

Non-Profit Corporations

week to assist a small church in my riding to obtain federal incorporation. That small church would probably have a membership of, I would guess, 20, 25, at the outside, 30 people. It is primarily a family church in a rural area and I expect the people will probably meet in someone's home.

As I address this bill I cannot help but think of and relate to that very small church that suddenly, in the next little while, will be confronted with this massive piece of legislation.

Clause 5(1)(c) is the part that I find really begins to put some dramatic and effective regulations before this very small membership I refer to. It states in part:

(c) the classes of membership, and if there are two or more classes of memberships, the rights, privileges, restrictions and conditions that constitute the membership interests of each class;

They must be defined. They must be prescribed in form and set out. I suddenly get the picture of my ten little farmers in this little community church sitting down and trying to define the classes of membership, the rights, privileges and restrictions of membership. They are not lawyers, they are simple family farmers wanting to worship quietly with their families, likely in a farm home. Now they are suddenly involved in very concrete definitions.

The question that really arises—and I have heard it talked about briefly in some of my research—is whether churches would be affected. Just to clarify that, I think it is important that I read a quotation of the Minister of Consumer and Corporate Affairs (Mr. Ouellet). This goes back to his news release of several months ago. It states:

Churches which will be incorporated federally will be affected by this bill, and although most churches which do incorporate do so provincially, there may be those who will incorporate federally.

In fact that is true, as demonstrated last week by my little community church. That little church has sought federal incorporation. As such, it will be subject to this massive legislation which is before us tonight. I would like to use this little church as an example to emphasize the importance of this legislation and its impact on each of us. This example puts a very complicated piece of legislation into perspective. It allows us to grasp some of the difficulties we face with it.

● (2150)

I would like to touch briefly on Clause 105. In some respects this clause personifies the priorities of this act and some of the difficulties it will present for us. Clause 105, subsection (2) says, "Every director and officer of a corporation shall comply with this act, the regulations, articles, bylaws and any unanimous member agreement." It is interesting, when you look at the priority of that clause. The first priority is that the directors are responsible to the act; the second priority is the regulations, and the third and final priority is the bylaws of the charitable organization, of which they are directors. In other words, the state comes before the regulations in their responsibility to the organizations of which they are members.

Many years ago, there was a great deal of fear of the influence that the church had over the state. That led to a doctrine which is today known as "separation of church and

state," a doctrine which has had some far-reaching implications on our society over the last several centuries. When I review this particular clause, I cannot help but wonder if we have not in fact gone full circle. Once we worried about the influence of the church on the state, but now perhaps we should worry about the influence of the state on the church. As I begin to study more clauses of the bill, the concern I have becomes more pronounced and clearer.

Another interesting clause of the bill is Clause 114. This section deals with the right of an organization to discipline its members. I believe that every organization has that right and it is defined to their membership and laid out in their rules and regulations. Clause 114 is probably nothing more than what we would see in the constitution of most organizations, simply the right to discipline their members. That is fair and reasonable.

Clause 115 says that the member is entitled to a fair hearing should he be disciplined by his organization. Again, we see that as a fairly normal, reasonable and, in fact, obligatory type of clause which should be in any legislation. It is probably the very clause we would see in the constitution of a charitable organization.

Clause 116 is one with which I have more concern about. In this clause we see a dramatic shift to another direction. I will read clause 116 because I think it is important. It says:

A member of a corporation who claims to be aggrieved because he was disciplined or because his membership interest in a corporation was terminated, may apply to a court under Section 214.

I will refer to Section 214 later. What I want to emphasize at this point is the fact that if a member was disciplined by a charitable organization—I think back to this church in my riding—and his membership was revoked for violating their particular code of law or ethics, he could dispute that in the court. That becomes very interesting and intriguing if you think of the fact that when the member joined, he probably had an understanding of the guidelines and regulations which defined his right to be a member of the organization he was joining. Yet he can appeal to a court when he disagrees with the discipline which was handed out to him.

That small church in my riding is a fundamentalist church and I am sure it would have regulations which state that a member must not commit adultery or engage in fornication or, in fact, if he were to engage in any of those activities, it would be grounds for retiring that member from membership in that church. It becomes very interesting when we realize that the very things for which they could reject him from the organization as being illegal in their organization, would not be illegal under Canadian law. If this member who is disciplined were to appeal to the court, the court would find that it is not contrary to the law. Those ramifications will become very serious, as I will illustrate later.

What results from this bill is that when that member appeals and the court upholds his appeal, the court can dictate to the church that it must change its regulations to be in accordance with government regulations.