

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