

LAW AMENDMENTS COMMITTEE

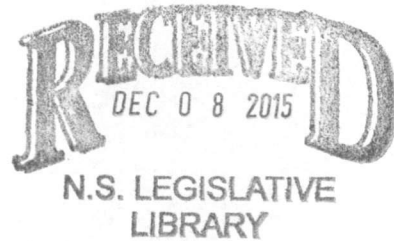
Red Room, Province House

Monday, December 7, 2015

4:00 p.m.

Bill #141 - Electricity Plan Implementation (2015) Act

1. Wayne Groszko
Ecology Action Centre
2. Babak Farsi
Doctor Solar
3. Barry Zwicker, President
Scotian WindFields Inc.



Bill #143 - Regulatory Accountability and Reporting Act

1. Michelle Raymond
2. Max Rastelli, Owner
Segway Nova Scotia
3. Jordi Morgan, Vice-President, Atlantic Canada
Canadian Federation of Independent Business

Law Amendments Committee
Bill 143
Regulatory Accountability and Reporting Act
Michele Raymond

Thank you very much for the opportunity to speak to Bill 143 here at the Law Amendments Committee.

Some of you, as my previous colleagues in the Legislature, may wonder why I have roused myself to appear on this bill. I can only say that I am most grateful that Nova Scotia provides its citizens the opportunity to speak to potential legislation, and to raise questions if they haven't been previously raised in the House.

I'm glad to know that Nova Scotia is proceeding with regulatory reform, and that there is an initiative to legislate reporting on progress towards less cumbersome and obstructive regulations, which is, in itself, a good thing. I do have concerns however, and a few questions, which I hope can be answered, if necessary through amendments to put more flesh on the bones of Bill 143, before it is enshrined in legislation.

I congratulate the government on establishing an office of regulatory reform, but would hope there can be more clarity on the powers of the Minister to make regulations "respecting the responsibilities and duties of the Office and, more specifically "respecting . . . practices, procedures. . . or other requirements, the adoption of which, in the opinion of the Minister, is necessary or desirable for ensuring the efficiency, accountability or transparency of regulation. . . "

My questions fall into three areas: firstly, what does this bill enable, that wasn't already possible? secondly, does this bill open the door for privatization of the land, motor vehicle and business registries? and thirdly, how will Nova Scotia retain control over its own regulatory regime?

(1) What does this Bill enable?

It's not clear what this language adds to the existing powers of the Minister, and if it adds nothing, why it's necessary to restate the powers of the Minister. I have

heard considerable discussion in second reading about the desirability of reducing red tape in Nova Scotia, but much less about the purpose and scope of a broad power of joint regulation with other provinces.

(2) Is this a mechanism to open the door to privatization of the Land, Motor Vehicle and business registries?

Obviously there has been significant public concern about the possibility of government handing over responsibility for land, motor vehicle & business registries. There have been questions about how citizens' information will be protected in the hands of private enterprise, and there is a real concern about access remaining affordable to users of the various registries. I am advised that the cost of access to the Ontario Land Registry has more than tripled since it was privatized. This is a problem, not only for those seeking access, but for everyone else, as the more closely guarded the public information, the greater the possibility of abuse. I believe that public access to information ensures greater accountability for the integrity of that information, and the processes which generate it.

Equally obviously there has been great interest from private enterprise vying for the contracts to operate these registries, so much so that it has been necessary for the government to call a halt to lobbying for the contracts to operate these registries. Apparently they can be highly lucrative undertakings.

I have come here to speak partly because I have had personal experience with the land registry in the past three years, and have had cause to be grateful for the provincial government's involvement, maintaining the integrity of the Land Registry in the face of requests, even by solicitors for other levels of government, to alter registered property rights without the knowledge of the property owner.

I would go so far as to say the stability of any economy based on land ownership is based on the integrity of the land registry, and I would be very uncomfortable to find that registry in the hands of private enterprise, whose primary motivation is to ensure the operation is profitable.

By the same token, I would be uncomfortable to find the Registry of Motor Vehicles in private hands, since drivers' licences, the gold standard of identification for so many Nova Scotians, are at the heart of so many daily transactions, as well as law enforcement. All of those transactions are founded on the assumption that that identification is unimpeachable.

(3) How will Nova Scotia retain control over its own regulatory regime in a multipartite office?

I note that the Joint Office of Regulatory Affairs and Service Effectiveness is defined as including not only the offices established by NS, New Brunswick and PEI, but also "such other governments as may, from time to time, partner in it". It is not clear to me what protocol would enable the addition of other governments to this arrangement. There are numerous instances of regulatory differences between provinces, and these do reflect differences in the views of the citizens of the respective provinces.

As some of you around this table may know, and others will not, I am deeply committed to the notion of elected accountability for decisions made of behalf of the public—that is to say, the notion that decisions are made on the understanding that they will or will not ultimately be endorsed by the citizens who have entrusted elected officials with responsibility, and that if not approved, there will be consequences.

This is the essence of elected office, and it is both a risk, and the reason which drives elected officials to take on the responsibility of office.

I believe governments must be careful not to abdicate that responsibility, and that citizens are disenfranchised when the amount of regulation, decided by cabinet and unelected officials, overwhelms the decisions made by legislation, openly debated in the House.

We often hear that "The devil is in the details," and this can be the result of legislation which hands over too much responsibility. It's more comfortable on the floor of the House, but it can release a flood of unexpected effects on the

public.

This particular bill could be a Pandora's box of unintended consequences. It appears to be enabling legislation, but it's not clear what are the limits of what it enables.

In no particular order, some of my remaining questions about Bill 143 are: How will it be decided which province's regulatory regime prevails in case of disagreement? Will it be the province with the most relaxed standards? Will it be a case of the majority ruling, and if so, will the majority be determined by the number of provinces involved, the relative size of their populations, or some other criterion?

What will be the role of private enterprise in regulation? I note the perceptive comments of the Minister of Transportation in second reading, concerning an initiative to increase weight limit on single-wide tires throughout Atlantic Canada, and pointing out that the builders and operators of P3 highways in New Brunswick will probably also need a say in this regulatory change.

When will regulatory changes be decided? If there is deadlock among provinces on a particular regulatory change, will businesses in Nova Scotia be paralyzed, as they await decisions in other provinces?

How can a regulatory decision be appealed, if it is made over the objections of a particular province?

In conclusion, I would like to thank the Committee again for the opportunity to speak, and to congratulate the government on its initiative to harness regulations, while hoping that Bill 143 can be amended to state more specifically its purpose and scope. It can only increase Nova Scotians' confidence in the process of government, and give them assurance that their interests are being represented in the House where they have placed their trust.

Thank you.

— Michele Raymond
7 December 2015

Law Amendments Committee
December 7, 2015
Regulatory Accountability and Reporting Act
Jordi Morgan, vice-president, Atlantic,
Canadian Federation of Independent Business

Madam Chair, members of the Law Amendments Committee...

Last Wednesday, the Nova Scotia government took a significant step forward to change the way business is done in Atlantic Canada. The Premier, in his role of the Minister Responsible for Regulatory Affairs and Service Effectiveness, tabled the legislation we are speaking to this afternoon.

It is my contention this legislation could reasonably be described as 50 years in the making. You'd think it might have made a bigger splash in the media. However, red tape reduction and/or regulatory reform isn't sexy. It's hard to get even the wonkiest of policy aficionados worked up over the idea.

Beyond legislative assistants and clerks, and an assortment of folks in this room today, when you bring up regulatory reform, most politicians eyes glaze over like a classical fiction major in statistics class. It's probably why this regulatory reform legislation received only passing mention in the media alongside last week's edition of public sector union outrage and predictions of a mild winter.

However, this tiny, perfect bill, crafted by Fred Crooks and his folks at the newly formed Office of Regulatory Excellence and Service Effectiveness, has the potential to be a landmark Act in the economic history of not just Nova Scotia, but also the Maritimes and perhaps all of Atlantic Canada.

Anyone who has followed the activities of the Canadian Federation of Independent Business (CFIB) will know the red tape could be described as one of our obsessions.

CFIB fervently frets over red tape because regulatory compliance consistently comes in at the top of the list of serious concerns for small- and medium-size enterprises (SMEs). As an organization, we take our marching orders from our members. Red tape is a "red meat issue" for small business because it hits the bottom line.

Small businesses usually don't have compliance officers or legal affairs departments to deal with regulation. Most entrepreneurs spend their nights, after supper, figuring out how to manage Worker's Compensation claims, Occupation Health and Safety Requirements, Canada Revenue filings and the remaining avalanche of government paperwork of dubious usefulness.

It is particularly difficult and annoying when trying to do business between provinces where regulatory inconsistencies can make a small business owner tear out what's left of their hair. This is why this week's legislation is particularly good news.

As part of the agreement between establishment of the Joint Office between PEI, New Brunswick and Nova Scotia, each government has committed to enact mirror legislation. This means is the establishment of a consistent legislative and regulatory framework between the three Maritime Provinces.

Well, so what? In fact, this may be an historic opportunity. Since the days Louis Robichaud, Alex Campbell and Robert Stanfield mulled over the idea of Maritime Union, there have been various visions of knocking down the borders between the Maritime Provinces to create administrative efficiencies and more fluid and porous interprovincial boundaries.

The Maritime Union ideas has been trotted out on various occasions...and predictably, thoroughly trounced by parochial interests, self-interested politicians and an ambivalent bureaucracy looking to protect provincial turf.

But this legislation isn't some grandiose vision of one Atlantic political entity.

It's much more practical than that. This new legislation and the creation of a joint office may turn out to be just the chisel to loosen the mortar of the regulatory walls that have been building between our Atlantic Provinces over the past century.

The old management axiom says "if it can't be measured it can't be managed."

This legislation has committed to measure, manage and publicly report on red tape reduction. It has the all-important accountability framework built in as a pillar of the process. This will give those who have an interest in freer trade between the provinces a tool to measure progress.

It has taken the establishment of broad international trade agreements (CETA, TPP) to open our politician's eyes to the reality that business in other countries may, in some cases, now have more favourable trade arrangements than business in neighbouring provinces.

This important legislation is the first step in breaking down those inter-provincial trade barriers and add an important cog in the machinery of regional economic prosperity. This legislation ain't sexy, but it sure is newsworthy.

There is no one silver bullet that will fix the economic malaise the Maritimes have struggled with over most of my lifetime. The solution will come in the form of a suite of initiative which will encourage and nurture the entrepreneurial spirit of our region and get government out of the way of prosperity.

CFIB also acknowledges the significance of Nova Scotia's initiative to streamline the processes it imposes on individuals and business through efforts at Service Nova Scotia.

These business facing efforts are needed and welcome...however, CFIB supports this legislation because it adds the discipline to the practice of ongoing measurement of the progress to reduce the regulatory burden.

Having implemented other metrics to track government performance, the government has already embraced the type of public accountability it should now adopt in the area of regulatory reform.

While the specifics of this plan have not yet been identified, we encourage any proposed measurement model to be open and transparent, with the emphasis on reducing the red tape and paper burden on small businesses.

CFIB has long advocated for regular public reporting on regulatory measures.

Taking this a step further and legislating the requirement to report measures will make public accountability even stronger.

Our members have asked for this and the government is delivering exactly what we have asked for. I'm not entirely sure given the opportunity CFIB could have drafted it any more to our liking.

We encourage the legislature to make this the law of Nova Scotia at its earliest convenience.

CARRIED

Bill #143
Regulatory Accountability and Reporting Act

CHANGES RECOMMENDED TO THE LAW AMENDMENTS COMMITTEE

PAGE 1, Preamble, paragraph 5, line 3 - delete "Joint Office of Regulatory Reform and Service Effectiveness" and substitute "joint Regulatory and Service Effectiveness Office".

PAGE 1, paragraph 2(b), lines 1 and 2 - delete "Joint Office of Regulatory Affairs and Service Effectiveness" and substitute "joint Regulatory and Service Effectiveness Office".

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Red Room, Province House

Tuesday, December 8, 2015

11:00 a.m.

Bill #141 - Electricity Plan Implementation (2015) Act

deferred from previous meeting

Bill #143 - Regulatory Accountability and Reporting Act

deferred from previous meeting

