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de l'Ontario

**Official Report
of Debates
(Hansard)**

PH-28

**Standing Committee
on Procedure
and House Affairs**

Committee business

1st Session
43rd Parliament

Tuesday 22 October 2024

**Journal
des débats
(Hansard)**

PH-28

**Comité permanent
de la procédure
et des affaires de la Chambre**

Travaux du comité

1^{re} session
43^e législature

Mardi 22 octobre 2024

Chair: Jennifer K. French
Clerk: Christopher Tyrell

Présidente : Jennifer K. French
Greffier : Christopher Tyrell

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CONTENTS

Tuesday 22 October 2024

Committee business	PH-201
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE
ON PROCEDURE
AND HOUSE AFFAIRS**

**COMITÉ PERMANENT
DE LA PROCÉDURE
ET DES AFFAIRES DE LA CHAMBRE**

Tuesday 22 October 2024

Mardi 22 octobre 2024

The committee met at 0900 in committee room 1.

COMMITTEE BUSINESS

The Chair (Ms. Jennifer K. French): Good morning, everyone. The Standing Committee on Procedure and House Affairs will now come to order.

We are here this morning to consider committee business. We do have a lot of new members assigned to this committee, and so we thought we would start with a brief overview of the work that this committee is undertaking and also the status of a number of items that are currently being considered.

The committee is currently conducting a study on the renovation and restoration of the legislative precinct, as folks know. As designated in subsection 7(1) of the Queen's Park Restoration Secretariat Act and section 108.3 of the Legislative Assembly Act, this committee is the committee designated to receive reports from, consult with, review plans for, and provide recommendations and advice to the minister responsible for the Queen's Park restoration project. We can talk about each of these items at the end as I do a bit of a brief overview of all of them. But, as folks know, there have been some changes where that is concerned, and so I know the committee members have an interest in finding out what might come next.

Connected to that but separate from that study, the committee has been asked by the Legislature's Board of Internal Economy to "consider and recommend to the board on ways in which Indigenous representation and viewpoints can be reflected at the Sir John A. Macdonald statue installation." As committee members who have been a part of this process to date will know, two Indigenous groups have toured the Legislative Building and the grounds and are prepared to meet with the committee for discussions on that topic, with an expectation that they may want to meet with us again for a more holistic conversation about the renovation and restoration project at a later date.

A reminder to committee members and information for new committee members that this committee had offered to travel to meet with Indigenous groups where they would request, whether here at the Legislature or away, to facilitate those conversations, but that process has not yet been decided, so that is still before us.

At our last meeting, our committee discussed its schedule going forward. We have authority from the House to meet at the call of the Chair but, for scheduling purposes, we agreed to set our regular meeting times as Tuesday mornings and Wednesday afternoons, unless otherwise needed. For those of you who have been away or missed our last meeting, that is a new change. We had been Tuesday and Thursday, but committee members had conflicts and had wanted to make that change to Wednesday—so if everyone wants to put a hold.

I have been asked about the start time on Wednesdays. Again, it is at the discretion of the Chair—so depending on what business we want to schedule in that slot and how much time we want to allot. But, as it stands now, I have blocked in my schedule from 1 p.m. as a tentative hold each week.

Our committee also reviews private bills which may be referred to us. Remember that a private bill is not a private member's bill. A private bill is referred for our consideration when triggered by a request letter to the Clerk of the House from one member of the committee or five members of the assembly not of our committee, per standing order 89.

Our committee may set the fees for private bill applications under standing order 85(a)(ii) and the charge for suspending a standing order in reference to a private bill under standing order 85(b). Those fees have not yet been set by our committee, so that continues to be on our plate, so to speak. They remain at the default amounts of \$150 and \$50, respectively, for the time being. Committee members who were a part of that conversation remember that we have had various presentations comparing to other jurisdictions and delving into that, but we have not yet set those amounts.

The committee is also responsible for appointing or revising the membership of the policy-field standing committees referred to in standing order 110. We have received a letter from the Chair of the Standing Committee on Justice Policy with a recommendation regarding its membership that the committee has yet to consider. A reminder that that letter from the Chair of justice policy was regarding Mr. Mantha's participation on that committee, and that letter has not yet been considered by this committee.

There are also letters from several independent members requesting that they be added to various committees.

The committee previously agreed to look at these on a case-by-case basis, and I will add, as we saw yesterday in the House, that the government moved a motion to assign government members to the various standing committees. This committee had sent a letter in the summer to both the government House team and the opposition House team, as per the decision of committee, to request a list of members that both parties wanted assigned to committees and we did not receive any response or the courtesy of a response from either party in response to our letter.

So we have Mr. Burch here today, but he is not yet assigned to the committee because that has not been moved—and a reminder that the changes to the standing order gave this committee the authority to assign or make changes to committee membership, except to this standing committee, so that remains in flux.

So that brings me to the end of the list of things that are ongoing. Would members care to discuss or comment on any of these items? Mr. Burch.

Mr. Jeff Burch: A motion—is this the appropriate time?

The Chair (Ms. Jennifer K. French): Is your motion regarding the letter—

Mr. Jeff Burch: A motion to remove MPP Michael Mantha from the committee as per the recommendation of justice policy.

The Chair (Ms. Jennifer K. French): Do we need any review of the letter for new members? There's a motion on the floor. Do I need anything other than that?

So we received a letter from the Chair—Mr. Hsu?

Mr. Ted Hsu: I was just wondering if Mr. Mantha has had any communications on this matter with this committee.

The Chair (Ms. Jennifer K. French): Not to my knowledge.

Mr. Ted Hsu: No. Okay.

The Chair (Ms. Jennifer K. French): The Chair of justice policy had written to this committee because justice policy had made a decision. Here's the letter, screen in front. So the Standing Committee on Justice Policy passed a motion asking that the Chair write, on behalf of that committee, to this committee, requesting that MPP Mantha be removed from the Standing Committee on Justice Policy.

I will add further that the discussion to date with this committee was one of waiting for the list of recommended assignments from both House teams that we didn't receive and, at that time, the committee was going to assign people to various committees and make a determination as to how to proceed with this at that time.

Mr. Burch has moved, as per this request, that Mr. Mantha be removed from the Standing Committee on Justice Policy. Is there any further discussion? If there is no further discussion, in that case, are members ready to vote? All those in favour of the motion? All those opposed? The motion is carried.

Will we communicate that to justice policy—or is this part of the report to them that will be to the House?

The Clerk of the Committee (Mr. Christopher Tyrell): Yes. Because the committee has made this decision, much

like the report that went to the House yesterday, there will be a report from this committee to the House communicating this. The report is deemed adopted when it's received in the House, and that will initiate the membership change.

The Chair (Ms. Jennifer K. French): Thank you.

Just for all members, yesterday I did table the two reports as I was tasked to do and one of them, like this, was to remove Ms. Ghamari from that standing committee as this committee had determined.

So further to the things that we have discussed—

M^{me} Dawn Gallagher Murphy: I have a question.

The Chair (Ms. Jennifer French): Yes, and welcome back, Ms. Gallagher Murphy.

M^{me} Dawn Gallagher Murphy: Thank you.

Number 1: happy to be back on this committee.

Number 2: The consideration of ways that the Indigenous community can be incorporated into the renovation of the John A. Macdonald statue? I'm just curious, what has been proposed to date or have we received any proposals to date?

0910

The Chair (Ms. Jennifer K. French): I can hand this over to the Clerk, but I will say that—we might have accomplished when you had been on the committee before—we had reached out to Indigenous groups to invite them to come to Queen's Park, and there were two pieces to that. There was the renovation and restoration, to start those conversations about the potential for changes or reflections in the building, but specific to the Sir John A. Macdonald statue installation, we have, to date, had two Indigenous groups come and, I would say, maybe start that process.

We have received correspondence from the Métis Nation of Ontario, further to their initial tour, that they're just—I don't have the letter in front of me—interested in continuing the process, of course, and the Mississaugas of the Credit are, of course, very interested in having in-depth conversations with the committee. We'll have to determine what that looks like or how we can proceed, but it has not been a matter of recommendations to this point. I think, if I could speak freely, it may be quite an involved and important process. Would you add anything else?

The Clerk of the Committee (Mr. Christopher Tyrell):

The committee had previously discussed this and the consensus that was reached was that—I had sent a letter to the four groups, which I did. We received responses from two groups, as the Chair had mentioned. The Chair had an initial conversation with them, invited them to come to Queen's Park to tour the grounds, to tour the building, to get a sense of the space, and two of those groups have done that.

So the next step the committee had discussed was at some point inviting them to appear at the committee to actually have a conversation with the committee about how Indigenous viewpoints can best be reflected or better be reflected at the Sir John A. Macdonald statue installation.

The committee had also discussed the potential for Indigenous input into the wider renovation/restoration pro-

ject, but because the Board of Internal Economy had specifically asked about the Sir John A. MacDonald statue, the committee had said that they would focus on that piece first, with the possibility of inviting the groups back again for kind of a wider conversation about the entire project.

The Chair (Ms. Jennifer K. French): I will add, the committee had made a decision and put it in a letter to the Indigenous groups that we were flexible in terms of what that conversation/discussion could look like, that it was not necessarily this format or at Queen's Park, that the committee had agreed that it could travel. When this committee travelled in the summer to Kingston, we visited Bellevue House, which is a site that is one of the homes of Sir John A. Macdonald and how they have chosen to represent it there. It was a very interesting conversation. We had a formal committee hearing. That will be circulated to all members. I think those of us who were there, it's an interesting transcript—and those of us who weren't, it's an interesting transcript. This committee learned a lot about new ways of setting up the committee process as we are working with Indigenous partners. Anything further to that?

Mr. Hsu?

Mr. Ted Hsu: You mentioned that one of the outstanding issues is a case-by-case request for independents to be added to committees. Are there outstanding requests that we could consider at this time?

The Chair (Ms. Jennifer K. French): I think so.

The Clerk of the Committee (Mr. Christopher Tyrell): It's the same three letters that we have previously circulated to committee members. It's up to the committee if they'd like to consider it at this time, but it's the same three that we had the last time the committee had this discussion.

Mr. Ted Hsu: I guess I'm putting it in front of the committee, asking whether we would like to consider those requests at this time. I assume we haven't responded to those requests.

The Chair (Ms. Jennifer K. French): So what Mr. Hsu is referring to is: Three independent members have written to this committee. Let's back up—the committee was granted the powers under the standing order to assign folks or make changes to committee membership, with the exception of this committee, and then we received, I'll say, unsolicited letters and the committee did discuss them, I believe, in closed session to determine the process for how to assign people to committees.

Am I talking out of school if I say that there was to be a process that it would be considered on a case-by-case basis for independents? The decision regarding the government side and the official opposition side was to write to those two House teams to request a list of people that they wanted assigned, and we didn't receive the courtesy of a response from either side. So our process is still being decided, then.

Mr. Hsu has asked that we consider those individuals and what they have requested. They've asked to be put on specific committees. I don't know if we have a list of who is currently assigned to those committees. The government

motion yesterday was only government members and wouldn't have affected the independent assignment. Is that correct?

The Clerk of the Committee (Mr. Christopher Tyrell): That is correct. The motion yesterday was just to make changes to government members on the various committees.

The Chair (Ms. Jennifer K. French): Would members like to see who is currently assigned to committees? Is that helpful? Because I do know that there is a change to the standing order that were we to assign an additional independent, then the government can choose to assign an additional government member, or it triggers the potential. I'm trying to remember as we go.

The Clerk of the Committee (Mr. Christopher Tyrell): That's correct.

The Chair (Ms. Jennifer K. French): Okay. I'll hand it back to the committee, then.

Ms. Fife.

Ms. Catherine Fife: Thank you. This is my first time at this committee—

The Chair (Ms. Jennifer K. French): Welcome.

Ms. Catherine Fife: It's been fun so far.

This committee cannot set the membership of this committee. My understanding is that the independent members have applied to be on this committee.

The Chair (Ms. Jennifer K. French): Not this committee.

Ms. Catherine Fife: Other committees. I see. And the new standing order is that if one independent member gets assigned to a committee, then the government automatically gets another member?

The Chair (Ms. Jennifer K. French): It isn't an automatic process, and it isn't for one, but based on the makeup of how many government, how many opposition and the potential for independent, that the government may choose to add an additional government member at its discretion. I don't remember the ratios.

Ms. Catherine Fife: Okay.

The Chair (Ms. Jennifer K. French): I'm looking to you.

The Clerk of the Committee (Mr. Christopher Tyrell): The default ratio is seven government members, two official opposition members. So if an independent were to be added to a committee, there would be the potential for eight government members, two official opposition members and an independent member.

Ms. Catherine Fife: I see. So we don't know what committees those members have applied for, the independents, do we?

The Chair (Ms. Jennifer K. French): We do. I don't want to misremember, so we'll pull those up.

The Clerk of the Committee (Mr. Christopher Tyrell): The three members who have sent letters were MPPs Bowman, Brady and Shamji.

The Chair (Ms. Jennifer K. French): A reminder to the committee that all independent members were sent one letter, and we also sent a follow-up because some of them had missed the request that they be a part of helping us

determine a fair process. These came separate and apart from that.

The Clerk of the Committee (Mr. Christopher Tyrell): This is the letter from MPP Bowman.

The Chair (Ms. Jennifer K. French): I think she'd like to be reinstated on finance.

The Clerk of the Committee (Mr. Christopher Tyrell): On finance. Do you want to read the entire letter, or should I just quickly go through all three?

The Chair (Ms. Jennifer K. French): I think if you go through and we can just confirm which committees they've requested.

The Clerk of the Committee (Mr. Christopher Tyrell): Okay. The next one is from Ms. Brady, and she has requested—

The Chair (Ms. Jennifer K. French): Public accounts?

The Clerk of the Committee (Mr. Christopher Tyrell):—to be on the Standing Committee on Public Accounts, yes.

The Chair (Ms. Jennifer K. French): Some of the discussion that we've had to date—and members can, of course, perhaps add what they remember—is that any MPP can attend any committee meeting and participate, but they can't vote if they're not subbed in or a member of the committee.

0920

The government also had made changes to the standing orders so that independent members cannot sub in for other independent members, which is a change and was part of the discussion when the committee was discussing a fair process for assigning people. For example, Mr. Hsu is a member of this committee, but were Ms. Bowman to want to sub in, she would not be allowed. That's a change to the standing orders.

The Clerk of the Committee (Mr. Christopher Tyrell): My apologies—the third letter is here, from MPP Shamji. He has requested to be on the Standing Committee on Social Policy.

The Chair (Ms. Jennifer K. French): Okay. We've received these letters. My question then would be, with all of the standing committees that exist, are there already independent members who have been assigned to these committees? If we were to grant these requests or consider these requests, is there anything else we need to be aware of?

The Clerk of the Committee (Mr. Christopher Tyrell): This is a composite list of all of the current committees. On the standing committee on finance, MPP Andrea Hazell is the independent member currently assigned. On the Standing Committee on Public Accounts, MPP Collard is currently assigned. And on the Standing Committee on Social Policy, MPP Clancy is currently assigned.

The Chair (Ms. Jennifer K. French): Okay, so they are currently assigned. Were we to add an additional independent member, then is that what triggers—the government then would be able to make its determination if they wanted to add an additional government member. Is that correct?

The Clerk of the Committee (Mr. Christopher Tyrell):

Yes.

For the committee's information, every standing committee, I believe, has one independent assigned to it. However, with the motion that was just passed removing MPP Mantha from the Standing Committee on Justice Policy, that committee will not have an independent member assigned to it once that report is sent to the House.

The Chair (Ms. Jennifer K. French): Okay. I will ask the committee how they would like to proceed and if they would like to proceed at this time or defer or if they're seeking information or—Mr. Hsu?

Mr. Ted Hsu: Chair, I think you made an excellent point of your disappointment that the official parties did not respond to the letter from this committee. I think, to be fair, we should respond to letters that have been written to this committee, whether in the positive or the negative. That's why I think we should be making a decision on these letters now rather than at a future meeting.

The Chair (Ms. Jennifer K. French): Okay. Any other? Mr. Rae.

Mr. Matthew Rae: I know some of the members who are independent members are independent Liberal members. Do we know if they're willing to switch to avoid the situation where—like, we're going to maintain the same ratio. So Hazell—

The Chair (Ms. Jennifer K. French): Like cross the floor?

Mr. Matthew Rae: Not cross the floor. I mean like a permanent sub. So Andrea, for example, with Stephanie—I think Andrea is on finance. We can keep appointing independent members and we can keep appointing government members, or you can essentially—there is that ability, especially with members who are caucusing together, I'm assuming. I'll just use Stephanie Bowman as an example: Her and Hazell switch. Is Andrea open to that?

The Chair (Ms. Jennifer K. French): Thank you. Mr. Hsu?

Mr. Ted Hsu: I think that's the wrong question to be asking. The question is—here's somebody who sat on the board of the Bank of Canada, who's a very high-level accountant with a lot of experience. Committee is the place where the experience, the talents and the knowledge of the MPPs the people elect get put to the most and best use. The question is, do we want to not have that on the finance committee of the Ontario Legislature? That's the real question.

There are provisions in the standing orders for the government to appoint another member from the governing party to preserve its control over committees, if I may use that word. The real question is, do you want to be on the record as denying an MPP with impeccable credentials and experience in the field of finance from serving the people of Ontario on the finance committee of the Ontario Legislature?

The Chair (Ms. Jennifer K. French): Mr. Rae.

Mr. Matthew Rae: Through you, Chair: MPP Bowman was a very well accomplished individual before being

elected. I know she contributes a lot to the Legislative Assembly. Any member can come to any committee. We're talking about a member who has a voting right. Any member can come and speak and ask witnesses questions and contribute to the debate. We're discussing a seat which is associated with a vote at this time.

The Chair (Ms. Jennifer K. French): Mr. Hsu.

Mr. Ted Hsu: I think that question is not relevant because the government can always appoint another person to cast another vote. Somebody who is not a member of committee can substitute in and move motions, and so it's much better to be on—I mean, what is the cost of putting somebody with extra expertise as a member of the committee? I don't understand, especially when the standing orders explicitly make a provision for the government to not lose its majority on the committee. It doesn't make sense. It's kind of silly to me.

In fact, committees are places where we can be less partisan. It's traditionally the places where MPPs and—my experience in Ottawa—MPs from different parties can get together and have a meeting of minds. It's much more convenient to do that in committee than in the House, where we're separated by two sword lengths and it's much, much more partisan. This is where we can get into the details and find places of agreement and understand where we disagree. I think it's important to try to not be thinking in terms of parties when we come to committee.

The Chair (Ms. Jennifer K. French): I'm going to add myself to the list for just a small piece of information, as you had said moving motions: Just a reminder that for any MPP sitting on a committee to be able to vote and/or move a motion, they do have to be a member of the committee or officially subbed in. So that change to the standing order precludes independent members from subbing in and therefore being able to vote or move motions—strictly as a point of interest.

Mr. Rae?

Mr. Matthew Rae: I'm just trying to make sure there's no civil unrest in the Liberal Party. I would vote to defer this to a future committee date—in the near future. I'm happy to come back to it in the next one.

The Chair (Ms. Jennifer K. French): I don't know that there's a vote currently under way—noted.

Mr. Hsu.

Mr. Ted Hsu: I would be willing to move a motion so that Mr. Rae is able to vote, since he wants to vote.

I would be willing to move a motion that we consider each of the three requests to be on committee—each of the three letters that came into this committee, that we consider them right now. It's been a long, long time and they haven't had the courtesy of a reply either way.

The Chair (Ms. Jennifer K. French): Okay. Is there further discussion to Mr. Hsu's motion? Mr. Hsu—I'm going to paraphrase—has moved that these three independent requests be considered at today's meeting.

Are members ready to vote on that?

MPP Hsu has moved that the committee consider each of the three independent request letters at this meeting. All

those in favour of the motion? All those opposed to the motion? The motion is defeated.

Is there further discussion on this? Mr. Hsu.

0930

Mr. Ted Hsu: Can we ask for a recorded vote on that?

The Chair (Ms. Jennifer K. French): You can't after the fact. The motion is defeated.

Further discussion on this or on committee membership? It would seem to me that there is a conversation to be had in terms of process. These letters are sitting before us and do require an answer. Also, I would say that finding out about the current committee membership with all parties is information that would be important for us to have, but this committee does need to figure out who is on this committee as well as any potential changes to the others. I'm going to, then, make the determination to put this on the next agenda. Any further discussion?

Just a reminder, too, that over the summer there were changes to the renovation and restoration—the ministry that was overseeing that work was dissolved, but a reminder to members that the secretariat continues and the minister responsible for the secretariat, as named by the act, is the government House leader; however, the government House leader has changed, and I don't know the status of the secretariat or the minister, which puts some questions in my mind. I wondered if committee members wanted to discuss at this time. Ms. Fife.

Ms. Catherine Fife: I think that we should invite the new House leader, and individual responsible for determining what happens with this place and where do we go, to the committee so we can ask questions. That would be definitely in order for consideration and discussion, would it not?

The Chair (Ms. Jennifer K. French): Ms. Fife is suggesting that the committee invite the person as named in the act, who is the government House leader, to come to committee. Are there thoughts on that? Mr. Rae.

Mr. Matthew Rae: It's lovely to have MPP Fife here this morning. It is the Minister of Infrastructure. Originally, the secretariat civil servants came from the Ministry of Infrastructure. The Ministry of Infrastructure—I have to watch what I say because it's commercially sensitive information—was the one who was—how that ministry came about, the Ministry of Legislative Affairs, and it has been rolled back into that. That's why MPP Bob Bailey is parliamentary assistant to the Minister of Infrastructure: for the restoration project. So if you're talking about the ministry responsible, that's the one.

The Chair (Ms. Jennifer K. French): Ms. Fife.

Ms. Catherine Fife: I was just going by what you had said as the Chair. Are you correct or is MPP—

Mr. Matthew Rae: We're both correct.

Ms. Catherine Fife: You're both correct at the same time? This never happens.

The Chair (Ms. Jennifer K. French): My understanding is that, as per the act and the wording in the act, the minister responsible for the secretariat is the government House leader. The complicating factor, as I understand it, is that the government House leader is not a minister of

cabinet, and therefore—I don't know how that was all working out, but I have read in media reports that it is now under the Ministry of Infrastructure.

I think your question is—

Ms. Catherine Fife: I just want an update. Who is the appropriate person to receive an update on what's going to be happening with this building and our decanting at some date in the future to another location? This should be the least partisan thing that we could ever consider. Why is it so complicated to get somebody to come to this committee and give us an update?

The Chair (Ms. Jennifer K. French): It had not been challenging before the recess because there were people in positions that had come before this committee. There have been changes, and this is our first meeting back since those changes.

So I'm going to ask the Clerk, who would be the appropriate person to request to come before committee and give us an update?

The Clerk of the Committee (Mr. Christopher Tyrell): I stand to be corrected: I believe, as Mr. Rae outlined, that it is now the Minister of Infrastructure who would be the appropriate person to invite to get an update on the project.

The Chair (Ms. Jennifer K. French): Okay. Mr. Rae.

Mr. Matthew Rae: We are both right in this instance because it's a weird legislative world we live in right now. In the act, the Queen's Park Restoration Act, it is the government House leader, but that individual right now is not a minister. We can say more when we're in camera, MPP Fife, but we're on the record. The House leader would actually know less than most of the committee members. There are many things I want to say right now, but we have been briefed and it's commercially sensitive, so—

The Chair (Ms. Jennifer K. French): Okay. What I'll take from this is that the committee is interested in having an update from the appropriate party on what is happening with the renovation and restoration. Is that correct?

Ms. Catherine Fife: That's correct.

The Chair (Ms. Jennifer K. French): So we will endeavour to figure that out and discuss the appropriate way of inviting them.

Is there anything else? Are there any other items of business before we move on? Okay.

The next item on our agenda is the consideration of the draft report on regulations filed in 2022. We have Mark Spakowski, chief legislative counsel, with the Office of Legislative Counsel here with us today. He's going to be giving us a presentation on regulations in the province of Ontario, in advance of the committee's considering of its draft report.

Interjections.

The Chair (Ms. Jennifer K. French): Mr. Rae?

Mr. Matthew Rae: MPP Fife raised a point. Were we supposed to go into closed session before Mark?

The Chair (Ms. Jennifer K. French): What will be happening is that we're going to be getting a presentation about regulations in the province so that folks have that framework. Then we will be going into closed session. I

think that having it in an open session and on the record is helpful for the folks in Ontario to also follow along and know what the process for regulations is.

Mr. Spakowski?

Mr. Mark Spakowski: I have a presentation, and I'm just going to see if I can get it on the screen.

The Chair (Ms. Jennifer K. French): Members of the committee have been sent, and it can be circulated again, a draft report. We're getting a bit of background to have an understanding of regulations and the process. At a later meeting, we will be considering the report—

Mr. Matthew Rae: Not today?

The Chair (Ms. Jennifer K. French): Well, we'll be talking about that, but if there isn't time today, certainly, we'll give it the time that it requires.

Mr. Mark Spakowski: I'm Mark Spakowski. I'm the chief legislative council. I'm the head of the Office of Legislative Counsel, which drafts regulations on the instruction of ministries and receives them for filing and arranges for their publication. I'm going to give a general presentation on regulations. I'm going to cover a bit of information about what they are, how they're used and the different types there are.

The Legislature is the institution that makes laws, but it may delegate some of its law-making to another person or entity. The normal way, or a common way, for it to do that is to provide for another entity to make regulations. It's not the only way in which the law-making authority can be delegated, but it's the more usual one.

0940

Regulations are subordinate to the act that they're made under. They are legislative in nature, so they're like law, and they're governed by part III of the Legislation Act. I'll touch a little bit on that in this presentation.

An example of regulations is, regulations are always authorized by a statute, and often the substantive provisions of a statute will make it clear that there are regulations contemplated to make that provision work. This is an example of a provision from the Bees Act, and it's clear that the requirement to make returns for a beekeeper is "in such manner and" such form "as the regulations prescribe."

An act that provides for regulations will always have a specific authority to make those regulations, identifying who makes those regulations. Section 25 of the Bees Act is the provision that provides for the regulations that go with the provision I just went through, and those regulations are made by the Lieutenant Governor in Council. This is an example of the regulation that was made under that reg-making authority to deal with what section 23(b) of the Bees Act provides.

The Chair (Ms. Jennifer K. French): Question: In this case, the Lieutenant Governor in Council—is that synonymous with cabinet? Or is there more involved than cabinet?

Mr. Mark Spakowski: It's the Lieutenant Governor acting on the advice of cabinet. A Lieutenant Governor in Council regulation goes to cabinet for approval and then it goes to the Lieutenant Governor for a signature.

The Chair (Ms. Jennifer K. French): Thank you.

Mr. Mark Spakowski: Not all regulations are called regulations in popular parlance. This is an example of some of the things that are actually regulations: court rules, for example; minister's zoning orders; emergency orders, which were common, of course, during the pandemic. Those are all regulations. There are other examples on this slide that I won't go through.

There are certain things that are not regulations. There are many things that aren't regulations, but in particular, municipal bylaws are not regulations, corporate bylaws and some directives and guidelines. These may be authorized under an act, but they are not regulations, either because they don't fall within the definition of regulations in the Legislation Act or because they're specifically excluded from the Legislation Act, or sometimes a particular statute will say that a certain instrument is not a regulation within the meaning of the Legislation Act.

Generally, what regulations do is supplement in some way what an act does. They can be narrow. They can provide for details of a statutory scheme. For example, they might provide for a fee that's payable or procedural rules for something that's provided for in a statute. But they can also be broad. It depends on the reg-making authority. They can provide authority to set out significant aspects of a statutory scheme.

There is no authority in law to make regulations unless they are authorized under the act and there is no authority to make regulations that are unconstitutional.

I alluded to this earlier: who can make regulations. It's always specified in the act. The most common maker of regulations is the Lieutenant Governor in Council. It's been clarified exactly who that is, or how that's done. Many specific ministers have the authority to make regulations under particular statutes, sometimes subject to the Lieutenant Governor in Council approval and sometimes not. There are also instances where other bodies make regulations, often, but not always, subject to the approval of the Lieutenant Governor in Council or minister. For example, self-governing bodies like the law society or the College of Physicians and Surgeons have reg-making authority. These are examples here of some of those, so other examples: There's a committee to make court rules, there are governing bodies—the example here is engineers, but there are many self-governing bodies—and the Tarion warranty corp. also has some reg-making authority under legislation.

Types of regulations: These are just terminology that we use. A regulation can be new, what we call “stand-alone,” meaning it will be an entire, self-sufficient regulation. It can be amending, and most regulations are of this nature; they amend an existing regulation. And we have regulations that revoke an existing regulation. All of these are accomplished by a regulation, so amending a regulation requires a regulation, and the amendments are set out into that regulation.

How many regulations are there? Here, a little bit of terminology—distinguish between regulations that are made in a year and the body of existing regulations, which are all the regulations in force with all the amendments

incorporated into them. In 2023, last year, there were 427 regulations made; about 18% of them were new, stand-alone regulations, so they would become part of the consolidated regulations, i.e. the law in Ontario. The rest of the regulations would have been amending regulations, or a few revoking regulations.

As of, I think, yesterday, there are 2,115 stand-alone consolidated regulations on the e-Laws database, which sets out all the laws in force in Ontario, with a few obscure exceptions. That number, of course, changes from time to time as new regulations are made or regulations are revoked.

I'll touch on a few related matters that have been discussed before. Regulations are not required by law to be bilingual, but most are. The Attorney General is required to cause unilingual regulations to be translated as appropriate. There are amendments yet to be proclaimed changing that to provide for that regulation in future.

Almost 70% of Ontario regulations are bilingual; as of yesterday, it was 69.1%. That number changes as more regulations are made bilingually or as regulations are revoked. So that number changes a bit, but, generally, the trend is up for the past 30-some-odd years.

Almost all new regulations are made bilingually, and it's important to remember that English and French versions of regulations and statutes are given equal weight under the law. They're both authoritative.

Another related matter, just to clarify terminology which I've referred to already about filing and publication: A regulation that's made doesn't have any legal effect unless it's filed with the registrar of regulations, which is a lawyer in our office. Our office receives regulations for filing, and that's the last necessary step for a regulation to be legally effective. This is a way of centralizing and keeping track of all the regulations that are made, and ensuring they have numbers so they can be identified.

All filed regulations are official law, and our office provides for the publication of all regulations that are filed within our office. They're published on e-Laws, usually the same day—if not the same day, then the next business day—and in the Ontario Gazette. The Ontario Gazette is a weekly publication, so it's usually a few issues after filing, but within a couple of weeks of filing, it's also published in the Ontario Gazette.

The Chair (Ms. Jennifer K. French): I have a question. When MPPs come across the term “unproclaimed,” that if regulations are not yet proclaimed, I would believe that that would be before the publication—obviously, if the publication is the last step, but what percentage of existing regulations have not yet been proclaimed? Is that included in these numbers?

0950

Mr. Mark Spakowski: Usually if people are speaking precisely when they say “unproclaimed,” they mean statutory provisions, because it's only statutory provisions that come into force by proclamation. But many regulations that go along with unproclaimed statutory provisions provide for their coming into force at the same time as the statutory provision. So to be very precise, it's the statutory provisions that come into force by proclamation, but certain

regulations may be timed to come into force at the same time as those statutory provisions.

It's very difficult to determine numbers of that. The statutory provisions that are unproclaimed are all listed in the table on e-Laws, so they're easily ascertainable but not easily counted.

The Chair (Ms. Jennifer K. French): Thank you.

Mr. Mark Spakowski: Sorry, I'm at the end of my presentation.

The Chair (Ms. Jennifer K. French): Thank you very much for your presentation.

Do members have any questions while we have Mr. Spakowski here? We reserve the right to ask questions in future as well. Ms. Fife?

Ms. Catherine Fife: Thank you, Mark, for the presentation. One of your slides said that regulations do more than regulate. What are those things?

Mr. Mark Spakowski: That was there because sometimes there's confusion over the word "regulation" and the action of regulating. So if regulating is understood by governing behaviour, then statutes regulate as well as regulations.

But some regulations do things that we wouldn't normally consider regulating. For example, a statute might limit a minister's power to do something or provide for an interest rate that is to be paid by the government with the interest rate to be prescribed by regulation—so that interest rate would be prescribed in a regulation, but I don't think that kind of legal action would normally be considered regulation in the way that people normally understand it.

So that explanation on that slide was really to clarify that some regulations do things we wouldn't normally think of as regulating. Another example might be court rules. Maybe people would think of those as regulation, but probably not usually.

Ms. Catherine Fife: Thank you.

The Chair (Ms. Jennifer K. French): Are there further questions for Mark? Thank you very much for your presentation.

At this time, we will move into closed session for a briefing with a research officer—

Interjection.

The Chair (Ms. Jennifer K. French): Oh. I beg your pardon. Yes, Mr. Hsu, so further discussions on other things then.

Mr. Ted Hsu: Yes, it's just, very briefly, two items that I wanted to ask the committee to do, involving calling the chair of broadcast and recording services—one is to provide an update on the self-clipping tool for videos similar to the House of Commons and to explain why the tool hasn't been implemented yet, because they said in August 2022 that a trial version would be available in 2023 and that hasn't happened.

And the second thing is to ask that broadcast and recording services explore and implement a French-only TV channel, like the English one—given that there are 600,000 or 700,000 francophones in Ontario, I think that we would be in better compliance of the French Language Services Act if we did that.

So to request as the committee to ask the chair of the broadcast and recording services to come and meet us.

The Chair (Ms. Jennifer K. French): Further discussion?

The Clerk of the Committee (Mr. Christopher Tyrell): I can speak to one of those items, if you'd like.

The Chair (Ms. Jennifer K. French): The Clerk has thoughts.

The Clerk of the Committee (Mr. Christopher Tyrell): Not thoughts, but—

The Chair (Ms. Jennifer K. French): Updates?

The Clerk of the Committee (Mr. Christopher Tyrell):—some information for the member asking the question.

To your question about the self-clipping tool: I think I provided an update to the committee about this in the past, but the electronic media asset management tool that you're discussing was meant as a video archive; it wasn't necessarily meant for people to be able to go and pull their own clips. People are able to access it. You can use it to identify the segments of video that you are interested in, but the process would still be to reach out to broadcast and recording and let them know what clip you'd like so that they can actually pull it, package it and send it to you.

There has been training—I think there's ongoing training offered to staff and members from all caucuses, and independent members as well. There has been some uptake, but not a large amount of uptake, so if that is something you or your staff would be interested in, contact broadcasting and recording, and they would be happy to provide the training on how to use that tool.

Mr. Ted Hsu: But there was something that was going to be proposed to be trialled in 2023. Is that not going to happen anymore?

The Clerk of the Committee (Mr. Christopher Tyrell): I would defer to the director of broadcast and recording, but my understanding was that this tool was what you're describing, and that it was meant as an archive and being able to access video from years and years past. I don't think it was—I stand to be corrected, but I don't believe, in my conversations, that it was meant for you to be able to pull your own clips.

Mr. Ted Hsu: Okay. Maybe we could get some clarification from the—

The Clerk of the Committee (Mr. Christopher Tyrell): Sure.

Then, to the French-language piece, I can't speak to the acquiring or the running of a channel, but there is—there are ways to get French-language-only or floor-sound-only audio from the stream. There is the live stream through the ola.org website, and there is the Parlance app that is downloadable where you can get the media studio, all three committee rooms and the House. There is a feature where you can change it to English only, French only or floor sound.

Mr. Ted Hsu: My question was about the TV channel.

The Clerk of the Committee (Mr. Christopher Tyrell): Fair enough.

The Chair (Ms. Jennifer K. French): Further discussion? Mr. Rae, I saw your hand.

Mr. Matthew Rae: Thank you, Chair. Thank you to the Clerk as well for that clarification around the clipping. I would argue that the communication plan or communication notice from broadcasting has been horrible—sorry. I had the same question as MPP Hsu. I haven't received, nor my staff, even for the archival component of it—I didn't even know it existed. I know we talked about it in 2022, so I think more communication with independent members and both caucuses of official parties is needed from broadcasting around that tool. If it already exists, great, and I would support the chair of broadcasting services come to discuss those items.

The Chair (Ms. Jennifer K. French): Okay. I'm going to take away from this—I believe it's the director of broadcast and recording services that we're interested in inviting.

I would also encourage members that if you have further thoughts about broadcast and recording, if you wanted to bring those thoughts or share them ahead of time so that we can, perhaps, get specific answers.

I'm looking to the committee: We will invite the director of broadcast and recording to come and present on those issues, and if you would flag anything else that would be helpful for them. Anything further to that?

The Clerk of the Committee (Mr. Christopher Tyrell): As long as there's agreement from the committee, I'm happy with that.

The Chair (Ms. Jennifer K. French): I'm seeing agreement. Am I wrong? Okay, I have agreement, so we will do that and send a letter to invite.

Anything else before we go into closed session? Okay, we're going to closed session for a briefing with research officer Tamara Hauerstock on the draft report. Do I have agreement for broadcast and recording to remain in the room to operate the microphones? Okay, yes.

We're going to hold on for 30 seconds while we go into closed session.

The committee recessed at 0959 and later continued in closed session.

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