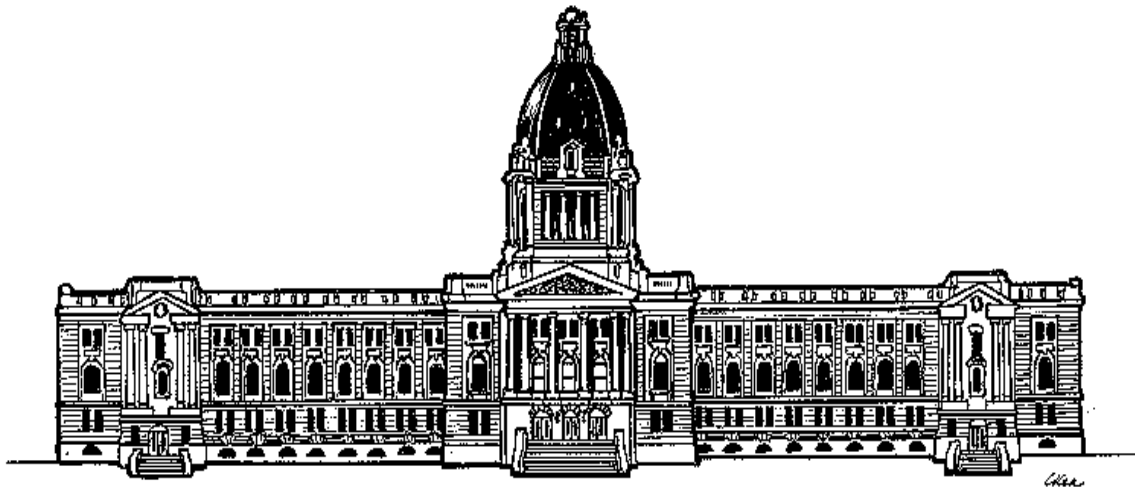




Special Committee on Regulations

Hansard Verbatim Report

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Legislative Assembly of Saskatchewan

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**SPECIAL COMMITTEE ON REGULATIONS
1998**

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Sharon Murrell
Battleford-Cut Knife

Maynard Sonntag
Meadow Lake

Grant Whitmore
Saskatoon Northwest

The Chair: — I will call our meeting to order and we'll get on with reviewing some of the review of the regulations that have been sitting around for a while. Hopefully we can get all the follow-up done, get that covered so that that when we get a chance to meet again we'll get on with the work of Regulations Committee. And for those of you who were able to join us a couple of weeks ago when the delegation was here from Australia, I want to thank you for taking that time and the effort. I know the Australian delegates enjoyed the time here in Regina.

I thank the committee members, Margaret, Allison, and Bob specifically, for their hard work and efforts — driving them around, organizing events and functions for them to see. We really appreciated that. On our behalf, I think you did a fine job and in talking to the Australian delegates I think they were really impressed and enjoyed their stay here. So we say thank you to each of you.

We're going to move on to review of regulations you've got, I believe in front of you, information from the last meeting. We have a number regulations that need some follow-up. We're going to move to page 3 and The Regulations Appeal Act (Part III) Regulations '95, for The Regulations Act, 1989. And I'm going to invite Mr. Cosman to fill us in on the details regarding this follow-up.

The Regulations Act Repeal (Part III) Regulations, 1995
The Regulations Act, 1989
April 7, 1995

Mr. Cosman: — Thank you, Mr. Chairman. Good morning, committee members. Actually there is no issue with respect to this particular regulation, but I refer you to attachment C of the materials that are provided with that report. It's a letter from Mr. Nilson, the Minister of Justice and Attorney General.

I thought it important that the committee members know the reception that the work of the committee is getting within the Department of Justice and government generally. This letter and I'll quote for the record, from Mr. Nilson, dated April 24, 1997, at the second paragraph:

I am pleased that the Special Committee on Regulations of the Legislative Assembly took note of the work done by my department to identify and repeal old, unnecessary and out-dated regulations. The Government of Saskatchewan has undertaken a program of reviewing all its regulations over the next ten years with the objective of reducing the volume of regulations by 25%. Reducing the volume of regulations and writing regulations in a clear and consistent manner will benefit all Saskatchewan citizens.

The Special Committee on Regulations performs an important role in reviewing and commenting on regulations. Your comments about the work of my department are greatly appreciated. I would like to wish the Special Committee and you best wishes in your deliberations.

I thought that an important letter for the committee members to be aware of rather than my just burying it in my files as

received. And so I've treated it here in the follow-up because this confirms not only what we heard from Ms. Lynn Minja when the Australians were here about the regulatory reform initiative and so on, but it shows that the minister was responding as long as a year ago to our concerns of how many regulations we had. And I just thought this was a positive thing to mention.

The Chair: — Thank you, Mr. Cosman. I think the letter is certainly self-explanatory and I appreciate the fact, Mr. Cosman, that you've just brought this to our attention. We will certainly be keeping this in mind as we review regulations down the road as to how the government certainly is responding to the indication that they are indeed going to address these concerns that have been raised. And we thank you for raising that with us and I believe that's quite self-explanatory. So with the committee's agreement, we'll move on to The Rural Municipal Road Relief Assistance Program Regulations, Department of Highways and Transportation Act, June 2, 1995. Mr. Cosman.

REGULATIONS FOLLOW-UP

The Rural Municipal Road Relief
Assistance Program Regulations
The Department of Highways and Transportation Act
June 2, 1995

Mr. Cosman: — Thank you, Mr. Chairman. I just might point out to the members of the committee the reference to June 2, 1995 is a reference to the *Saskatchewan Gazette* issue of that date. And were you to be going through the *Saskatchewan Gazette* you would have to find these regulations attached to the June 2, 1995 *Gazette*. But you have copies of the regulations before you and in the materials I've provided to you.

The first issue in this regulation is there's an unguided discretion given to the minister to approve or disapprove financial assistance under the regulation. There isn't much in the way of criteria set out and that was the issue.

And the action that I've taken at the behest of the committee was that I've asked the minister to respond to us and I have the copy of that response. It's attachment D in your materials and you may wish to turn to that and read those attachments.

The response that particularly I'd refer to is the response of Mr. Beck of the Crown counsel, Department of Justice, indicating that the power given the minister to provide financial assistance is found in section 11 of the Act, but that power could be exercised by the minister in accordance with any terms and conditions that are prescribed in the regulations, without reference to the clauses 4(1)(a) and (b) that I had referred to in the regulation.

Now I still fail to see what criteria the minister is directed to use by clause 4(1)(a). You'll see 4(1)(a) set out in the letter of Mr. Beck, dated June 11, 1997. I don't see much criteria there that would assist us in knowing whether the minister . . . how he makes his decision as to approve or not approve a claim.

However, as I say, Mr. Beck seems to feel this is sufficient

guidance to the minister and I'll leave it to the committee as to whether or not to pursue the issue any further.

I'll give you a moment to read that 4(1)(a) at the bottom of the first page of Mr. Beck's letter commencing:

No relief assistance is payable unless:

- (a) the rural municipality:
 - (i) files a notice of . . . claim . . .
 - (ii) files a claim . . . (etc.)
 - (iii) provides proof satisfactory to the minister . . .

Maybe that is sufficient criteria. I'll leave that to the decision of the committee.

The Chair: — Thank you, Mr. Cosman. Committee members, do you have any questions?

Mr. D'Autremont: — I'm wondering, what was the procedures before this came into effect for relief cases of emergencies? What was the criteria that was being used at that time?

Mr. Cosman: — I don't know. We would need officials from the department perhaps to explain what the history of their financial assistance has been under previous regulations and what have you. I don't have any answer to that.

Basically I just felt there wasn't much criteria here in guiding the minister in reaching a decision as to whether or not he should approve financial assistance or not. But I guess the flip side of that is that we don't want to fetter the minister from being able to provide assistance in certain cases. And if we detail too much in the regulation, we might find that there would be a crying need for the provision of financial assistance but it couldn't be done because the criteria is too tight to allow payment. So it's six of one, half a dozen of the other.

Mr. D'Autremont: — I'm not aware of any problems in the past, or since this was passed two years ago, where road assistance has been a debatable point. It's generally been a situation where most people would recognize that there was a dire need.

Mr. Cosman: — I'd be pleased that the committee considers this issue resolved if that's the wish of the committee. I just simply raised it at a previous meeting and we need to deal with it to close it off or pursue it.

The Chair: — Thank you.

Mr. Jess: — I believe there were some problems, at least with one of the RMs (rural municipality) that was affected by this. As to payment — now I'm not sure whether that is relevant to this or not — but they had done a lot of the repair with their own equipment as compared to a contractor, and there were different rates allowed. And the ministers, I felt, should have had the discretion to make the equal payment.

The point being that if the neighbouring RM had hired that RM to do the work, they would have been at we'll say \$80 an hour whereas doing it themselves they were allotted 27, or it was a major . . . So I don't know if this is a problem with this or not,

but there was a problem in that case.

The Chair: — I guess the question I would have is: are you, Mr. Jess, are we then talking about the fact that the information in front of us, this discretion that's given the minister, he be allowed to . . . that this would give him that ability. Is that what you're asking, the question you're asking?

I'm not sure, Mr. Cosman, I don't know if you have a response to that, without department officials. And I must remind the committee members, if there's an area where we feel we need a little more, and Mr. Cosman is just basically doing the follow-up, we certainly can bring officials from departments in to give us a better explanation of what they mean by the regulations, but allow Mr. Cosman to respond if he has a response there.

Mr. Cosman: — I do note for the committee that this provision seems to have a deadline or a dateline with it. And it may be that we're discussing a moot point at this point in time, because under this 4(1)(a), the notice of the claim with the minister has to be filed on or before June 30, 1995. And again, the files are claimed with the minister on or before December 31, 1995.

And those dates have come and gone, and this provision is largely now inoperable. So I don't imagine there's much that we can do to correct any situation that may have existed pursuant to this regulation in any event.

My own recommendation, in reviewing it just before the committee now, would almost seem that this particular issue — we can't resolve too much any way in the real world of the application of the regulation. So I'd be pleased to consider this particular issue resolved, if that's the committee's wish.

Mr. Whitmore: — I would agree with that too, but I think maybe we should take note of this, knowing that always at some point in time, some other program comes forward of a similar nature. To note some of these concerns . . . to make sure that criteria is more specific in terms of determining claims and such.

Now the other thing too is whether SARM (Saskatchewan Association of Rural Municipalities) has been . . . is always the key player in this in terms of how they feel about the regulations too. So it may be wise just to note it in case further legislation comes forward at some point in time.

The Chair: — Thank you, Mr. Whitmore. Any further responses? Is the committee then agreed to consider this resolved, with as Mr. Whitmore suggested, just taking note that we keep . . . down the road, take note of this particular case in case it comes up again. Is that agreed? Agreed.

Let's move on to issue two out of that Rural Municipal Road Relief Assistance Program.

Mr. Cosman: — Thank you, Mr. Chairman. The second issue was that under section 6 of the regulation, the municipality had to provide certain proof, satisfactory to the minister. And I'd point out that the courts have often held they cannot go behind the minister's statement as to whether or not he was satisfied. They simply have to take his word for it.

This insulating of the minister's decision from judicial scrutiny is sometimes authorized by legislation, using terms to the effect that no appeal shall lie beyond the decision of the minister — something of that nature. But it's usually authorized by legislation rather than unusually — I have a typo there. It's usually authorized by legislation, that is by an Act, and not simply by something in a regulation to prescribe the terms and conditions.

So rather than being relegated to the regulation, as in the power to prescribe terms and conditions, usually the decision of the minister is set out in the Act rather than the regulation if there is to be no appeal from the minister's decision. It's because we're interfering with rights of appeal to the courts and things. And my feeling was that this should be at least contained in an Act of the legislature rather than merely in a regulation the ministry puts forward.

Now the action taken, I'd corresponded with the minister and we have the reply of Mr. Beck, and I'm not fully satisfied that the issue's been addressed by the minister's legal counsel. However, I'll leave it with the discretion of the committee to recommend further action.

You'll find Mr. Beck's response to the second issue in the second last paragraph — I believe they call it the penultimate paragraph— of the letter on page 2, the letter of Dale Beck, dated June 11, 1997, page 2, wherein it states:

The first paragraph on the second page asserts that there is a denial of justice and access to the courts. (Mr. Beck says.) That is simply not the case. Nothing in the Regulations excludes the right of a superior court (Q.B. or C.A.) to review the decisions of the minister. The decision to grant or not to grant assistance is an administrative decision which must be made in accordance with the criteria in the Regulations and the decision must be made by the minister or made on his behalf by the staff responsible for the delivery of the program.

So what we essentially have here is a difference of opinion between lawyers. I have no difficulty with the committee either accepting Mr. Beck's response as being satisfactory and consider the issue closed or whether we wish to pursue it further. Actually, in light of the fact that we're considering the first issue closed, my own feeling on this matter is that this isn't sufficient now to pursue further.

The Chair: — Any comments or suggestions from committee members?

Mr. D'Autremont: — Well, I always have some concern when ministers are beyond the reach of the courts. But in this particular case the issue seems to have been resolved so there's not much point in pursuing it.

The Chair: — Are the members of the committee agreed that we consider it resolved? Agreed. Carried. Thank you.

The Mental Health Services Amendment Regulations, 1995
The Mental Health Services Act
June 9, 1995

Mr. Cosman: — Thank you, Mr. Chairman. Again a couple of issues with respect to this regulation.

First, section 3 of the regulations established nine mental health regions but the map that accompanied the regulation showed 11 regions. And you can refer to attachment E of your materials just to correspond with these issues.

Now before we address that first issue, we'll look at the second issue and then I'll show you the response of the minister to both these issues.

Secondly, there's no connection expressed between the regions established by clauses 3(a) to (i) of the regulations and the numbered areas shown on the map. The map was not of sufficient scale or detail to enable the person to know where the boundaries actually fall, you know, on the ground. So it was difficult to . . . they had difficulties with this map. There's no question.

The minister has responded to the committee's concerns by his letter of April 28, 1997 and that's attached to your materials as attachment E. And therein the minister states, steps have been taken to review the regulations in their entirety to bring them into line with the changes in health government and the provision of health services. And concerns that were raised by the committee are being taken into consideration.

This is something I would suggest to the committee — that I would be willing to monitor changes to future legislation or regulations. And I would recommend that we accept the letter of the minister as a sufficient response to our concerns. I would note that there was a commitment that certain revisions would be in place by the fall of 1997. But as of the date of June 3, 1998 when I gave this report, no such amending regulation had been made as yet.

The Chair: — Responses from committee members?

Mr. Whitmore: — Yes, I agree with the monitoring but I think since the . . . that the regulations haven't been revised yet and they were promised in the fall of '97 I would certainly maybe recommend another letter to the minister reminding of this issue and the delay that's taken place here.

Mr. Cosman: — I'd be pleased to do so on behalf of the committee if that's your wish.

The Chair: — Further comments? The committee agreed with that response? Thank you.

The Canadian Electrical Code
(Saskatchewan Amendments) Regulations, 1995
The Electrical Inspection Act, 1993
September 22, 1995

Mr. Cosman: — Thank you, Mr. Chairman. The committee was concerned with the issue that enabling provisions of the Act did not appear to authorize the making of regulations governing who was to pay for electrical installations required by the regulations.

I corresponded with the minister, setting out the committee's

concerns, and the minister responsible for SaskPower responded by the letter dated May 1, 1997 and it's attachment F in your materials wherein he states that the particular rule has been noted by the inspection division as requiring a change. So essentially the departmental people in the SaskPower agree that a revision of the rule would remove any reference to costs. And the new SaskPower electric service guide would then direct the customer that the additional guying would be at his cost, thus the regulation would only point out the responsibility of the customer and not deal with the matter of costs which are beyond the power of the regulation. I'll give you a moment to read the minister's response.

My own recommendation on this matter is that they're doing indirectly what they cannot do directly. They can't set the costs and the regulations and now they're going to put it in a guideline document that they'll hand out as well. However, I leave it to the committee whether we should pursue the matter any further. At least it's being removed from the regulations which is our immediate area of concern.

The Chair: — Committee members have response or questions regarding this?

Mr. D'Autremont: — Well when dealing with Crown corporations it always seems to be some mystifying things that happen there. If you go to buy a car you would surely hope that they had the steering wheel in place and you didn't have to pay extra for it. And I would think that the installation of an electrical service, the entire cost should be paid for by the provider who will then in turn charge you back through your power bill to pay for all the service.

So why does half of the equipment or a portion of the equipment be the responsibility of the customer? If the customer is only in place for a year, transfers ownership of that property, he doesn't recover that cost. Whereas if it was through the electrical service charge that cost would be ongoing and be recoverable from whomever the customer might happened to have been there. I think that's a . . . to me a better business way of doing it.

The Chair: — Any further comments, recommendations committee members?

Mr. D'Autremont: — Well I agree with Mr. Cosman when he says they're doing indirectly what the regulations wouldn't allow them to do directly, and I think they need to clarify that.

The Chair: — Coming back to Mr. Cosman. I think, Mr. Cosman, you made a comment about the fact that they moved this particular area out of regulations which takes it in some ways out of our control. But is it worth a follow-up in regards to the comments made by Mr. D'Autremont?

Mr. Cosman: — I'd be pleased to correspond with the minister responsible for SaskPower, at least bringing the concerns of the committee to his attention. I usually attach a copy of the verbatim that's relevant to this regulation under study as well so that any concerns that the committee members have, if they wish to voice them for the record that will speak for itself, so to speak.

The Chair: — Committee members are then agreed that we ask Mr. Cosman to do a follow-up based on the discussion that's taken place this morning?

Is that agreed? Agreed. Carried. Thank you.

The Mineral Disposition Amendment Regulations, 1995 The Crown Minerals Act October 20, 1995

Mr. Cosman: — In this regulation at section 99.1(1) the minister was authorized to grant an exemption from any expenditure requirements under certain conditions. In other words, the application of the Act and the regulations could be exempted by the minister's order. The question was raised by the committee, "Why could not the factors that are to be considered with respect to exemption be set out in the regulations?"

And I was directed to get clarification from the ministry, and I have a response of the minister dated April 29, 1997 — it's attachment G in your materials. The minister points out that a guideline was generated and vetted within the industry prior to amending the regulations for judging the validity of applications. The copy was attached and you'll find that as attachment H. The minister points out that, to date, the industry's been very supportive of this amendment and the way it has been administered.

And my recommendation to the committee is that the minister's response is reasonable and that the matter should be deemed concluded.

But I'll give committee members a few moments to read the letter of April 29, item G, and the criteria set out in attachment H entitled "To: All disposition holders," dated November 3, 1995.

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

Mr. D'Autremont: — I haven't heard of any concerns or complaints coming forward so obviously it must be working.

The Chair: — Thank you, Mr. D'Autremont. Is the committee agreed that we accept the recommendations of Mr. Cosman — that we consider this closed? Carried. Thank you.

The Water Power Amendment Regulations, 1998 The Water Power Act January 22, 1988

Mr. Cosman: — Yes, thank you, Mr. Chairman. I note what may be an anomaly in the date there, January 22, 1988. I'm not sure that the issue is that old. However, yes, it appears from the correspondence, in fact '88 is the date of the regulation. So perhaps it's the date of 1998 that's incorrect there.

None the less we have the issue before us and the issue is that the minister responsible for The Water Power Act on April 11, 1997 was informed that we believe the regulations were retroactive in nature, having been made on January 22, 1988, and that provided for a calculation of water rental under a

formula commencing January 1, 1987. And there was no authorization in the Act for retroactive regulations, so they went back a year in time and the ministers responded to our concerns on retroactivity.

I refer you to attachment "I" in your materials. It's a letter on the Sask Water letterhead dated April 22, 1997 wherein the minister responsible sets out that the corporation, the:

Saskatchewan Water Corporation is aware of the concern and will be discussing the best way to bring about legislative change within the Department of Justice (with the Department of Justice, I should say). We do not believe the matter can be addressed during the current session of Legislature but will bring the amendment forward in the next legislative cycle.

And I note for the committee that this has not been done so to date, however legislation does take a long time. The legislative cycle that's referred to can be anywhere from two to five years in the mix of things. This might be a case where I would be pleased to undertake for the committee that I would monitor legislative change in the future.

The Chair: — Thank you, Mr. Cosman. For committee members I think that sounds reasonable to do the follow-up. The minister has given his assurances that it would be done. And just to remind the department, I believe Mr. Lautermilch is still minister of Sask Water?

An Hon. Member: — Mr. Sonntag.

The Chair: — Oh, Mr. Sonntag. So the minister has changed. Just for the sake of the minister I think follow-up would be appropriate. The committee is agreed? Agreed. Thank you. It's carried.

We'll move on then to Victims of Domestic Violence Regulations, December 2, 1994.

**Victims of Domestic Violence Regulations
The Victims of Domestic Violence Act
December 2, 1994**

Mr. Cosman: — Thank you, Mr. Chairman. Under this regulation the issue was with respect to the emergency intervention order form which had been set out in the regulation wherein the respondent named in the order was not sufficiently informed of their rights of rehearing or appeal.

The concern arises from the difference in emphasis granted to the rights of rehearing or appeal which are set out in lower case typfacing in contrast of the matter of obeying the provisions of the order being set out in bold type.

And the committee agreed with my recommendation that this be raised with the Minister of Justice. The deputy minister has responded by his letter attached, as attachment J dated May 1, 1997, wherein it is stated that the forms, when they are reordered for printing at the Queen's Printer, will have the changes suggested included in the new documents.

And my recommendation would be that I'll monitor the

situation as best I can for the committee. It's a matter that they're simply going to bold and highlight the rights of the respondent in an emergency intervention order rather than just leave it in lower case, small type.

The Chair: — Any comments from committee members?

I guess one question I would have Mr. Cosman, myself, is the response came on May 1, 1997. To date, have we seen the changes on those order papers that you're aware of?

Mr. Cosman: — No, I haven't seen any. I suspect that there were probably a great volume of these forms made and they're still using them.

The Chair: — So it's your . . . Mr. Whitmore?

Mr. Whitmore: — I think this requires another letter to the minister on this, you know, about the concerns regarding the forms. And just because you have a whole bunch of forms, to me is not quite a good enough excuse not to change them if they've noted that this is a problem. If they think that this is a problem then they should be changing the forms as quickly as possible.

The Chair: — Thank you, Mr. Whitmore.

Mr. D'Autremont: — Well, I agree with Grant on this. I wouldn't go perhaps so far as to throwing out all the forms, but perhaps another little attachment needs to be included with it that sort of highlights . . . I mean a person's rights are extremely important and if they're somehow being negated, I think it's our duty to correct that.

Mr. Cosman: — I would be pleased to correspond with the minister on behalf of the committee and raise the committee's concerns in this regard.

Mr. Ward: — Yes, just to Mr. Cosman. This is something you identified, not something that was identified by the department though?

Mr. Cosman: — That's correct.

Mr. Ward: — They're not having a problem with the old forms as such, are they?

Mr. Cosman: — They're not having a problem. The problem is that the respondent in those . . . to whom the form is directed may not see that he or she has a right of appeal. It's in small lettering, lower case. And the instructions that you must obey this order or else type of thing is in heavy bold print. So that the emphasis is on you obey rather than setting forward an equal right. You may appeal if you do not wish to obey.

So the department may not be having problems with it, but individuals may be having problems with it and it'd be very difficult for those individuals to raise their concerns to us. So I'm simply speaking out for the individual to whom this may apply.

Mr. Whitmore: — Yes, but my question was answered, so I don't . . .

The Chair: — Thank you, Mr. Whitmore. I think there certainly is a point here because certainly down the road if there was a challenge that ... I think what the committee is recommending is just really a clarification where the department may find itself with a challenge down the road where a defendant would say, well I didn't see that. And this makes it ... would basically highlight it so that one of the responsibilities of our committee is to check the regulations and how they affect the charter of rights as far as individuals as well.

So I would think a follow-up should take place. Is the committee agreed to that? Agreed. Carried.

Moving on to the bylaws, the follow-up regarding the bylaws.

**The Saskatchewan Society of Occupational Therapists
The Registered Occupational Therapists Act
February 18, 1994**

Mr. Cosman: — Thank you, Mr. Chairman. The first issue arose in section 11 of article 4 of the 1993 bylaw that we then had under study, wherein the council could by a majority vote remove a council member from the council, particularly if the member was absent for more than three meetings of the council between annual general meetings.

Now I felt, and the committee agreed, that this may violate rules of natural justice in that the member being removed from the council should at least have an opportunity to state his or her case before the removal takes place. In other words, there might have been some valid reason for missing more than three meetings, and an opportunity for someone to be heard seems to follow what we call the rules of natural justice, the sense of fair play that we have.

The second issue with respect to this bylaw concerned article 11, rule 2, clause (d):

With this information the council shall determine the need to pursue the complaint with a hearing.

So contrasted with clause (f) which states, "the member is entitled to be heard and represented by council during this hearing," it would seem that if there is an entitlement to be heard, the council ought not to have discretion to determine whether or not a hearing takes place.

So if you give somebody a right to be heard, how can you then have discretion on whether or not a hearing takes place? The two provisions seemed anomalous to me.

In any event I raised the matter to the attention of the Society of Occupational Therapists, and I attach a copy of my letter as attachment K. To date I've not received a response from the secretary of the society.

The Chair: — Any comments by committee members?

Mr. D'Autremont: — Well I think back to a senator who was given the opportunity to appear before the Senate to explain his circumstances and refused to appear. I think in this particular case there needs to be an opportunity for a hearing. The council

should call a hearing. And if the defendant refuses to appear, then they should be allowed to proceed with their proceedings. But an opportunity for a hearing should be given and if that hearing fails to materialize at the appointed time, then you could proceed.

The Chair: — Further comments?

Mr. Ward: — Were there not some changes to this society in the last couple of years? I thought they were revamping their association or something.

Mr. Cosman: — I can review that for the members. Bylaws of all of these professional associations are tabled in the legislature year by year.

Mr. Ward: — '93 is the last date that you have, last set of bylaws?

Mr. Cosman: — It would seem that 1993 was, with respect to this particular issue. But I can review that for committee members if there was something between then and now. The failure of the secretary of that committee to respond back to me is an indication that something isn't quite right because if I mistakenly identified this as a problem and corresponded as I have with my letter dated April 11, 1997, to the secretary of occupational therapists, one would think that they would write me post-haste and inform me of the error of my ways and saying, we have addressed this in a bylaw that was filed and tabled, etc., in 1996 or 1997, what have you. But I haven't even received correspondence back from the secretary of the Society of Occupational Therapists. They've ignored my letter entirely.

The Chair: — Further comments from committee members?

Mr. D'Autremont: — Well I think we should check into this and just see whether there have been any changes and then recontact the occupational therapists to see what they've done about this concern and to clarify the situation.

The Chair: — Is the committee in agreement? Agreed. Carried.

**The Helium and Associated Gases
Amendment Regulations, 1994
The Crown Minerals Act
December 2, 1994**

The Chair: — Moving on to the monitoring activity and I note the first area is the Helium and Associated Gases Amendment Regulations, 1994, The Crown Minerals Act, December 2, 1994. Mr. Cosman.

Mr. Cosman: — Thank you, Mr. Chairman. This was a 1964 regulation that had been amended several times throughout the intervening years, and the minister, by letter dated July 17, 1995 — and it's attachment L — had agreed to endeavour to revise and consolidate the regulations as soon as possible. And to date — that's June 3, 1998 — no such revision or consolidation has taken place. So in terms of a monitoring activity, I'm still monitoring. I'm in the hands of the committee whether they wish me to continue to monitor or if they feel that it's time that a follow-up letter was sent out.

The Chair: — Any suggestions from committee members?

Mr. Whitmore: — I think a follow-up letter would be appropriate.

The Chair: — Do committee members agree? A follow-up letter? Agreed.

**The Petroleum and Natural Gas
Amendment Regulations, 1994
The Crown Minerals Act
December 2, 1994**

Mr. Cosman: — Thank you, Mr. Chairman. Again this was an older regulation, a 1969 regulation that had been amended several times throughout intervening years.

The minister by his letter dated July 17, 1995 . . . And it would appear it's attachment L but I think I've missed a letter here, but none the less I have in my files the agreement of the minister that the department had plans to revise and consolidate this regulation. And I'd undertaken to monitor this on behalf of committee. No such consolidation or revision has taken place.

That is basically the . . . It was an old regulation and amended so many times that it's very hard to tell what the regulation actually reads like today. And in fact the same attachment L addresses the two regulations, the two previous regulations, and I just haven't seen any activity to revise and consolidate these regulations into a modern 1998 regulation.

The Chair: — Thank you, Mr. Cosman.

Mr. Whitmore: — I'd have the last one and this one together. Put them in the same letter in terms of a follow-up.

Mr. Cosman: — Yes.

The Chair: — Are committee members agreed? It's agreed, carried.

**The Association of Dental Technicians of Saskatchewan
The Dental Technicians Act
December 4, 1991**

Mr. Cosman: — Thank you, Mr. Chairman. And the issue with this regulation was there was a lack of legislative authority to raise the fees in the bylaws beyond a maximum of \$25 per annum that was set out in the Act. Yet by the association's bylaws, they had raised the fees to some \$250 I believe by the time we had studied the bylaw.

I corresponded with the minister responsible for the dental technicians. And by letter of the deputy minister dated August 1, 1995 it was pointed out the Act was to be amended. I undertook to monitor this on behalf of the committee and I'm pleased to report that — and you can see it attachment M of your materials — that indeed The Dental Disciplines Act has remedied the problem.

You can actually see, in the materials provided, that at section 15 of the bylaws — it's the last page of your materials — the bylaws can set the fees. And I'm just searching for it here but

it's one of those paragraphs — (l) I believe, paragraph (l):

prescribing the amount of registration, licensing and other fees payable to the association . . .

So in 15(1)(l) they do not put a cap of \$25 or 50 or \$100. They're now authorizing various associations under The Dental Disciplines Act to prescribe fees payable to the association — whatever those fees may be voted on by the association — would be within the regulation. So I would consider the matter resolved.

The Chair: — Thank you, Mr. Cosman. Is the committee prepared to accept that this issue has been resolved? It's agreed? Carried. Thank you.

For committee members, that takes care of some of the long-outstanding, follow-up issues that were before the committee.

And before us this morning as well, Mr. Cosman has had a moment to bring forward a few new items. And maybe we can just take a five-minute break, if you want to grab a coffee, whatever, and then we'll get into discussion on some of the new regulations and follow-up that may need to be undertaken based on recommendations from legal counsel.

So if you want to replenish your coffee cup, just take a quick break. We'll take a five-minute break.

The committee recessed for a period of time.

The Chair: — If I could have the committee members' attention — while we're addressing drought and rain — I think we'll move back to the business of the committee before us. And you have a form in front of you, a letter with a number of regulations that Mr. Cosman has had the opportunity of going through and is bringing before us this afternoon.

So we will move ahead with some of the new regulations. Actually we're still a ways behind, but we'll get working on some of the newer areas that we should be addressing. So let's take your letter of June 29, '98, and we'll move on with the 1996 regulations.

1996 REGULATIONS

**The Livestock Dealers Regulations, 1995
The Animals Products Act
January 5, 1996**

Mr. Cosman: — Thank you, Mr. Chairman. Committee members can note from attachment A the particular regulation that I'm bringing to their attention. Subsection 5(4) of the regulations, respecting an application for a licence to carry on business as livestock dealers, authorizes the minister to withhold the issuance of such a licence until the full nature of the applicant's business can be ascertained.

The withholding of the issuance of a licence could have significant economic impact on the business of the applicant, especially if it was an ongoing business that was now seeking to expand . . . of that nature. There's no threshold criteria set out in

the regulation that would guide the minister. So the provision is, in my opinion, rather vague.

Additionally, the minister may refuse any application for a new licence or the renewal of an existing licence where the applicant has failed to comply with any provisions of the Act or the regulations. So it seems somewhat heavy-handed that the minister has such an open-ended discretion respecting the failure to comply with the provisions of the Act or the regulations, when licensing simply refers to the nature of the applicant's business.

Okay, so there's a use of the minister's ability to issue a licence to actually enforce the Act and the regulations in a way that probably wasn't contemplated by the licensing provision of the Act. So I ask for the committee's consideration, at what point in time and what are the satisfaction markers used by the minister in determining whether or not he or she has sufficient knowledge of the full nature of the applicant's business.

Ms. Murrell: — Would this by any chance be because of the change of what is classified as livestock?

Mr. Cosman: — I don't know for certain how this is applied in the field.

Ms. Murrell: — I'm just wondering if it has to do because of the amount of gaming or elk farmers that are in the area.

Mr. Cosman: — Again I have no idea what . . . I can turn to the regulation itself and see if there is any mention of elk and that sort of thing, but the regulation seems to deal on a very wide discretion . . . over a very wide area. Under The Animal Products Act livestock means any head of cattle or other animal of the bovine species; horse or other animal of the equine species; bison, sheep, goat, swine, or any interspecies hybrid of any of those animals, and includes a game animal as defined in The Game Farming and Game Products Merchandising Regulations, 1989. So those regulations may very well include elk and so on.

And so regardless of the animal, it seems to be fairly widespread what constitutes livestock. The minister under 5(4) that you have in attachment A may withhold the issuance of a licence until the nature of the applicant's business is ascertained. But we don't know how the minister determines that he or she is now satisfied they know the full nature of the applicant's business.

And more importantly in 5(5) the minister may refuse to issue the licence or renew where — and I'm reading these words into it — where the minister in his or her opinion believes the applicant has failed to comply with the Act or the regulation. So it goes beyond merely licensing or not licensing.

Now the minister not only has no criteria set out as to when he knows or she knows the full nature of the applicant's business, but now also if the minister believes that the applicant has not complied with the Act or the regulation . . . so there's a very wide discretion in the minister to issue or refuse to issue a licence or a renewal.

I'm just simply raising this to the committee. It's a tremendous

amount of power to be placed in the minister without there being much criteria directing the minister as to when a licence should issue or not.

Ms. Murrell: — Then I would recommend that we ask the minister to clarify with more detail so that we can make a decision on this.

Mr. Cosman: — Yes. In fact that was my recommendation as you'll see. I found the provisions rather vague, and recommend to the committee that the minister be asked to correspond with the committee as to what criteria he or she uses in determining when the full nature of the applicant's business is satisfactorily ascertained. So I would be pleased to correspond on behalf of the committee if that's the wishes and direction of the committee.

The Chair: — Are there any further questions?

Mr. D'Autremont: — There was also a change to this Act in the past legislative session that may impact on this, so perhaps maybe check into that also.

Mr. Cosman: — I'd be pleased to do that as well.

The Chair: — Thank you, Mr. D'Autremont.

Mr. Ward: — Yes. I'm just not sure what this regulations are all covering, but there might be some environmental impacts here too that you might want to take into consideration because of the nature of how it ties in with the Environment department and with the Agricultural department. If it's deemed as an environmental impact on whatever their business is, you know, you'll have to check that out with SERM (Saskatchewan Environment and Resource Management) too, I guess.

I'm not so sure I want to strengthen this regulation because this is one of those areas where you can over regulate yourself here. And if we're, if we're trying to reduce our regulations throughout the government, then maybe adding or strengthening regulations isn't the best way to go.

The Chair: — A response, Mr. Cosman?

Mr. Cosman: — Yes. I'll attach the verbatim of our discussion with my letter and raise this concern with the minister. It's more appropriate I think that the department respond to these questions rather than I. I don't know the inner mechanics and workings of the department nearly as well as the deputy ministers and the directors of the department. So I merely pass this through to the committee.

So any questions the committee members may have of a ministry when we're going through these regulations, I think there's opportunity to put your points of view on the record. And that record will be transmitted to the department.

The Chair: — Thank you, Mr. Cosman. Any further comments?

Is the committee agreed then with Ms. Murrell's suggestion that Mr. Cosman do a follow-up letter asking for a clarification? Is that agreed? Agreed. Carried.

The Private Vocational Schools Regulations, 1995
The Private Vocational Schools Regulation Act, 1995
January 5, 1996

Mr. Cosman: — Thank you, Mr. Chairman. In this regulation — and you can turn to attachment B and attachment C as well — at subsection 24(4) of the regulation a requirement is made of the private vocational school to provide the minister with the following information. I won't repeat that here, but it sets out a number of criteria that are asked to be responded to.

However, when reviewing the forms attached to the regulation — and I speak specifically of form G, and that is attachment C — you will see that a great deal more information is required in the form than was required by subsection 24(4). And you will note the applicant appears to have to submit their social insurance number as well. And a full line of the form is devoted to just that short number, whereas about a quarter of that space is allotted in the form for the applicant's address, for example.

So I have two problems with this form: one is the set up of the form, the space allocation issue, and the fact that it requires other information than is authorized by the subsection 24(4), such as the social insurance number.

And it's my belief that the social insurance number is not compellable to be included on any application. It can be voluntarily given, but it's not a legally enforceable requirement that this number be included with the application. Now I would think that at least that should be noted in the form, that that's voluntary.

We have so many forms today that have that social insurance number requirement and many people think they must give it in order to comply with the law, and that's not the case.

So I have those two issues with this regulation. You'll see that I attempted to apply for admission or a course at this private vocational school. And I just tried writing my name in there and a few things, and there was some ambiguities as to telephone numbers — my telephone number, or the principal of the school's number. Just a number of issues, but I didn't think they were sufficient to raise concern of the committee. None the less the form has a number of problems with it, I thought.

The Chair: — Thank you, Mr. Cosman. Any comments from committee members. I note . . . I guess the question I have, attachment C, that is the official copy of the form that you're talking of?

Mr. Cosman: — Yes, well of course without my handwriting in it. It's in the regulation at page 67 of the January 5, 1996 regulations. And I do believe the Clerk of the committee issues these regulations to committee members at some point. It used to be that we had sets of the regulations available at least for the committee members, and in fact you'll see them in consolidated form on our shelf over there.

The Chair: — Any comments?

Mr. Jess: — I'd just like to ask a question. You mentioned here that . . . about the social insurance number and you referred to it being unnecessary on many forms. I'm wondering if we

wouldn't be well advised to have you question other ministers on other legislation as well since we are in the process of trying to clean up some of this. It it's not necessary it should be removed from other forms.

Mr. Cosman: — I could do that as it comes before me in a regulation. For example as I'm studying the 1997 regulations or the 1998 regulations, if I spot this requirement for a social insurance number I'll raise it with that particular department. But I can't easily within our mandate do a blanket letter of reform so to speak to the ministers, to Executive Council, and all the ministries thereof saying don't do this, unless you say it's voluntary.

Mr. Jess: — But you could do it on each one as you go along?

Mr. Cosman: — I can do it on an individual basis as it comes before me.

Mr. Jess: — Maybe we should make that kind of a recommendation.

The Chair: — We can certainly take that into consideration. I think as Mr. Cosman's indicated it's not . . . What you're suggesting . . . I guess first of all I should come back to Mr. Jess. You're suggesting that the committee just make I guess a note to ministers that this be given consideration rather than the committee raising it on an individual basis as Mr. Cosman is suggesting?

Mr. Jess: — Well with his statement, with Mr. Cosman's statement, perhaps we should do it as we go along but it should be . . . I don't think you need to come back to us after each round and say this is a recommendation. Just clean it up as we go along.

Ms. Murrell: — How does this form differ from a public school application with Sask Ed. Do you know?

Mr. Cosman: — No. I have no idea. I just have the form in front of me because it's in the regulation I'm reading and I don't have opportunity to look at other forms that are, you know, similar in nature and so on. It would take a full-time position to probably consider . . . both staff and expertise to know what's going on in every department and every form that relates.

Ms. Murrell: — Because I don't have a problem with the criteria of the education profession designation. I think that that's important if you ever needed to follow that up if there was a problem. At least you could refer it by going to the minister's office rather than trying to track the teacher.

For example if he's left employment and gone to another school, there would be some consistency. If there's a problem that ever arose from this teacher at least you have some way of tracing where he was educated and where he has taught previous and if they had experienced the same problem.

So that part I don't disagree with. I rather think it's important. I don't like the way the form is laid out but that part I don't have a problem with at all. But I'd like to know how it differs from a public school application? Maybe they could make them

consistent.

Mr. Cosman: — I could certainly ask the department to respond and include that in their response.

Ms. Murrell: — So that at least the forms would be consistent regardless of what school you apply to.

Mr. Cosman: — Surely. Again I'll pass these comments on, with the verbatim attached, to the minister responsible.

The Chair: — Any further comments or questions? Committee members, I think it appears that a follow-up is appropriate and can the members be in agreement that Mr. Cosman do follow-up raising these concerns . . . to have some clarification? Is that agreed? Agreed. Carried. Thank you.

**The Saskatchewan Gaming Corporation Casino Regulations
The Alcohol and Gaming Regulation Act
February 2, 1996**

Mr. Cosman: — At section 12 of these regulations, you'll note it's attachment D in your materials it is stated, quote:

No person under 19 years of age shall enter a casino.

The Age of Majority Act, which is attachment E in your materials, states at section 2:

Every person attains the age of majority and ceases to be a minor on attaining the age of eighteen years.

The two provisions are in conflict with each other. There's an exception in The Age of Majority Act, and that is at section 4(1) of that Act, to the effect that in the absence of a definition or an indication of a contrary intention, section 2 applies to the construction of the expression adult, lawful age, that sort of thing, similar expressions in any Act or regulation, rule or order made under the Act.

The only exception that the Gaming regulation could rely on would be if there were a definition, okay, and section 12(1) is not a definition, or if it was an indication of a contrary intention. This is the difficult area.

Now I grant you that the alcohol and gaming regulation at attachment F does define the word minor, but it doesn't cure the expression of section 12, as the word minor is not used in section 12. So you can't use this interpolation of the definition expressing a contrary intention.

And the other exception that is afforded under section 4(1) of The Age of Majority Act is to whether there's an indication of a contrary intention.

My belief is that that should be couched in words such as, quote:

Notwithstanding that 18 years of age is the age of majority. For the purpose of this regulation, 19 years shall be deemed the age of majority.

In other words, there's a clear statement that the regulation is

intended to have a contrary age limitation, contrary to The Age of Majority Act.

But I don't see that all that clearly. I stand to be advised by the committee whether they believe that the alcohol and gaming regulation, 12(1), expresses a contrary intention to The Age of Majority Act that sets out age 18 as the age of majority or whether it's sufficient.

Now I'm asking the committee, notwithstanding that you believe this may be a laudable situation, that has been long practice, that persons not enter gambling casinos or drinking establishments, what have you, until they've reached the age of 19; even though that may be a laudable public policy, I'm looking at the application, the pure application of the law here, that The Age of Majority Act is stating 18 is the age of majority.

The Chair: — Thank you, Mr. Cosman. Questions from committee members?

Mr. D'Autremont: — How does this compare, the wording of this compare with The Liquor Act as concerns hotels and other liquor establishments?

Mr. Cosman: — Actually, I do have a bit of knowledge with respect to that one, simply because a couple of years ago my son did a paper on this for his school and I had some correspondence, that I saw, between my son and the Department of Justice on it. And the alcohol regulations meet the criteria. They successfully, in that regulation, use the word minor and they define it as being age 19 and they meet the exception of The Age of Majority Act.

This one, they jumped the gun a bit. My belief is that they would have been successful if they had said in 12(1), no minor shall enter a casino, and then rely on the definition of minor in the Act meaning a person who is under 19 years of age. There, by definition, they've used the exception in The Age of Majority Act.

But they didn't use the word, no minor shall enter a casino. They said no person under 19 years of age and that isn't a use of a definition. And it isn't, in my opinion, sufficient to expressly overrule The Age of Majority Act, to show that there was a clear intention to overrule The Age of Majority Act.

Mr. D'Autremont: — Well, why don't we just recommend that they use the wording of The Liquor Act to meet the requirements. Obviously that one has stood the test of time and probably the test of the courts.

The Chair: — Thank you, Mr. D'Autremont.

Mr. Ward: — Yes, that's where I was going. Are the casinos not all licensed under the alcohol Act anyway?

Mr. Cosman: — Yes. Yes, they are.

Mr. Ward: — So that actually in effect what you have here is a double whammy on the minor. You don't need to tell him twice, do you? If he falls under the alcohol Act going into the casino anyway, he can't go in there unless he's 19. So I don't

see what the problem is here.

Mr. D'Autremont: — Well I suppose there is the potential though to have a casino without liquor. I don't know that one would survive long but the potential, I suppose, is there. So perhaps just simply having the wording go in the casino regulations that are the same as those under The Liquor Act defining the term minor and who's eligible to access the premises would certainly clarify the situation.

The Chair: — Any further comments?

Mr. Whitmore: — Yes, I think we need to follow up on the recommendation that we raise this concern as quickly as possible and get it properly defined here before the casinos discover they may have a new market.

The Chair: — Any further discussion? If not, are committee members in agreement with the recommendation that there be follow-up? That's agreed. Carried. Thank you.

Moving on to the Use of Electricity in Mines Regulations, 1996, The Electrical Inspection Act, 1993 — March 8, 1996. Sorry.

Mr. D'Autremont: — I'd like to refer back to a comment on the previous one.

The Chair: — Pardon me?

Mr. D'Autremont: — To revert back to a comment on the previous regulation that we're looking at.

Perhaps we need to also check into how this regulation applies to the restaurant area of the casino. Does that exclude someone under the age of 19 going in there and eating?

I'm thinking back to a time when we were down in Tahoe and we walked through . . . the restaurant in the hotel was in the middle of the hotel with the casino all around it and how do you get into the restaurant. You know we had babes in arms and yet they got pretty antsy about us walking through there to get to the restaurant. So I think we need to ensure that people can access the food areas.

The Chair: — Okay. Thank you, Mr. D'Autremont. That might be something, Mr. Cosman, just to take into consideration in this follow-up letter regarding restaurants in casinos.

Mr. Cosman: — I'd be pleased to do so on behalf of the committee.

The Chair: — Thank you very much.

**The Use of Electricity in Mines Regulations, 1996
The Electrical Inspection Act, 1993
March 8, 1996**

Mr. Cosman: — Thank you, Mr. Chairman. This regulation — and it's attachment G in your materials — makes reference to an old regulation numbered 284/78 and that's a reference to 1978. You'll note it at the paragraph 3.4.5.1 dealing with emergency stopping. And you'll see the reference to that

284/78.

This particular regulation as it relates to emergency stopping for electrically driven conveyors and their design and location as described in the mines regulations may be rather hard to find in the Rabbit Lake law library — and I doubt that there is such a library in Rabbit Lake, so it's just too obscure for people who are working in the mine site areas to be able to look up regulation 284/78 in my opinion.

I'm of the impression that perhaps they should put the text of regulation 284/78 as it applies to this regulation there, rather than making this reference to this older, what, 20-year-old regulation that may not be readily available in a mine site.

The Chair: — Thank you, Mr. Cosman. Comments from committee members? Suggestions?

Mr. Ward: — Is this covered anywhere in the occupational health and safety regulations, which every mine would probably have a copy of?

Mr. Cosman: — It may very well be. Again it's the kind of thing that I think the departmental people would be quite qualified to and authoritatively respond to. To ask me is to ask someone who doesn't have experience in the area whatsoever and I just can't answer that question. But I'd be pleased to pass it on to the ministry responsible.

The Chair: — Further comments? Is it the wish of the committee that Mr. Cosman do a follow-up in regard to this concern? Raise it for clarification? Is that agreed? Agreed. Carried. Thank you.

**The Komis Project Surface Lease Agreement Regulations
The Forest Act and The Provincial Lands Act
March 22, 1996**

Mr. Cosman: — Thank you, Mr. Chairman. You will notice from attachment H in your materials that the regulations in question are exempted from publication. You'll see at the appendix at the paragraph at the bottom of page 219 that I've provided in the materials, wherein it's stated that pursuant to authority vested in me by subsection 7(2) of The Regulations Act, 1989, the appendix to the agreement is exempt from publication in the *Saskatchewan Gazette*.

But it is pointed out that these regulations are on file at the office of the registrar of regulations, Legislative Building, Regina, Saskatchewan, and may be inspected between the hours of 8:30 a.m. and 4:30 p.m., Monday to Friday, not including statutory holidays.

Well as a good investigative solicitor on your behalf, I presented myself at the front kiosk one day under the guise that I was a member of the public looking for the registrar of regulations in order to view this regulation that was not published. And I'm not faulting the people at the kiosk; however, they did not know who the registrar of regulations was. They did not know where the registrar's office was located.

I believe they sent me off to Executive Council or the library.

These may have eventually led me to the registrar of regulations office which is indeed located in this building and which, because I'm the legal adviser to the Assembly, I happen to know it's room 32 of the Legislative Building.

But a member of the public would be wandering around for some time being directed to the library, being directed to the Premier's office, being directed to perhaps caucus offices — who knows? — before they would find the registry of regulations down in the basement of this building in room 32.

So I believe that very easily could have included a room number or in the very least a telephone number such that the people at the kiosk could phone that number and find out what area they were located in. And so it's my suggestion that I correspond with the minister responsible for this particular regulation and the exemption of it asking that they publish the telephone number or the room number. In fact that would be the registrar of regulations that I should correspond with.

But I also ask members to test this out. Stop by the kiosk and show them this notice and ask to find the registrar of regulations. Maybe they have that number these days. I'm not sure. But it was an interesting experience.

The Chair: — Thank you, Mr. Cosman. Any comments?

A Member: — Is it in the phone book?

Mr. D'Autremont: — Well perhaps whenever this . . . the office of the registrar of regulations is referred to they should have that address or phone number included. I for one didn't know they existed and I wouldn't have had a clue where to look in the building for them.

The Chair: — Thank you.

Mr. Cosman: — In answer to the question are they in the phone book — yes they're in the phone book but not under R for registrar of regulations. It's under Executive Council and then as a subset of Executive Council. You've got to be looking under E to find it; then you will find there is a registrar of regulations under Executive Council, but you've got to have that specific knowledge that it's under Executive Council first.

Mr. D'Autremont: — Who is it?

Mr. Cosman: — Thacyk now, but at the time it was Sandra Morgan.

Mr. Ward: — Maybe we should advise the kiosk that just to send them to the Law Clerk's office, and direct them from there.

Mr. Cosman: — Thank you. I'm already regarded as the public inquiry line, I think, for the Government of Saskatchewan as well. But I would point out that Allison does very, very well in screening those calls and I suspect she operates more of this government than we know for.

The Chair: — Thank you, committee members. Is the committee prepared then to recommend that there be follow up with clarification so that anyone who reads such regulations

would know exactly where to go rather than having to search? Is that agreed?

Mr. D'Autremont: — I think we need follow up but we don't need to refer it back to the committee again.

The Chair: — Mr. D'Autremont's suggesting we don't need to refer it back to committee. I think it would be good to see if it's been complied with. I think we need that information.

Mr. Ward: — Just, yes, one question. I don't know why this would have been exempted in the first place but are there other examples of this that people may want to you know, like I don't know how much . . . how many items have been exempted from publication.

Mr. Cosman: — Yes, Mr. Ward, actually this is done on a reasonably frequent basis probably four, five or six a year. And you'll notice attachment I is actually The Regulations Act, 1995 that sets out the power in the registrar of regulations to exempt various regulations for various reasons. And one of the reasons is that it will be available to the persons who are likely to be affected by it and it's of a length or a size to render publication in the *Gazette* impractical or unduly expensive, especially if it's maps and illustrations, diagrams, photographs that may be very difficult to reproduce in the regulation.

So there are various reasons why exemptions from publication are granted, and they are done with a fair amount of frequency. It's not a rare thing at all.

The Chair: — Members agreed then with the recommendation that . . . suggestion that we do a letter? Is that the way we go by, I believe, a letter from Mr. Cosman in regards to the concerns raised. Is that agreed? Agreed. Carried.

The Alcohol Control Amendment Regulation The Alcohol and Gaming Regulation Act May 3, 1996

Mr. Cosman: — Thank you, Mr. Chairman. At section 4 of the amending regulation, and that's in your materials as attachment J, a reference is made to section 19 of the parent regulation wherein a new subsection (8) is being added. You see that in your attachment J that I referred to.

The issue I take with this amendment is that at clause (a) of subsection (8), there is the entitlement for a group or organization consisting of a majority of the members who are 55 years of age or more, to apply for a special occasion permit to use on an ongoing basis such as a one-year period rather than on an occasion-by-occasion basis. My feeling is that this is probably a very useful provision not only for people who are 55 or more years of age, but for all age groups who are legally permitted to consume alcoholic beverages.

I see this as an age discrimination provision that favours associations and organizations consisting of the majority of membership being age 55 or more. And this is discrimination against those who are anywhere from age 19 to 54.

I'm at the direction of the committee if they see it in the same light, or whether this is a valid issue for raising with the

ministry or not. I stand at the direction of the committee.

The Chair: — Any comments from committee members? Questions?

Mr. D'Autremont: — Well perhaps we need to find out what the rationale was for this particular regulation and why it was age specific before we make any recommendations on this.

The Chair: — Further comments from the committee?

Mr. Ward: — I would agree with Mr. D'Autremont that we check out the reasons why before we recommend changing it.

Mr. D'Autremont: — I think it's more likely your seniors' clubs and those kind of things. You know, and if they have a regular . . . if they're having a liquor permit on a regular basis, maybe what they need is a liquor licence rather than an occasion permit.

A Member: — In Storthoaks?

Mr. D'Autremont: — They don't have a liquor permit in Storthoaks.

The Chair: — Committee members, it is . . . as I understand it you're suggesting we have a clarification as to what this really means before we make any further recommendations. The suggestions on the regulations may indeed, as I hear you, be quite right.

So we're asking Mr. Cosman just to do a follow-up then for clarification as to what the age . . . why the age restriction. Is that my understanding?

Mr. Cosman: — I'd be pleased to do so on behalf of the committee.

The Chair: — Okay, that's agreed. Carried.

**The Outfitter and Guide Regulations, 1996
The Natural Resources Act
May 17, 1996**

Mr. Cosman: — In this regulation, in sections 11 and 12 — you have that as attachment K in your materials — there's a power in the minister responsible for the regulation to amend, suspend, or revoke an outfitter's licence where certain contraventions have taken place. It's noteworthy that appeal from the suspension or revocation of the outfitter's licence is, by section 12, made back to the minister rather than to another body or person.

This, in my opinion, would appear to violate a rule of natural justice, that your appeal is back in to the person originally making the decision. Usually appeals are to a third party who would be more objective in balancing the applicant's needs and the minister or the licence issuer's reasons for not issuing and so on.

As well it's interesting to note that at subsection 11(3), a decision by the minister to so revoke an outfitter's licence or to prohibit a person from applying for such a licence is final. This

is an attempt, I believe, to oust the jurisdiction of the courts, and this is one of the terms of reference of this committee.

I might note for the benefit of the committee, this was the kind of thing that was of concern to our Australian friends when they were visiting. They were asking for examples of how the courts were precluded by our regulations from reviewing matters. And here we have just such an issue before us.

And so in passing I am hoping to send a copy of these particular regulations to the Australian committee in response to their request for provision of examples of this very thing.

So I'm in the hands of the committee, whether you feel that I should draw these matters to the attention of the minister responsible for the regulation; whether you think natural justice has been offended or whether you think it's an attempt to oust the jurisdiction of the courts that should be raised with the ministry.

Mr. D'Autremont: — I think it's an opportune time actually to bring this concern forward to the minister because the issuance of licences for outfitters is under review at the present time in the department. And they're looking at going to more of a society type of arrangement where the outfitters, the industry would do their own licensing, and do some of the disciplinary actions. So this would be an opportune time I think to point out these concerns to the minister so that they can ensure that any corrections are made in the legislation when it comes forward.

The Chair: — Further comments from the committee members?

Mr. Ward: — These two sections, 11 and 12, are not to do with the issuing of a licence, though, they're doing with the revoking of it. Right? The person already has the licence. So this is in a contravention to the Act or a charge or something else that has happened to that outfitter, so that he's just, he's just removing the licence; he doesn't have any ability here to issue. Or is this a large difference between this and I suppose an alcohol or a bar licence being revoked for contravention of the Act?

Mr. Cosman: — I don't think there'd be much significant legal difference in the situation. It just, again as I point out, it seems that there isn't much of an appeal process. It's back to the original decision maker who originally decided to revoke the licence and now you've got an appeal. And what is that person going to do? They're going to stand by their original decision.

Mr. Ward: — But the appeal process is still there to the outfitter once the licence is revoked. If for instance he's out with illegal hunting and you want to stop that today, you have to revoke his licence or it will continue until, as you say, you know, the appeal process could go on for six months through the court system, where in that time you could eliminate a lot of game.

So I'm not so sure that we want to remove this from the minister's office. I think somebody has to have the control to stop it immediately. Then you can go through the appeal process.

Mr. Cosman: — That is fine if that's the way the regulation were to read. But what happens is the appeal is back in to the minister, not to the courts. In fact there's a statement that the decision by the minister is final. That just might be an attempt to oust the jurisdiction of a court of appeal from looking at the decision of the minister.

So my feeling is there is no legitimate appeal process. There appears to be an appeal but it's back in to the minister who originally made the decision to revoke the licence. So do you have a legitimate appeal process?

Mr. Ward: — You may not have the appeal process as a legitimate excuse. But you have the written notice that the minister has to provide before he does this, so that the violator has the opportunity to correct whatever he's doing wrong before his licence is revoked.

Mr. Cosman: — But perhaps in the opinion of the outfitter he is not doing something wrong. Maybe there's some other agenda or issue at work here.

And let's say that there is something that the outfitter considers they are doing right, the ministry considers they're doing it wrong, and the minister prevails because the minister has the power to revoke the licence. So the minister revokes the licence for his reasons, over the objection of the outfitter. Now the outfitter has a right to appeal but the appeal is back to the minister who made the decision in the first place to revoke.

So I'm submitting that there's no real appeal process here. The appeal should be to an outside . . . or beyond the minister. The minister certainly should have the power to revoke the licence temporarily, or even permanently, to address an emergency situation, but there should be an appeal process outside from the minister. Again, just to get a third party objective opinion here.

Mr. Ward: — So what you're recommending then is that we have another clause, perhaps under 12(3) or something, that would suggest that the outfitter has the right to appeal through the courts, after having its licence revoked. Is that what you're suggesting, to clarify this?

Mr. Cosman: — Yes. Yes, that there should be a beefing up of the appeal process to allow a more legitimate appeal.

Mr. D'Autremont: — Well again I think this goes back to some of the changes that are being contemplated right now in the Act for outfitters. As I understand it — and not being a part of the department or in close contact with the minister on this as perhaps some of the government members might be — but as I understand it, they're looking at setting up an independent body made up of the industry that would do the licensing similar to say the law society or the real estate board or some bodies like that. They would do the issuance of the licence. They would do the revocations of the licence as the need would be.

Then in this particular circumstance the minister would be a third party to appeal to in this particular case. That's why I think we need to take . . . go back to the department and see what is happening and make sure that those kinds of issues are clarified there. I think in this particular case this regulation is going to become redundant in the near future.

Ms. Murrell: — I agree. The only thing is it says the minister may amend, you know, when you've gone through all the process. And I think that in circumstances, because I have outfitters in my area, sometimes they are doing things that need to be stopped immediately till it can be investigated. And who can interfere?

So I think I like the idea of the minister having the capability to be able to do that immediately, to respond to what's happening and then investigate, rather than wait for it to go through the court system.

Mr. Cosman: — If I may, in response to Ms. Murrell, yes. I'm not suggesting that the immediate power of the minister to suspend or amend or revoke the licence be taken away. That is here. The minister can do it immediately as he or she suspects that something's wrong, whatever, until an investigation takes place.

What I'm talking about is that there is in 12(1), not only the provision of notice of the action that the minister plans to take or may have taken, but that there is to be an opportunity for the person, the licensee, to make written representations — to whom? Back to the minister, the person making the decision. It doesn't seem to be an appeal process that comes in after the minister has exercised his or her discretion to lift the licence, revoke the licence. That's fine. Nobody's arguing with that.

It's just that in the time subsequent to the revocation of the licence, an appeal process should be in place that allows the applicant whose licence was revoked to appeal to a body or a third party of some nature who may now review the minister's decision, and of course confirm the minister's decision or perhaps overturn the minister's decision.

Ms. Murrell: — Well I think 11(1) addresses where the minister would be before he would put this into process to begin with. You know, if it's an employer, he's been convicted or contravened any term imposed on the licence. I mean, to me, that is the follow-up to 12(1).

So I disagree with you on that. I feel that it would be extreme circumstances before 12(1) would ever kick in and the extreme circumstances are addressed in 11(1), so why would an outfitter be allowed to appeal? If he's already, you know . . . if the minister may amend, suspend, and then it says the outfitter has contravened, been convicted, or an employee has been convicted. I mean they've already had that opportunity and if they have not abided by any of those, their licences should be revoked. Period.

Mr. Cosman: — The problem here is that there's an "or" at the end of paragraph (d) in 11(1). So I grant you that under paragraph (c) of 11(1), there's been a contravention or a conviction or what have you.

But under paragraph (d), for example, the revocation could be in a case where the minister considers a revocation necessary in the public interest. We don't know what the public interest may or may not be and there may be a divergence of opinions as to what the public interest is. And that's the single . . . that one can stand on its own. There's an "or" at the end of paragraph (d), and it means (a), (b), (c), (d), or (e).

And so I have the impression the minister still could somewhat arbitrarily revoke a licence and the only appeal process from that decision of the minister seems to be back in to the minister again. And the minister's not likely to change their mind if they truly believe they were acting in the public interest in the first place. What has changed in the meantime? But maybe a third party, a court, a judge, might look at wider criteria.

So I just feel the appeal provisions aren't quite strong enough here, or legitimate enough.

The Chair: — Any further comments by members? What's the wish of the committee in regards to this debate that they're . . . follow the recommendations of Mr. Cosman? I note that Mr. D'Autremont has suggested follow-up in light of what appears to be, I believe, a move by the department to clarify and to bring in new guidelines. Is that the sense of where the committee is going at this time for this follow-up? Is that agreed? Agreed. Carried.

The Securities Amendment Regulations 1996
The Securities Act, 1988
May 17, 1996

Mr. Cosman: — Thank you, Mr. Chairman. The issue here is with respect to a form prescribed by the regulation, and it's attachment L in your materials. It purports to be a certificate of independent advice to the effect that a lawyer and practising member in good standing of the Law Society of Saskatchewan has been consulted about the proposed purchase of securities with which the regulations are concerned.

Now this is a major financial transaction where advice is given respecting the nature of the trade and the risks with respect thereto.

Item 2 of the certificate is the undertaking of the lawyer that:

I have reviewed the trade and have provided independent advice to (the purchaser) . . . with respect to the nature of the trade and the risks with respect thereto.

And of course item 3:

I am a lawyer . . . in good standing of the Law Society of Saskatchewan.

Now my issue here is we're calling on an lawyer to give financial advice. And I grant you that lawyers can do a whole lot of things in the world, including . . . many things, I'll let it go off the record here. Still, it's a difficult position to put a lawyer in, that he's giving financial advice, and I don't believe that's necessarily their area of expertise. I really think someone with experience in securities trading, financial background, business administration, that kind of background is a better person.

In fact independent advice is defined at section 99.2, and you'll see that as attachment M of your materials. And you'll see that one of the persons who can give independent advice is one of the following: a lawyer or an accountant who is a member in good standing of the institute of chartered accountants, or certified general accountants, etc.; or a registered dealer or

adviser who is authorized to sell or give advice respecting the type of security being offered by the issuer.

And then it goes on to say the adviser must not have professional conflict of interest, that sort of thing. But it's certainly wider than a lawyer. It involves accountants and advisers in the industry. Yet the form only applies to lawyers.

And so I think there's an anomaly between the form and the law that is stated at section 99.2.

The second issue I have with respect to this form is at the bottom. Under instructions, it says, "In describing the nature of the trade in question 1, indicate who made the trade . . ."

You look up and you see question 1 is not a question; question 1 is a statement, "That I have been consulted . . ." Period. So there's an anomaly between the reference, well what is question 1, where is question 1. I've got a statement 1 but not a question 1.

The third issue that I have is that for certain clauses of the Act, form 18.2 is prescribed as a certificate of independent advice, yet the Act says, "Subject to the regulations, section 58 and 71 do not apply to a distribution . . ." etc.

Now I'm asking, and I'm probably confused in this, but I'm asking, where is the requirement for independent advice to fit into all of this? Is subsection 81(1) of the Act, and that's attachment N, an exemption from the certificate being filed? For example if you're exempting a whole raft of provisions of this regulation, have you exempted form 18.2? I don't know; I need clarification from the department on that one. And it may be that it's fairly obscure to us here this morning indeed.

Suffice it to say that I am thoroughly confused on that issue.

The Chair: — Thank you, Mr. Cosman.

Mr. Ward: — Yes, I'm sure that the only reason that section 3 is in that form is because it was drafted by a lawyer and they wanted to make sure that they got their cut before the transaction was complete. But I think any time we can eliminate them from the transaction it'll go a lot smoother. So I'll certainly recommend that you be encouraged to remove that line from there or to expand it to include other people.

Mr. Jess: — On a far more serious note here, Mr. Cosman has written, I have a problem with the fact that it is a lawyer called on to give financial advice. I'd like some explanation on that. I never was aware of a lawyer giving anything at any time.

Mr. Cosman: — Other than a bill.

A Member: — Right.

The Chair: — Further comments from committee members?

Mr. D'Autremont: — Well I would agree with Mr. Ward that we need to expand line 3 of the form to include the other people, also designated accountants and people in the sales area, registered dealers or advisers who sell securities, or sell or advise on securities; and the appropriate society to which they

may belong be also included in there.

So they would check off one. If it's an accountant he'd check off the accountants' line or dealer would check off his line or whatever; that the form be corrected to show that there is more than just lawyers that can be the advisers in this particular case.

I certainly need more clarification on the rest of it.

The Chair: — Is the committee agreed? Agreed. Carried. Thank you.

**The Public Accommodation Regulations
The Public Health Act, 1994
July 26, 1996**

Mr. Cosman: — Thank you, Mr. Chairman. The issue with respect to this regulation appears to be that clause 9(a)(i) of the regulation . . . and it's attachment O, and I see that I've got pages 548 of the *Saskatchewan Gazette* and page 549 of July 26 attached as attachment O.

The local authority referred to can issue a licence and include provisions with the licence that set out conditions that that authority considers appropriate. I don't see a requirement for the giving of reasons for the setting of terms and conditions that they consider appropriate or reasons for a refusal of licence. And there's merely a requirement that the local authority notify the applicant of its decision.

Also at subsection 13(1) the local authority may cancel a licence where, in its opinion, the licensee has contravened the Act or the regulations to some degree. There's no reason for the refusal required to be given. There appears to be no hearing or appeal mechanism established either.

So I draw these matters to the attention of the committee and if they see fit to agree with my conclusions, I'd be happy to correspond with the minister responsible for this regulation on this issue.

The Chair: — Any comments from committee members?

Mr. Ward: — I guess this is one of those issues where we've left — or it appears to have left — those decisions up to the local authority to base what they have to base that on, whether it be by bylaw or to be by whatever other means that they may have at their disposal to make those requirements on the body that they're licensing.

And I don't think, personally myself, that we want to get involved with telling the other authority what they have to do. Because that's just as we were doing before, piling more regulations on top of regulations just for no reason that I can see. I think if we leave it up to them, let them make the decisions, and leave it in their hands.

Mr. D'Autremont: — What exactly are we talking about here? Are we talking about . . . I see Public Eating Establishment Regulation mentioned here. And then further we talk about itinerant use accommodations.

What kind of things are we talking about here? Are we talking

about mobile trailers that are set up on construction sites and used for bunkhouses? Are we talking hot dog stands in Victoria Park? Just what are we talking about here?

Mr. Cosman: — From a reading of the full regulation that is in the *Saskatchewan Gazette* at July 26, 1996, page 547 — and perhaps in the future I can include the entire regulation for the benefit of the members as opposed to just the offending provision — but it appears that the regulations are dealing with public accommodation.

And they're saying in these regulations, a reference to a local authority in relation to a public accommodation is deemed to be a reference to the local authority that has jurisdiction over the area in which the public accommodation is situated.

So that local authority would be a city, town, village, what have you. It's dealing with the supply of potable water, toilets that are easily accessible, sewage facilities, etc., etc., etc., garbage and solid waste removal, rodent and fly control, and that sort of thing. So I suspect it would deal with any kind of establishment of one nature or another, from a hot dog stand on up through something permanently established.

I could have this clarified by the minister responsible for the regulation, certainly.

Mr. Whitmore: — Yes, maybe clarity is important here first for us to prefer the issues that we have a greater understanding in terms of clarity from the minister on this area before we pursue it any farther.

The Chair: — Thank you, Mr. Whitmore. It would seem to me that that might be the route to follow — to have a clarification of what this section is saying before we make any further recommendations or suggestions. Mr. Cosman, would that be possible to, through a follow-up letter, ask for a clarification of what this section means?

Mr. Cosman: — Certainly.

The Chair: — Okay. The committee's agreed that we have a clarification regarding this section. It's agreed.

**The Milk Pasteurization Regulations
The Public Health Act, 1994
August 2, 1996**

Mr. Cosman: — This regulation — and it's in your materials as attachment P — deals with milk pasteurization in the matter of the licence being issued by a local authority. And at section 6(a)(ii) again, as in the previous regulation, the local authority can revoke or refuse to issue a licence without giving reasons therefor.

And again no appeal mechanism seems to be in place. And I would be pleased to correspond with the ministry pointing out these deficiencies in natural justice, if the committee so desires, or seek clarification in any event.

Mr. Whitmore: — Do you know if this deals just specifically with dairy, with milk production or the dairy industry per se, in terms of large institutions? I think of Dairy Producers and

things like that.

Mr. Cosman: — I believe it is a larger producer because in the definition section we're dealing with category I milk plants, category II milk plants. But a category II milk plant can include a milk plant that is located on a farm or is operated by the person who operates the farm and pasteurizes the milk for sale. So it could be a local person as well.

Again this would be a case where supplying you with the entire regulation would have been of assistance and this is sort of a learning process to a degree. We've changed our format here slightly and I thought it was going to assist committee members to have the attachments here but I also thought that perhaps the full regulation was going to be available. I recall some meeting some years ago where you used to have big bundles of regulations in front of you. We won't revert to that practice.

Mr. Whitmore: — This industry has changed dramatically even from 1994 when it was instituted in terms of dairy plants in the province. Even the old milk control boards have disappeared. There's some, I think in the area of pasteurization, some of the plants used to require what they called a licensed pasteurizer or technicians. Those are no longer in place. There's now monitoring on a national basis regarding the whole area of milk by computer and things like this. So it may be interesting to get some more clarity here because I think again this is an industry that's changed, that the regulations may not even be up to speed with what changes have taken place in the industry.

Mr. D'Autremont: — I think this is another one we need to look at as we're dealing with the Dairy Producers Regulations, 1995. It's all the same industry. And as Grant has said there's been a lot of changes happening and we need to make sure that the regulations reflect the national standards also that we're currently learning to deal with.

The Chair: — I take it then it's agreed that we have a follow-up from Mr. Cosman, and we'll proceed from there. Is that agreed? Agreed.

I thank you committee members. I see we have come to the end of the areas that Mr. Cosman felt we needed some clarification. I note that Mr. Cosman in his conclusion has indicated there's no further issues of concern regarding the 1996 regulations. Also his comment regarding the bylaws, 1996, and it appears that they fall within the framework of the legal authority authorized under the Acts, which is nice to see, than then us having to do a fair bit of follow-up.

But I would just open up the floor for any further comments by Mr. Cosman before we adjourn for this morning, if he has any.

Mr. Cosman: — Not really, Mr. Chairman. The only thing I can think of is that perhaps committee members would direct me. Would you like the entire regulation and the regulation-making section under the Act, under which the regulation is made, included in your materials in the future? So that you have the Act and the entire regulation in front of you rather than just the specific provision that I'm referring to?

It seems that this morning there was a bit of confusion both on my part and committee members' parts from that area.

The Chair: — Thank you, Mr. Cosman.

Mr. D'Autremont: — I'm not sure that we need the Act or the entire set of regulations but perhaps a sidebar note explaining exactly what we're talking about here so that we have some understanding on . . . When we simply look at the one page of the regulations it may not specifically refer to the whole content of the regulations or the Act, so we're not exactly clear on what we're discussing at times. So I think a sidebar note explaining a little bit about what the Act is and what the particulars we're dealing with would be sufficient for me.

The Chair: — Is that the general consensus of the committee? That's agreed. I think that would be appropriate. Areas, I think as you pointed out, even as you saw this morning, Mr. Cosman, there were a couple of areas where a little further information might have been necessary. But to have the whole set of regulations in front of us may be quite tedious for committee members to follow through on.

Mr. Whitmore: — Just regarding a further meeting. I would really urge the committee Chair and the Vice-Chair, if they could, to arrange a meeting as soon as we have replies back to some of these things; that we can maybe meet in the fall at some point in time, and to follow up on a more timely basis regarding some of the things that had fallen by the wayside in terms of our last reporting back. If that would be possible?

The Chair: — Thank you, Mr. Whitmore. And certainly I will, in consultation with the Vice-Chair and Mr. Cosman, work at setting up a meeting earlier rather than later so that we don't fall as far behind as we found ourselves dealing with some lengthy, and actually issues that have been put off for a period of time.

Bringing the committee more up to date I understand is something committee members would certainly like to follow up on and make sure we keep our committee up to date. And I think Mr. Cosman would appreciate that as well, and certainly our staff. So that suggestion is well taken.

I would like to, first of all before we have a motion to adjourn, just thank committee members. Thank you, Mr. Cosman, for the work and effort, and certainly Allison, Margaret, for their time and effort in keeping us informed.

I now will accept a motion for adjournment. Mr. Jess.

Committee now stands adjourned until the call of the Chair.

The committee adjourned at 11:20 a.m.