



Special Committee on Regulations

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**SPECIAL COMMITTEE ON REGULATIONS
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Saskatoon Meewasin

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The committee met at 09:30.

The Chair: — Welcome to the Regulations Review Committee. And a couple of things before we get started this morning. First of all, while our meeting is scheduled to go from 9:30 to 11:30 a.m., the opposition caucus has officials coming in from Justice to bring us up to speed on some legislation I believe that's coming forward.

And I'm not really up to speed on it, but from what I understand, it's a discussion that probably should involve all the MLAs (Member of Legislative Assembly). So I'm just asking if the committee would be agreeable to an adjournment at 11 versus 11:30. We'll just take the committee's wishes in that regard if we don't arrive at that adjournment prior to that.

Mr. Thomson: — ... tells me, Mr. Chair, where I was concerned would be to have the opportunity for debate cut off. But in this case we are of course willing to accommodate you.

The Chair: — Thank you very much, Mr. Thomson.

Well let's move forward. As you can see in front of you, following our discussion at our last Regulations Committee meeting, there was discussion about coming forward with binders that we could compile all the information regarding committee work in, and a matter of keeping it all together, adding to it or taking from. And I see all but one committee member has accepted the binder, and we know the one committee member just comes from northern Saskatchewan and he's not prepared to accept binders.

Mr. Allchurch: — Mr. Chair, thank you. The reason I like it just this way instead of the binders is because if you stack stuff up, the binders always tilt it to one side so therefore it's always going to be falling over. This way I can stack numerous piles of the stuff up. Saves on space.

Mr. Thomson: — I noticed mine tilted to the right too. I was concerned about that also.

The Chair: — Anyway, calling this committee to order. And I'm sorry, the Chair did start the discussion.

But anyway, I think the officials, I believe, of Mr. Ring's office has done an excellent job. And at the end of the day we'll all find a place to keep track of our committee meeting notes and how we're going to deal with them. So I want to thank Mr. Ring and his staff — is Allison here? She's gone — and thank Margaret for being here as well.

And first of all I'm just going to let Mr. Ring talk a little bit about the binders and how they've set them together.

Mr. Ring: — Well I was going to talk about the binders but maybe I won't talk about it. Essentially what you need for each meeting is the current Law Clerk's report, at the fifth tab. So if that's all you want to bring to the meeting, that's just fine.

The other information there, the binder allows you to keep everything together in your office in one place. If you have someone substituting for you on the committee, you can thrust

the binder upon them and say, go ye to Regulations Committee, here's all the information. And this way if we want to go back and look at a previous regulation we've looked at, the *Hansard* is there so we can quickly look at the discussion instead of trying to read it into the record and have people follow.

But essentially what you need is the current Law Clerk's report. The other tabs and information are to keep members current as to what's going on and to keep everything together in one place in the office.

And I'd like to thank Allison, and Kathy Beck from my office, and Zorka from the Clerk's office, as well as Meta Woods, who as a group helped get this binder put together and collated and to you, and I hope you find it useful.

The Chair: — Thank you, Mr. Ring. Let's move then into the area of discussion for our meeting today and that's the Special Committee on Regulations. We have a number of regulations to take the time to look at. I believe there's 22 reports that are filed before us and we'll move right into them.

And we'll begin with the Farm Foreclosure Income Tax Remission Regulations, and I'd invite Mr. Ring to bring us up to speed on what that regulation is, and the concerns that we should be mindful of and discuss.

The Farm Foreclosure Income Tax Remission Regulations (1997)

Mr. Ring: — With respect to this regulation and the next regulation, these are regulations that were from 1997, and so each meeting I propose to work through a group of the 1997 regulations so that those are dealt with, come before the committee and are dealt with, and then we can move forward and try to catch up to where we ... where the regulations are presently being passed now by the government.

So with respect to The Farm Foreclosure Income Tax Remission Regulations, this was cited as a concern by Mr. Holtzmann, who reviewed the 1997 regulations. And it's the same issue we dealt with at the previous meeting with respect to citing the proper authority in the Act for making the regulation.

Section 24 of The Financial Administration Act, 1993 should have been cited in the order signed by the Lieutenant Governor. And at that point it wasn't. However I do note that since the last meeting, regulations passed that fall into this same category are now citing section 24 and section 71 of The Financial Administration Act.

So there's no further action required on this one, but because it had come forward, I thought I'd bring that to the committee's attention.

The Chair: — Thank you, Mr. Ring. So any further discussion? Sounds like it's been compiled and completed. Thank you very much.

Mr. Ring: — And my remarks for the first one also, they'd be the same remarks with respect to The Vow of Perpetual Poverty Income Tax Remission Regulations. So unless there's any

questions there.

The Chair: — Well there may . . . just one other thing. Just for the sake of the minutes, probably it would be appropriate to acknowledge the fact that no further action is required, and that the committee just accept Mr. Ring's recommendations. Is the committee agreed?

Members: — Agreed.

The Chair: — Thank you. Carried, thank you.

The Vow of Perpetual Poverty Income Tax Remission Regulations (1997)

Mr. Ring: — My comments here would be the same as for the previous set of regulations, and that the two sections of authority are now being cited in the regulations when they're passed.

The Chair: — Again, is the committee prepared to accept the recommendations? Agreed to?

Members: — Agreed.

The Chair: — Agreed, carried, thank you. This is too simple. I believe we will get into something that will take some time in discussion.

Then let's move on to The Livestock and Horticultural Facilities (Education & Health Tax) Remission Regulations, and again Mr. Ring.

The Livestock and Horticultural Facilities (Education & Health Tax) Remission Regulations (1997)

Mr. Ring: — With respect to the first concern with the delegation of authority to lesser officials, this item was also dealt with by the committee at the previous two meetings. As a result of The Interpretation Amendment Act, 2000, a section was inserted into The Interpretation Act giving specific authority to ministers to delegate authority down to lesser officials. And so what might have been a concern or what would have been a concern has already been addressed through legislative amendment in the previous session. That was with respect to the first concern.

The second concern is with respect to the citing of authority, and the remarks here would be the same as for the first two regulations that section 24 and section 71 are now being cited as proper authority. So nothing further needs to be done there.

With respect to the third concern, I note that the fact that they're now coming forward, section 5 of the regulation indicates that an eligible applicant must purchase eligible materials or the eligible equipment after March 20, 2000 and before January 1, 2001. And with respect to that item there, I would suggest that the committee might write to the minister to suggest that the regulation could now be repealed as the application period is past, some four or five months ago.

They may want to wait till there is a six-month period or a one-year period, but I think it would be a good area for the

committee to move into, to maybe suggest that type of thing. And if departments don't want to do it, it would be another way to help the Department of Justice indicate to other line departments that regulations should be repealed when they're no longer used so that they don't just sort of pile up and then no one realizes that they're on the books and it takes years and years to get them off.

And once they've been on the books for a number of years, then people are hesitant to take them off because no one really remembers why it was that they were left on there, and perhaps they were only left on there because they just weren't repealed.

So that might be one area that the committee could write to suggest to the minister the regulation be repealed once the program is wound up. And if the program is wound up now, then they could repeal the regulation.

The Chair: — Just one comment, Mr. Ring, before I open up for questions. On concern no. 3, I believe you indicated March 20 of 2000, and our information indicates '97 is the proper . . .

Mr. Ring: — Yes, it's 1997. Sorry.

The Chair: — Any questions regarding the suggestions that have been brought forward by Mr. Ring in regards to the regulations here?

So the committee's prepared to accept the fact that in recommendation no. 1 and no. 2, no further action is required, but would invite Mr. Ring to follow up with a letter to the minister repealing the program once it's wound up for the recommendation no. 3. Is that agreed to by the committee members?

Members: — Agreed.

The Chair: — That's agreed. Carried. Thank you.

The Municipal Levy (Saskatchewan Assistance Act) Exemption Regulations (1997)

Mr. Ring: — With respect to these regulations, the regulation-making authority of the Act was not cited. The regulations exempt municipalities from paying amounts outstanding with respect to 1995 calendar year and 1996 calendar year with respect to The Saskatchewan Assistance Act.

The authority cited is section 71 of The Financial Administration Act, and the proper authority would be section 24 and section 71 of The Financial Administration Act. With respect to that issue, no further action is required. It's the same as the first two regulations that we dealt with.

With respect to the second issue, I would recommend that we write the minister with respect to the regulation, indicate that perhaps the regulations could now be repealed as they deal with amounts outstanding in 1995 and '96.

The Chair: — Any questions from committee members? And committee again prepared to accept the recommendations and ask Mr. Ring to write and ask that the regulations be repealed for '95, '96 calendar years. Is that agreed?

Members: — Agreed.

The Chair: — Agreed. Carried. Thank you.

The Municipal Police Discipline Amendment Regulations, 1997

Mr. Ring: — The concern here is a sub-delegation of authority. In the proposed section 23(1.1), the regulation allows the chairperson of the disciplinary hearing to extend the time for commencing a prosecution of a charge against a police officer.

However, the Act in section 9.1 says:

The commission shall make rules respecting practice and procedure before the commission . . .

Clause 12(1)(j) of the Act says the commission may make regulations

. . . including the procedure to be followed in hearing and determining breaches of discipline . . .

So there doesn't appear to be authority for the chairperson of the disciplinary committee to extend the time for prosecuting a charge. And this is perhaps an area where we could correspond with the Minister of Justice to set out the concern and ask for further information or clarification.

The Chair: — Any questions from committee members?

Ms. Jones: — A question regarding the use of the word regulations. As we know, regulations, they're in place to assist legislation. And I'm not sure what this means about the commission may make regulations. If it says they make rules that would be one thing, but I'm wondering about the use of the word regulation.

Mr. Ring: — When you use the word regulation that means that it comes under The Regulations Act and so it has to be done by way of either a minister's order or Lieutenant Governor in Council. It's a more formalized process and it also has to be published in the *Gazette* for people to have notice of the new law.

And so here it indicates they can make regulations. And that's really the authority granting section that would allow them to make the . . . or setting out what the procedures are to be followed for hearing and determining breaches of privilege . . . breaches of discipline. But I don't think that would allow them to then say, but the committee chairman can extend a hearing date as long as the discipline committee chairman would like.

Ms. Jones: — I'm perhaps not understanding. But the commission is charged or may be charged with making the regulations under the Act that you've cited. I mean I thought that the legislature makes the regulations. Regulations which enable legislation.

Mr. Ring: — No. The legislature passes legislation which allows regulations to be made by another group or another body — usually cabinet, sometimes a minister. And when the legislature gives a certain amount of authority to an individual

or entity to make a regulation, they're usually very careful in what scope of authority they're giving that, they're giving that group or entity to make the regulation.

Ms. Jones: — So in this case they've given the commission the authority to actually make regulations, including the procedure to be followed.

Mr. Ring: — Yes, and I think you've hit it there. They can make rules with respect to the procedure but that doesn't allow the commission then to make regulations to say, and we're going to let the chairperson of the disciplining committee decide what the procedure is going to be.

The commission has been given the authority by the Legislative Assembly, and now the commission is giving authority further down the line and they're really not . . . ought not be doing that.

Ms. Jones: — So the whole commission then has to decide whether or not the time period can be extended.

Mr. Ring: — Or they could make a rule indicating that time periods may be extended for a certain period of time. The rule with respect to time periods is a maximum of a year, a maximum of two years. But it's the commission that has to make that decision, not the chairperson of the disciplinary committee. Because now the chairperson of the disciplinary committee can extend the hearing time for as long as he or she wants.

The Chair: — Any further questions from committee members?

So it's the wish of the committee then that we correspond with the Minister of Justice setting out these concerns and getting . . . I believe we're going to be asking for a clarification in regards to the concerns that have been raised here.

Mr. Ring: — Yes. And I can certainly understand why they would like to allow a committee chairperson to extend hearing dates. But in order to do that you have to make sure that that person has the authority to be able to do that.

The Chair: — No further questions? Everyone is agreed?

Members: — Agreed.

The Chair: — Agreed. Thank you.

The Municipal Restructuring Assistance Program Regulations (1997)

Mr. Ring: — With respect to The Municipal Restructuring Assistance Program Regulations, this is another concern that was addressed by The Interpretation Act, 2000 which specifically put a section in there allowing the delegation of authority to lesser officials. And it also repealed the section of the regulation that we're dealing with.

This had been raised by Mr. Holtzmann . . . (inaudible) . . . and I thought I should bring it forward so the committee could deal with it and get that one taken care of.

The Chair: — It's agreed to. Thank you.

The Non-profit Corporations Regulations, 1997

Mr. Ring: — With respect to The Non-profit Corporations Regulations, it appears that there's a lack of authorization to waive fees by the director. The regulation allows the director to . . . or the power to waive the payment of a fee, although in the Act the regulations only allow the setting of fees and require the payment of the fees. There's no indication allowing the director to — in individual cases — say to people you don't have to pay the fee here. There needs to be further authority in the Act to allow that.

The Act currently says prescribe the rules with respect to exemptions permitted by this Act. The waiving of fees may or may not be included in exemptions permitted by this Act. In the event it is covered, the rules with respect to the exemptions should be prescribed in the regulations, but the power to exempt fees isn't presently delegated to the director.

So the recommendation with respect to these would be to write the minister responsible, identify the concern, and ask the minister to review the regulations.

The Chair: — Any questions from committee members? Just one question of clarification. When you're talking of fees, is the fees that a non-charitable organization would be charging for its services, are we talking here? Or the . . .

Mr. Ring: — I believe it was simply waiving the payment of fees that are required pursuant to the Act. It wasn't specific to any particular application and perhaps, in certain situations like that, it makes sense that it be done. And perhaps there should be some type of indication there that that's what they're doing.

The Chair: — Okay.

Ms. Jones: — It gives them the right to set fees when they set it at zero? Which was . . .

Mr. Ring: — No. The problem is they can set . . . the fee for an application to incorporate is \$50, with the understanding that everyone that comes forward pays the \$50 fee. And not someone who comes forward and says, you know, I really can't afford the \$50 fee and the director says well, okay, you don't have to. They waive that fee for perhaps a perfectly valid reason, but they really . . . they set the fee and that's the fee that should be paid. There's no indication of exemptions being allowed.

Ms. Jones: — There's no variance.

Mr. Ring: — Right.

The Chair: — Thank you. I'm prepared to accept the recommendation that we write the minister. Is that agreed? Agreed. Thank you.

The Revenue Collection Administration Amendment Regulations, 1998 (No. 2)

Mr. Ring: — This was one regulation from 1998 that was left

outstanding, and I'll just follow through the sheet that you have before you. With respect to the Act, the regulation-making authority allows regulations to be made to prescribe the records to be kept by collectors and taxpayers. Although in the regulation it indicates that:

58.03 Every collector and . . . (retailer) shall keep records that, in the opinion of the minister, are necessary to:

(a) disclose an accurate account of the disposition of all marked tobacco or unmarked tobacco . . .

And further in 58.06 for the regulations it indicates that:

(4) Both the return and the schedule mentioned in subsection (3) are to contain any information and be in any form that the minister requires.

And so although the Act says that you have to prescribe the records that you keep, when you get down into the regulations, really the regulations say, well you have to prescribe and keep whatever the minister says you should be prescribing and keeping.

And the section of the regulations that indicates — in the middle of the page, that 58.06(4) — that's the type of provision that should be included in the Act. And were that provision in the Act, then it would allow the minister and the department to indicate to people that they have to provide the information as needed once the program gets running. Sometimes that's when you realize that you need other records to be kept or more detailed records to be kept in certain areas.

And with respect to this regulation, my recommendation would be to correspond with the minister to raise the issue, suggest either regulations be changed or the Act could be amended to allow the minister to determine what records or information are required.

The Chair: — Questions from committee members?

Mr. Thomson: — Is the concern that the . . . the concern is over the conflict between the Acts supposedly wanting the Lieutenant Governor in Council to deal with this versus cabinet having delegated this authority down to the minister?

Mr. Ring: — That's correct.

Mr. Thomson: — And your argument then is that the legislature should have specifically included the minister as the appropriate official who decides? Is this correct?

Mr. Ring: — That's correct. The Legislative Assembly said it could be . . . It's Lieutenant Governor in Council regulations and then when you read the regulations, they say the minister can decide what needs to be in them.

Mr. Thomson: — Now is there anything wrong with the Lieutenant Governor in Council delegating that . . . subdelegating that authority to the minister? To an individual minister?

Mr. Ring: — Yes. The Lieutenant Governor in Council can

make regulations prescribing the records to be kept and not letting someone else decide what records should be kept. That's really the issue.

The Chair: — Further questions from committee members?

Ms. Bakken: — If the Act says the Lieutenant Governor in Council, how can the minister make the determination whether it should be the Lieutenant Governor in Council or himself or herself that, through a regulation, that does this? You're suggesting either solution. Either change the Act or.

Mr. Ring: — Yes. And I suppose the two solutions there would be, with respect to the Act, to change the Act to say the minister may . . . the Act would say the minister may determine what information and what forms are required with respect to this program.

Ms. Bakken: — So it would have to come back to the legislature, in other words?

Mr. Ring: — Yes, or the regulation could be changed to say the following pieces of information must be included in a return — you know, the amount of tobacco that you purchased, the retail price, the sale price, audited records, and all of the other things that they need for financial control. And then they would actually be prescribing the records or listing out the records that you need to keep in order to submit to the minister.

So it's not . . . it's one or the other, as opposed to a combination of the two.

The Chair: — Further questions from committee members? Is there an understanding of where we want to go with this?

A Member: — Yes.

The Chair: — Committee members are prepared to accept the recommendations . . . just one second.

Mr. Thomson: — Mr. Chair, if I can just ask on this. Is there a mechanism put in . . . This particular amendment — let me just put it this way — this particular set of regulations, if I'm not mistaken, in '98 was likely brought in to deal with the tobacco smuggling problems that we were having in the province back at this point. And the obvious need was to deal in a flexible but firm manner. This was not something likely that the legislature anticipated needing that kind of flexibility for.

But I don't understand why it is a difficulty for the Lieutenant Governor in Council to delegate to one of its members the ability to set the terms. It's not a case that it's delegating it to an outside authority; it's delegating it simply to one of its members.

Is there a reason you would be concerned about this?

Mr. Ring: — I think the issue is that the Legislative Assembly delegated the authority to cabinet which is an entity meeting together, and not to an individual minister in cabinet.

And so for that reason, if the Act were to say, allowing the minister to determine what information and what forms should

be used pursuant to this Act, then the Legislative Assembly has given the authority to the minister, the broad authority to the minister, to determine what he or she feels is necessary any particular time.

Whereas at this point they put prescribing the records to be kept, which is a fairly detailed list. Prescribing comes from prescription, which is a fairly detailed itemized list as opposed to respecting the records that should be kept, governing the types of records that should be kept, or determining the groups of records that should be kept.

There's a number of different words that you can use. They chose to use prescribe, which is a fairly precise term.

Mr. Thomson: — Mr. Chairman, I'm not particularly concerned about this. I'm prepared to accept the Law Clerk's recommendation. But in my view this is not a major problem. I'd rather have us . . . As long as there's consistent application by the ministry. I would be more concerned about the consistency of the application than I would about the need for us to prescribe the regulation. But I'm prepared to accept the Law Clerk's recommendation.

The Chair: — Thank you, Mr. Thomson.

Ms. Bakken: — Well I guess the issue is whether we agree with what it says or not. The legislation says a certain thing and it can't be changed unless it's changed within the legislature. You can't just decide that you think it's okay. That's the issue. That's rewriting the legislation without reintroducing it in the House or bringing in an amendment.

Mr. Allchurch: — Mr. Ring, I notice in your recommendations you said correspond with the minister to raise the issue, suggesting that the regulations be changed or the Act be amended. Is there one way that's better than the other? I would make a suggestion maybe that we should have the regulations just changed up front first of all.

Mr. Ring: — No, there isn't one way that's better than the other. What they could do is indicate in the regulations, set out the list of records that need to be kept and the form that needs to be filled out with respect to applications under the regulations, and that would be all they need to do without changing the Act.

I think there's sufficient authority in the Act to do what it is the department wants to accomplish. And it's a regulation from 1998, so it's not something that it hasn't been working.

The Chair: — Any further questions from committee members? Committee is then prepared to agree with the recommendations that have been presented by the Law Clerk? Is that agreed?

Members: — Agreed.

The Chair: — Agreed. Carried. Thank you.

The Canada-Saskatchewan Adjustment Program Regulations (2000)

Mr. Ring: — With respect to these regulations, I've indicated

this may be a — I hadn't realized it at the time — but the sequence of the way the regulations come through may be helpful here. Generally speaking, the regulation here is an example of the type and level of detail that should be included in regulations with respect to grants and assistance to individuals. These could be contrasted with the short-term hog loan regulations that the committee dealt with at its last meeting.

However, there were two items with respect to these regulations I wanted to bring to the committee's attention. Subsection 12(3) of the regulation limits a person's right to be heard. And one of the terms of reference of the committee is to indicate when items in natural justice or . . . such as this come forward. And so that's why I brought the concern in 12(3) to the committee's attention.

It doesn't say they don't have a right to a hearing and it doesn't preclude the right to someone having a hearing. Although, the provision indicates that the producer is not entitled to a hearing.

Further on in the regulation, you'll notice that there is a provision for a reconsideration or a revision of an application that's been made. And that's a good way of dealing with some of the problems that can sometimes happen with applications for a program; that if someone's application wasn't looked at carefully the first time or properly the first time, it can then be reconsidered as opposed to forcing them to go to an appeal or trying to have their application reconsidered. So here, they can have the application reconsidered and that's a good thing.

Although there is a one-year limit. And I was wondering how the limitation of one year works with section 16 of the regulations. Because there's a one-year termination, then there's sort of a cut-off as of December 31, 2001. And so because there's the one year limitation with the rehearing, I was wondering if that provided sufficient time.

Now I'm sure that doesn't cause a problem necessarily when they're actually dealing with it, but when you read the regulation it appears to be a fairly short time frame.

The Chair: — Thank you, Mr. Ring. Any questions from committee members?

Mr. Thomson: — Mr. Chair, speaking to the concern and also to the mandate of the committee, I find myself in a bit of a difficulty in that the question being asked does not seem to specifically deal with the section being ultra vires, but rather seems to speak to some program details. I'm at a loss to recall exactly how this program works.

Is the Law Clerk suggesting that the section is ultra vires?

Mr. Ring: — No. No, I'm not.

Mr. Thomson: — Perhaps I could ask him to just clarify one more time what the concern is so I fully understand it?

Mr. Ring: — Part of the terms of reference of the committee is to indicate to the committee regulations that are unusual in nature or that result in a denial of natural justice. And one of the principles of natural justice is the right to a hearing when

you've been refused an application.

And with respect to these regulations, although it doesn't say there shall be, you don't have a hearing; 12(3) of the regulation indicates that a producer is not entitled to a hearing. Nothing in these regulations entitles a producer to a hearing before the corporation.

And it was just an odd provision to find in a set of regulations; and it fell, both under the terms of odd or unusual powers, as well under the term of reference with respect to a denial of natural justice.

And maybe there's a perfectly good reason why that's in there. It doesn't say they shall not have the right to a hearing, it only indicates that they are not entitled to a hearing before the corporation.

Mr. Yates: — What we're asking for is simply to write the minister seeking clarification on those subsections. I don't have any problem with that, but I share some of the concerns my colleague Mr. Thomson has indicated.

Having been through these on more than one occasion, as you will be aware, this program was a one-year program and the funding was available for only one year. So some of the timelines and processes were there to ensure that within that time frame of available dollars, that in fact people could get the maximum benefit and have the ability to have their case heard in one of several ways. And I think to write to the minister and get some clarification on that is not an inappropriate request.

Mr. Ring: — And looking at the regulations at this point in time, reviewing them, there doesn't seem to be an indication that the program was only going to be running for a one-year period.

Mr. Yates: — At the time it was set up, that was the intent. Now we have another year. We didn't know we were going to have another year.

The Chair: — Any further questions?

Mr. Hart: — Well yes, I agree that we should be writing the minister to clarify the subsection 12(3) with regards to the right of a hearing. I think that's very important that individuals have that basic right. And if it's in fact being denied or in some way inhibited, I think we should have clarification and look very closely at that section of the regulations. And therefore I would concur with the recommendations as set out by the Clerk, that we correspond with the minister to seek clarification.

The Chair: — Any further comments or questions?

Mr. Harper: — Mr. Chair, just in . . . and I certainly agree with most of the comments that are around the table here today. But in regulations 12(2), I think very clearly indicates that a producer, once receiving notification of the producer's eligibility for the program, if that eligibility is not recognized, he has the opportunity to contact the corporation in writing for a reconsideration of his application.

Would that not then answer the concern of the Law Clerk of the

denial of the natural justice mechanism?

Mr. Ring: — Yes, and as indicated in their report, I think the reconsideration . . . being allowed to have a reconsideration of your application is certainly commendable, but it may not be the same as actually being able to have a hearing to find out what the problem was with the, with the application. And the regulation doesn't say there shouldn't be hearings. It just indicates that the producer's not entitled to a hearing.

Mr. Harper: — But the concerns of the producer would be addressed through the producer's ability to contact the corporation for reconsideration, and at that time, one would assume, that the corporation would make the explanation to the producer the reasons and the criteria for his ineligibility.

Mr. Ring: — Yes, and I . . .

Mr. Harper: — Would that not in effect be the same result as having a hearing, only lessen the bureaucratic process?

Mr. Ring: — Yes, and I think that's the reason they have . . . that's why it says you . . . it doesn't say you can't have a hearing, it just says the regulations don't entitle you to a hearing.

Mr. Harper: — I suppose it's all in the interpretation of a hearing. But having your application reviewed after first submitting it — having it suggested it's ineligible — then having it reviewed by the committee for the purposes of indicating the reasons for the ineligibility, would that not be the same as a hearing?

Mr. Ring: — It's very similar to having a hearing when you say I'd like you to reconsider my report and then you get the letter back saying we've reconsidered your report and no for the second time. If you do actually have a hearing then you can say did you realize there was this, did you realize there was that?

So although the reconsideration is commendable, it's not, it's not as . . . it's not an exact substitute for . . . an exact substitution for a hearing.

Mr. Harper: — I fully understand that but would not the process result in the same ends?

Mr. Ring: — Yes it could, certainly.

Mr. Harper: — Thank you, Mr. Chair.

Mr. Hart: — While reviewing that regulation, as the Law Clerk has indicated, it doesn't give an individual a right to a hearing. And I would wonder why that's in the regulations, where it says that nothing in this Act or regulation entitles . . .

Mr. Ring: — No, I'm sorry. Actually they do have a right to a hearing because the regulation only says the regulations don't entitle the person to a hearing. But under the rules of natural justice, certainly you do. And if you wanted to push it far enough, you could have a hearing before the corporation for these.

Mr. Hart: — So then why would that be in the regulations, that

subsection? Why would that even be in there if in fact an individual does have a right to a hearing where it says . . .

Mr. Yates: — The intent, when . . . having sat on the Legislature Instruments Committee, that this piece of legislation or regulation was in fact to have a paper process. If you were denied, you could submit additional information. They would tell you why you were denied, give the opportunity to submit additional information, and re-evaluate.

And at that point if there were still concerns, you could then proceed to the next step. But in many cases, some people would have accountants fill them out; some would try to fill them out themselves. You didn't want to have a process . . . everybody automatically went to appeal without having first trying to submit additional information, or else you could end up having literally thousands of appeals and not being able to process some 50,000 applications because of the sheer volume.

So that, and it's quite a complex program as you probably know first-hand. So the idea was basically a three-step process. If you sent it in, it was rejected; you get told what additional information . . . what isn't there; you have the opportunity to send it in for re-evaluation, and then you could move into an appeal process if necessary. But people didn't jump from one to three without sending additional information in.

Mr. Hart: — Without reading all the regulations, I'm wondering if that process was prescribed in the regulations or the materials that individuals received? It just seems to me when you look at a set of regulations and it says that this doesn't necessarily give you the right to a hearing, it sort of is a red flag in my mind.

And I understand the need for process and efficiencies of administration and those sorts of things, but I think, you know, just speaking in a general nature, I think we have to safeguard against, you know, impinging on people's rights to have hearings and put their case forward and submit the information in a verbal manner.

Because quite often it's very difficult to bring all the information together that's required, you know, in writing. There's quite often a misunderstanding of what actually is required and those sorts of things. Whereas, you know, if a case moves along, sometimes a short hearing can clear the matter up very quickly.

But having said that, I realize, I mean there is needs for efficiencies and that sort of thing.

Mr. Yates: — Yes. That's why I agreed we should write for the clarification, because then we'd also get some feedback on how the program operated under these regulations — what happened and how it operated. We now have a year's experience with its operation and that feedback would be very beneficial.

And I just want to point out that nothing denies the hearing. It just says you're not automatically entitled to one. So it leaves, very clearly, the direction that there are other processes you may have to follow prior to getting your hearing.

Ms. Jones: — I was just going to make the point, Mr.

Chairman, that rather than speculate on why, why don't we write them and ask them why.

And also, if anybody has two page 255s in their binder, I'm missing mine.

The Chair: — And prior to Mr. Thomson, Mr. Ring wanted to make a comment.

Mr. Ring: — I have an extra page 255 in my binder.

One comment I was going to make with respect to this is, I think when you read section 12 through when they talk about a reconsideration of your application, when they indicate in the regulations that there'll be a reconsideration of the application, the expectation might be that that reconsideration will be a hearing.

And so I believe in subsection 3 what they're trying to say is the reconsideration of your application will be a paper reconsideration and won't be a hearing process. And perhaps that might have been the way to communicate the message as opposed to say it doesn't entitle you to a hearing, which people look at and they say why don't I get a hearing.

Mr. Thomson: — Well I'm prepared to support a letter being sent asking that it be clarified and that the regulation be clarified to more specifically outline what process was to be followed.

But I would caution this committee that is not our job to review programs and policies. And I will resist an attempt by the committee to start moving into that direction. That is not our task before us today. Whether we decide that we want to make that our task, we should proceed with rule reform and do that.

If our advice to the minister is to clarify the regulations, then we should do that in a non-prescriptive manner.

I'll support the recommendation. In fact, I'll move it.

The Chair: — Any further questions? Committee then prepared to agree to the recommendations brought forward? Agreed. Carried. Thank you.

The Conseil scolaire fransaskois Election Amendment Regulations, 2000

Mr. Ring: — With respect to these regulations, the issue is very straightforward. The French text contains some text that the English text does not; and with dealing with these, going through, that type of thing actually happens, and noticing that the two texts weren't the same. And they should be because they are both authoritatively the law.

Here it's just an indication indicating that perhaps the two versions of the regulations should correspond.

And it's really an adding of with any necessary modification, which is a minor point.

The Chair: — Any questions? Agreed with the recommendations of counsel? Agreed. Carried.

The Crown Mineral Lands Transfer Regulations, 2000

Mr. Ring: — With respect to these regulations, the coming into force provision is very unique as is the expiry date that they contain. Coming into force is at 11:59 p.m. on March 31, 2001, otherwise they would have come to force on the stroke of midnight at the beginning of March 31, 2001 — that's a typo there.

Part of the committee's mandate is to review regulations that have unusual provisions. And looking at that coming into force provision, it appeared to me that the regulations certainly fell into that category.

As well, because the regulation has the expiry and the repeal of the regulation all occurring at the same time . . . Or, I'm sorry, with respect to the expiry date, it's set as the date on which a certified true copy of the regulations is registered with the appropriate Land Titles Office. And I believe the regulation should indicate, with the land registration district.

And by having the expiry date on the day the copy is registered with the Land Titles Office, gives a reader no indication of when those regulations actually expire unless you run through a fairly . . . or it's not very easy to track.

Also perhaps the regulation should have taken into account the new Land Titles Act 2000, which will switch the . . . move away from the land registration districts and have one registration district for the entire province.

Now perhaps the regulations were going to be filed and taken care of before the new Land Titles system is up and running, and if that's the case then there's no issue there at all.

This type of regulation would be an instance where it would be perhaps helpful to either republish the regulation or republish the title of the regulation with a reader's note indicating the date on which the true copy was filed, and that would then give you the expiry date for the regulations.

This republishing of the regulation, republishing of the title of the regulation occurred with The Provincial Court Pension Plan Amendment Regulations that we'll get to later in the package.

The first time they were published, it just indicated they would be coming into force on a date that was determined by another event.

And then after that event occurred the regulation was republished, indicating that the regulations . . . that event occurred on a particular date — on March 10 — and indicated what the expiry date for those regulations were.

So I found that very helpful and easy for someone who's reading the regulations and want to keep track of which ones are in force or which ones aren't in force. The republication was helpful in that regard instead of having to track it another way.

The Chair: — Any questions from committee members? Is the committee prepared to accept the recommendation that we correspond with the minister for clarification? Is that agreed? Agreed. Carried. Thank you.

The Dedicated Lands Amendment Regulations, 2000

Mr. Ring: — With respect to The Dedicated Lands Amendment Regulations, there doesn't appear to be any authority to provide for exemptions included in the regulations-making power.

Now these are a category of regulations that are made by way of minister's order. They're not made by cabinet, they're made by the minister responsible. So they don't go through the same vetting process that Lieutenant Governor in Council regulations go through because they don't go through cabinet.

The issue with respect to the exemption contained in 7.1 of the regulations, the Act doesn't appear to give authority to provide for exemptions. Generally speaking you need specific authority for providing for exemptions.

The regulations in question are only 10 sections in length. The exemption provided for in this section exempts the three main provisions of those regulations.

The Act indicates that the minister may by regulation specify the terms and conditions whereby all or any part of a municipal reserve is to be leased for school purposes. It doesn't indicate an exemption to or an authority to exempt the regulations.

And the recommendation here would be to correspond with the minister, raising the issue, and seeking an explanation or more information with respect to the regulations.

The Chair: — Any questions from committee members or is this one clear as mud?

Mr. Thomson: — Mr. Chair, if I can just say this is a frustrating process in that we seem to have little understanding as to what the reasons for these regulations being brought in. If it's simply a . . . I wonder if we can't streamline our own process. It would make a lot more sense rather than the seven of us sitting around here all morning discussing whether or not we should write the minister, that we simply have the minister written on all of these matters.

We're sitting here . . . the next five or six deal with correspondence on this issue, on these issues. It's hard for us to make decisions without having seen what the, what the cabinet's intention was. Maybe we just note that as a frustration; but I just wonder whether this is the best use of members' times.

The Chair: — Point well taken. Any other comments from committee members? I think what we have . . . we'll switch it. What you're suggesting, Mr. Thomson, is that maybe we should give Mr. Ring the authority to write prior to and then . . . to get some clarification so we have a bit more knowledge and a better understanding of what the concerns that are being raised versus coming to a committee, sitting down, and then saying, yes let's proceed and . . . But not having the knowledge, we're going by the work that Mr. Ring has done. And we'll seek some clarification and then meet again to finalize or come to a conclusion. I take it that's what you're attempting to say, Mr. Thomson?

Any other comments in regards to this? Maybe Mr. Ring would like to, and then . . . Mr. Yates first.

Mr. Yates: — Well I agree that the process would be much, and the time would be much better served if there was a concern identified by the Law Clerk, that he would write to the appropriate minister seeking clarification and bringing it to the meeting.

But do you feel comfortable doing that prior to bringing the issue to the committee for the first time even?

Mr. Ring: — And that was the comment that I was going to make. And I've discussed this matter with the Chair at one point in time.

And if we could . . . if I could back to the discussion we had with respect to the, I believe it was the livestock . . . or the regulations that dealt with the fact that it said there's no . . . these regulations do not entitle you to a hearing.

Now there was a considerable amount of discussion by the committee on that point. So there I don't think I would have felt comfortable writing the minister on that point indicating . . . not indicating that there was a concern but asking for that . . . a reaction on that because it really was a type of a provision where it did not preclude a hearing, but it was worded such as indicating that you weren't entitled to a hearing.

So some of them I don't think I would feel comfortable writing the minister on them, although with respect to some of them certainly that's a possibility.

Mr. Yates: — So is there some way that you would recommend categorizing the types of issues and concerns in a way that would better maximize the time of the committee and have us spend our time dealing with the substantive issues?

As an example, those where it's a point of clarification, would you feel comfortable writing a letter to the minister to get that clarification for the committee? Because you're simply bringing a recommendation that we asked for that clarification, and without further information we are going to have to send a letter asking for clarification.

So inevitably we are going to write the letter, or you're going to write the letter on behalf of the committee regardless. So would you feel comfortable doing that prior to . . .

Mr. Ring: — I guess the response would be, in certain circumstances it's certainly very clear that you can write a letter beforehand to get the information back. The committee doesn't have a set schedule for meetings, so you never really know when a Regulations Committee meeting is going to occur or not.

And trying to get everything together, and wondering if . . . I think if I were writing a letter asking that, I could say the next committee meeting will be on a particular date. I don't believe there would be a problem in asking for a response within a particular date, knowing that it would be coming before the committee.

Some of the concerns that are raised, you read through them, and perhaps the committee doesn't have the concern that's brought forward, and you think, no, that's really not an issue; that's not the type of issue we'd like to get into. And in those circumstances, had I written the minister and it ends up to be that kind of an issue, then I ought not be . . . I ought not be writing the minister beforehand. Because really it's the committee that's deciding, and I'm not the one deciding. It's almost a subdelegation.

Mr. Thomson: — I understand why we would not want to presuppose what this committee would want written into its recommendation. But as I'm looking at The Hospital Standards Amendment Regulations, the concern is said, is there appropriate authority with respect to section 85?

I don't see what the problem is in having the Law Clerk write to the minister responsible and say, there doesn't appear to be this; what's your response? So that when we have the information, as legislators we can look at what the Law Clerk has identified as the concern, look at what the department has identified as a response, and then decide whether we want to correspond and suggest that they correct it.

It's very difficult for us to sit here with advice from one side and not advice from another, and to adjudicate, or simply set up the situation where we need to deal with this again at a subsequent meeting.

I see nothing wrong with us asking the Law Clerk to identify the concern, ask for the response, without being prescribed in the solution, and allow the committee then to weigh it out and decide whether we want to write back to the minister and say, you should correct this or correct that. That may well streamline this process. That would . . . I understand the concern.

The other thing I would be prepared to support is a resolution from the committee establishing some kind of a time frame for a response. Whether that's 90 days or 120 days . . . I think Crown Corps allows . . . PAC (Public Accounts Committee) allows 120 days for a response. I think Crown Corps has asked for 90 days in terms of significant transactions. But both would seem reasonable to me to allow that dialogue to go on.

But it would certainly be more helpful for me to have in front of me what the departmental response is on the basic concern. Because it may be . . .

The Chair: — Thank you, Mr. Thomson. I was going to suggest that maybe prior to adjournment we have that discussion but maybe we could . . . I'd like to hear what Ms. Bakken has to say — she put her hand up — and Ms. Jones.

But it seems to me that there's reasonable grounds for giving the Law Clerk some flexibility in basically moving ahead in situations where, as we've indicated today, it seems fairly clear that a correspondence prior to, and then the committee meeting to discuss the response that has come back.

And I think what I hear Mr. Ring saying is just he needs to feel clear in his mind that he's not moving ahead of the committee; that he's moving with the authority of the committee. So before we make a final decision in that matter, Ms. Bakken, you had a

comment?

Ms. Bakken: — Well I hate to say this, but I agree with Mr. Thomson today. I do feel like we are, you know, really wasting our time, and what is the purpose of what we're doing here — just reiterating what the Law Clerk has said. So I would be in support of what Andrew has proposed so we do have a purpose here.

Ms. Jones: — I simply wanted to almost reiterate some of the comments. I think that . . . I mean, for instance, if there's a difference between the English version and the French version, I don't think Mr. Ring needs our permission to write the minister and tell them that — or our endorsement. And so I think that in fairness, on whatever issue you don't feel that you're overstepping your bounds on, that you should write and seek the clarification that you need prior to our meeting.

I agree that a time limit would be a handy guideline for departments and ministers to try to respond to us in because we are going to sit here at the next time, after the answers are received, and then go over the old concerns; and you're going to say that's been dealt with. I mean that's not an efficient use of a legislator's time.

So I don't know how . . . I think the only person who can determine in which areas you're comfortable writing is you. And if you're not comfortable, then bring it here and we'll offer that instruction.

Mr. Yates: — Yes, I also think one of the things that would help us move the agenda forward in this committee would be to set four meetings a year, every three months, and set a date. Then officials know when they have to get the information back. Like structured dates, whether it's two or three times a year, four times a year, the information has to be back. But we get this information that's going before the committee two to three weeks ahead, and then we can have dealt with some of the concerns.

Because quite frankly, if we don't have some process that we have more information ahead of time, what we will do, you know, on the government side, is we will take this and we'll send it away and we'll get the department's side. But then we will get it, and you won't get it. And when we want to have a full discussion, you know, we would like to have a full discussion.

And I think if you feel comfortable doing it, I think we should send those letters out very early and have responses back when we're having discussion.

Mr. Hart: — Thank you, Mr. Chair. It seems that we are having this discussion on streamlining now rather than at the end of this meeting.

But I guess what I would like to offer is that I can envision that the Law Clerk may in some instances, not . . . There's that grey area. Some things are very straightforward, and yes, a letter of clarification is the obvious course of action. There may be other areas as well.

Now this situation — do I send the letter out, do I not. I would

suggest perhaps that the Clerk meet with the Chair and Deputy Chair and review those items very quickly, and seek advice from the Chair and Deputy Chair and guidance as to whether letters should go out or whether they should be brought to the whole committee.

It would have the effect of streamlining it. It would not leave this whole responsibility of determining a course of action solely in the hands of the Clerk.

Mr. Ring: — I'm glad the committee had this discussion. Because at the initial meeting when the committee got started, there was a motion passed giving me some authority to write to ministers prior when there was clearly a correction or something minor to be done. And that was fine. At that point in time, everyone was new to the committee and we were sort of introducing people to what the committee could do and maybe where the committee could be going.

And so now that we have had the broader discussion, I think now certainly I realize that certainly have the full support of the committee, and that there's certain areas we can start doing.

Because this is really a departure from the way the committee has operated before. And until we had this discussion, I wasn't comfortable, as the Chair had indicated, in moving ahead before the committee, rather seeking clear direction from the committee before moving ahead and doing that. And I certainly think that would help to streamline matters.

The Chair: — Any further discussion?

I want thank committee members for their thoughts and their input, and I feel it would be certainly appropriate to have a motion come forward from the committee. And I think we're trying to get some streamlining of how we make the motion, I understand, and basically giving the Clerk the ability to move forward and correspond on certain concerns that the Clerk may have so that we have the clarification.

And as it has been indicated by committee members, when we receive the information for a meeting, then we have a broader area of understanding laid out before us so we can make a firm decision and not feel like . . . I think sometimes committee members feel we're just here as a yes team, simply because we don't have enough information in front of us to know exactly where we're going. We're going to correspond and find out . . . get some more details.

So having said that, I would ask for maybe a motion from the floor, if possible, to give the Clerk the authority, by the committee, to correspond with ministers for clarification. And I believe a comment was made in regards to a timeline. Would we suggest a period of maybe 90 or 120 days so that when we have . . . if correspondence is back, the Clerk will know that correspondence will be back prior to a certain period of time period in order to facilitate a committee meeting.

Mr. Ring, do you have a comment?

Mr. Ring: — With respect to the timeline, I think that would be a helpful motion from the committee, in that once I've sent a letter out and if I haven't received a response, then I feel

comfortable sending a second letter back on my own initiative and not feel as though I'm overstepping the bounds and pushing a minister to respond when the committee may say no, three months was fine; you should be waiting six months before you send that type of letter out.

So I think if that's included in the letter that's certainly . . . that would be helpful.

Mr. Allchurch: — If I could, could I make a recommendation that we have it at 90 days rather than 120?

Mr. Harper: — If I heard Mr. Ring right, I think he wanted an indication as to not only the total length of time but also an indication as to what would be an acceptable length of time for him to correspond to the second letter if he hasn't got a response to that letter by a certain date. And I would agree with the 90 days as indicated by Mr. Allchurch. I would also perhaps think we suggest in there that if Mr. Rink hasn't had a response in 60 days to his first inquiry, that he should follow up with a second inquiry on behalf of the committee.

The Chair: — Excuse me, can I just make a comment. I note it is getting nigh 11 o'clock and I think we're still not sure exactly how we'd like to put this motion together. I'm wondering if I could ask the committee if we could give some thought to it and come . . .

Mr. Ring has just mentioned to me as well, possibly rather than putting a motion together trying to grapple with how we're going to put the motion forward and find out that we're dealing with down the road because it wasn't quite to our liking, that we maybe take the time over the next few days prior to our next meeting and have that motion ready. Would the committee be agreed to that process?

Ms. Bakken: — I just question do we need the next meeting if we're going to carry forward with the recommendation.

The Chair: — Well I think first of all, we do have discussion on the books here that we do have to have an agreement on. And right now we're still working under the old guidelines, so I would have to ask for an agreement in regards to the dedicated lands that we accept the recommendation.

Is the committee prepared to accept those recommendations at this time? Agreed.

Mr. Thomson: — Could I suggest that perhaps at our next meeting what we come prepared to do is deal with the two motions. I think we should have two motions. One is authorizing the Law Clerk to deal with these matters that we've discussed. The second motion would deal with the timeline for government response.

And I would suggest as a third issue that we should put on our agenda a report so that we can put that into the Assembly so that the Assembly can concur with our motion; that we may want to provide an early report to the Assembly on this matter.

But I would leave these matters to our trusty Clerk to guide us through these procedural areas.

The Chair: — Any discussion? I believe that would be an appropriate way to handle it and I think we would be more comfortable at the end of the day with our recommendations and motions versus just moving forward right now. I sense there's . . . We just are not exactly sure how to word it so that we're making the committee work and function appropriately.

Having said that, being nigh 11 o'clock and according to the agreement earlier on, we were going to adjourn by 11. I want to thank the committee members for your involvement this morning and your comments.

This committee stands adjourned until Tuesday, June 5, at 9:30 a.m.

The committee adjourned at 10:55.