whatever comes next?

Mr. Andrew McNaught: Yes. The wording used in some statutes is "as amended from time to time," or the most recent version of a particular document—

Ms. Jennifer K. French: There it is, legal lingo.

The Chair (Ms. Indira Naidoo-Harris): And just so I'm clear, the ministry is committed to amending this; right?

Mr. Andrew McNaught: Yes.

The Chair (Ms. Indira Naidoo-Harris): Okay.

Ms. Jennifer K. French: But to update the regulation to say, instead of "May 2014"—

Mr. Andrew McNaught: The regulation would refer to the January 2015 version, which is the one they're using.

Ms. Jennifer K. French: And then in a couple of years, when we realize that it's no longer the January 2015 version, then we'll point it out and they'll go back and they'll date it to the newest, potentially.

The Chair (Ms. Indira Naidoo-Harris): MPP Walker.

Mr. Bill Walker: So just a point of clarification on your comment, Madam Chair: Yes, this one, I'm okay that they are saying they're going to do it, but my concern is that we do this perpetually on all matters of regulation, that we continue to revisit these same things over a very specific—so it's back to when we're writing it. Can we put in those words as a standard protocol, unless there's a legal ramification that prohibits that?

Mr. Andrew McNaught: The only caveat to this is, it may be you'll get an argument from a ministry that on a case-by-case basis it wouldn't necessarily be appropriate to refer to the most recent version. I don't know what the explanation for that would be, but they might have a reason that they don't say that.

The Chair (Ms. Indira Naidoo-Harris): As Chair, I think it's fair to draw attention to the fact that, really, the committee is here to look at specific instances and ensure that the wording is appropriate for that specific instance. So by broadening the scope in a way, that is suggesting we may actually put ourselves in a situation where it may not be applicable and we may want to take that further look. Am I correct?

Mr. Andrew McNaught: That's your call, I think.

The Chair (Ms. Indira Naidoo-Harris): I'm just asking your opinion.

MPP Baker.

Mr. Yvan Baker: I like what you're trying to do. I think it makes a lot of sense. I'm not concerned and I'd support making that recommendation in this particular case.

As far as sort of a blanket—I'd recommend we take it on a case-by-case basis, as the counsel was referring to, just so we don't inadvertently fix a certain set of problems and create a set of new ones. But for this one, I don't have a concern about my recommendation.

Mr. Andrew McNaught: The last section of the report, as Mr. Ballard mentioned earlier, deals with the update on responses to regulations previously reported by the committee. That runs from page 11 to page 14. The tables in this section just provide an update on whether there have been any changes to regulations as a result of recommendations made in previous committee reports. In a nutshell, there haven't been many changes, although we do note one, starting at the bottom of page 13 and on to page 14, where the Ministry of Northern Development and Mines has indicated that it will be seeking an amendment to the Mining Act to address a statutory authority issue we raised in connection with a 2012 regulation. But other than that, I think you'll see that there haven't been any other amendments.

That completes the report. The remainder is the appendices mentioned at the start of the report.

The Chair (Ms. Indira Naidoo-Harris): MPP Walker.

Mr. Bill Walker: Mr. McNaught, can I just ask what the protocol is in regard to a ministry not doing that? You've identified it. We, as a committee, have identified and agreed that this needs to be corrected, and yet here we are. And this person with the Ministry of Education,

as of May 15, 2015, has never done anything. We've noted that they're in violation. It's not really a good precedent for government, who are the legislators, to knowingly keep something in violation.

Mr. Andrew McNaught: As I say, the committee's mandate is to review regulations and report violations of the guidelines to the House, and that pretty much is where the mandate ends. We don't have authority to issue directions or binding orders to ministries. All we can do is report in the—

Mr. Bill Walker: Are we able to flag this and send, on behalf of the committee, yet another friendly reminder to the minister seeking a status update of why the recommendation of the committee that is legislated by this House—

Mr. Andrew McNaught: We could send a letter, I suppose, to ministry legal branches asking for their current thinking on a regulation that was flagged some time ago. I would just note that the standing orders provide that all regulations stand permanently referred to the committee, so you can go back and look at a regulation from years ago, if you wish. We could send a follow-up inquiry, if that's your decision.

0950

The Chair (Ms. Indira Naidoo-Harris): Further comments? MPP McGarry.

Mrs. Kathryn McGarry: I appreciate the comments. I think, if I understand it correctly, the purpose of the latter part of the report is to table it in the House and then have it taken up by the ministries if something is flagged. Is that correct?

Mr. Andrew McNaught: They do with it as they see fit.

Mrs. Kathryn McGarry: Yes, and it's our responsibility, then, if I understand it correctly, as the standing committee, that we flag these things, table it in the House and then forward it to the ministries.

Mr. Andrew McNaught: Right.

The Chair (Ms. Indira Naidoo-Harris): MPP Walker.

Mr. Bill Walker: Just further to that, so we table it, we flag it, but where's the recourse? Where's the action step to that? So they say, "Yes, thanks," and we're back here in two years and nothing has changed. If we're going to sit as a committee and review regulations and we find something in non-compliance, the expectation on all of us should be to try to move it forward so that we're in compliance. If we're actually agreeing that you can have something in non-compliance, we're implicitly condoning poor governance.

The Chair (Ms. Indira Naidoo-Harris): MPP McGarry?

Mrs. Kathryn McGarry: Certainly I hear those, but I think that's the purpose of our standing committee. It's not up to us to change a ministry's mind. I know in past, ministries have been flagged and they have dealt with it. If they haven't, then it's reflagged. That's the purpose of the researcher, going back to do these things.

I'm satisfied at the moment that this report goes forward, is tabled in the House, and that the flagged ministries then follow up on that.

The Chair (Ms. Indira Naidoo-Harris): MPP Walker and then MPP French.

Mr. Bill Walker: Respectfully, I understand where you're coming from, but I don't think we're being effective. I would like to put a motion on the floor that we do send letters where any of them are in non-compliance, asking for a status update and a reason that they're not going to change to become compliant as quickly as possible.

The Chair (Ms. Indira Naidoo-Harris): MPP French.

Ms. Jennifer K. French: I don't mean to echo, but I take the member opposite's point that the first part of this report, as we have taken the recommendations of research and we've discussed it, is that we are flagging for the various ministries, as we should, and that's great. It's the updated table, which are things that have been previously flagged, but they're not being flagged a second time. This is just informative for us, is my understanding. There's no action step on this table. This table, which is an update of responses or lack of responses to us as committee members, is strictly informative.

By accepting that nothing has been done—which I recognize is their right. Our recommendations are not binding, as you said, but appreciating that the ministry has the right to ignore or the right to process in their own time, we still approved, at our last committee, that there would be recommendations put forward. So for us to say, "Well, they didn't do it. Oh, well, our recommendations—we don't really stand by those," I think is strange.

To Mr. Walker's point, if there was just kind of a standard letter, a reminder that reflags it for them and says, "We've been updated. We see that there has not been any movement on this. We as a committee would just like an update"—not "Why didn't you?" but "What is the update?" Because the answer might be, "We're working on it. It hasn't been accomplished yet."

This doesn't give us any information; it just says that nothing has been done. It doesn't say nothing is intended to be done. So I would like a polite letter just saying, "Hey, can you fill us in?"

The Chair (Ms. Indira Naidoo-Harris): MPP Baker.

Mr. Yvan Baker: Just so I understand the process, this report, once it gets passed by the committee, accepted by the committee, is then sent to the Legislature, to the House, and presumably gets tabled in the House. My thinking would be that by tabling it in the House, we're now making all members aware, and ministries aware, and we're putting on the record the status of these regulations, where they stand, and the comments that we see and hear, if I'm understanding that correctly. To me, raising something in the House is an excellent way of raising awareness about the status of these particular regulations. In my view, that would be adequate.

The Chair (Ms. Indira Naidoo-Harris): Further comments? MPP Walker.

Mr. Bill Walker: I fully respect what you're saying; however, just making people aware doesn't get us to the point of, "We're still in non-compliance." It's like raising awareness that you're cutting a bunch of services in a community, but there's no action for you to actually go and change those.

I struggle with how a standing committee—our job is to be legislators, to make regulation, policy and law. When it's identified that you're in non-compliance, handing you a report and just saying, "We've made you aware," isn't enough. Why are we going to do this again? To me, it's just redundancy that we're going to keep coming back.

I still think we have to ask: What is the intent? Why would a ministry, if they're fully aware that it's non-compliant, not take every step to make it compliant so that they look good and we collectively look good, and the people of Ontario have confidence that we're good governors?

The Chair (Ms. Indira Naidoo-Harris): Before I go to MPP Baker, just to clarify with the legislative researcher, you said that this committee actually has no authority to issue directions?

Mr. Andrew McNaught: Right.

The Chair (Ms. Indira Naidoo-Harris): Okay. MPP Baker?

Mr. Yvan Baker: I guess what I'm not understanding is how—you've recommended, or MPP French has recommended, technically, or both of you, that we send a letter to the ministries. What I'm saying is that, to me, there is no greater way of flagging the status of the situation than to raise it in the House. The letter would be another version of that, but the letter is a confidential correspondence to the ministry whereas this is raising it in the Legislature. To me, we're fulfilling our role as a committee by bringing this to the Legislature and making everyone aware of where this stands.

I guess what I'm saying is, I don't know that that incremental step that you recommended would in any way have any greater force than what we're already going to be doing once we accept the report.

The Chair (Ms. Indira Naidoo-Harris): MPP Walker.

Mr. Bill Walker: I would suggest to you that, actually, that next step is accountability. We've given them a report. They can take it and do nothing with it. They can say, "Yes, I'm going to do it." All I'm asking is for a friendly request to give us a status update: "We, as a committee, have identified something is non-compliant. We presented you with a report and you're aware of that. But can you give us a status update of what you're doing with it? What's your intent? Are you just going to accept it and say, 'Yes, great. We're in non-compliance'?" In a year, we come back and they do another review and it's still non-compliant, and we sit here and we have this debate and discussion again. And in another year, we have it all over again. I'd just as soon deal with it once and get on to some more pertinent stuff.

I just don't see how by tabling it—yes, we're raising awareness; I fully agree. But if they don't do anything with it, all we've done is table it to them.

The Chair (Ms. Indira Naidoo-Harris): MPP French?

Ms. Jennifer K. French: I agree with Mr. Baker that by tabling this in the House, as we're supposed to, that that's public—it's on the record that these are the recommendations from this committee—but that, as I see it, is for the first portion of the report. Tabling the table? They've already had the recommendations. The table recommendations: When was that originally tabled?

Mr. Andrew McNaught: This is the first time this table would be reported.

Ms. Jennifer K. French: I beg your pardon; I guess I'm not asking this correctly. This table informs us of the status update, right? This is an update of recommendations that had been made by committee before. This committee had said—

Mr. Andrew McNaught: In 2012-13.

Ms. Jennifer K. French: —in 2012 had pointed out and had tabled a report saying, "We've identified; here is the direction from research, not direction from committee. Here you go." Now we're at 2016. This table updates recommendations that have been made, loosely, four years ago. So I think that it is more than fair, because four years is a long time—why would the ministry still be paying attention to the back table of a report? Because it isn't flagged for them. I like the idea of giving a gentle nudge and just saying, "Hey, four years later, we're noticing that there has been no movement," a status update. That's not direction from the committee, is it? That's just saying, "Hey."

The Chair (Ms. Indira Naidoo-Harris): MPP Baker?

Mr. Yvan Baker: I've heard what the members have said—

Ms. Jennifer K. French: That last stretch, you didn't.

Mr. Yvan Baker: Sorry?

Ms. Jennifer K. French: Sorry, go ahead.

Mr. Yvan Baker: I've heard what the members have said. This is my perspective, but I'm happy to have a short note asking for an update on these to the ministries.

The Chair (Ms. Indira Naidoo-Harris): Okay. So I think we have a suggestion on the floor here.

Mr. Bill Walker: I can reiterate that, if you would like, Madam Chair.

The Chair (Ms. Indira Naidoo-Harris): Go ahead, MPP Walker.

Mr. Bill Walker: I respectfully suggest that we offer a friendly letter of reminder, to send letters to those ministries that are non-compliant, asking and seeking a status update and why they are not taking action to make them compliant.

The Chair (Ms. Indira Naidoo-Harris): Is everybody okay with the wording? MPP Baker?

Mr. Yvan Baker: I'm okay with asking for an update, period, leaving it at that.

Mr. Andrew McNaught: This is separate from the report? You're asking us to send follow-up letters to the ministries mentioned in the table at the end of the report.

Mr. Yvan Baker: Yes.

Mr. Bill Walker: Subsequent to the report.

Mr. Yvan Baker: So my friendly amendment to MPP Walker's recommendation is that we simply ask for a status update.

The Chair (Ms. Indira Naidoo-Harris): Are we in agreement with that?

Mr. Bill Walker: I can live with that.

The Chair (Ms. Indira Naidoo-Harris): Is everyone okay with that? Everybody is fine with that? Okay. Then we shall move on. I think that wraps up where we are at. Thank you, everyone.

Some housekeeping here, then: Shall the draft report on regulations made in 2014 carry? Carried.

Who shall sign off on the final copy of the draft? The Chair? Yes.

Mr. Bill Walker: You get the extra pay.

The Chair (Ms. Indira Naidoo-Harris): I do? Really?

Mr. Bill Walker: It's got to be worth something.

Ms. Daiene Vernile: All the coffee you can drink.

Mr. Bill Walker: Exactly.

The Chair (Ms. Indira Naidoo-Harris): That's news to me.

Shall the report be translated? Yes.

Shall the report be printed? Yes.

Shall I present the report to the House and move its adoption? Yes.

Thank you very much, everybody. That wraps up our meeting today.

The committee adjourned at 1002.

CONTENTS

Wednesday 24 February 2016

Association of Municipal Managers, Clerks and Treasurers of Ontario Act, 2016.....	T-91
Ms. Eleanor McMahon, MPP	
Mr. Chris Wray	
Ms. Jody Johnson	
Stephanie Holdings Ltd. Act, 2016, Bill Pr33, Mr. Tabuns	T-92
Mr. Peter Tabuns, MPP	
Ms. Patricia Virc	
1709542 Ontario Corporation Act, 2016, Bill Pr35, Mr. Ballard	T-93
Mr. Chris Ballard, MPP	
Mr. Larry To	
Draft report on regulations	T-93

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