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**Official Report
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(Hansard)**

Monday 4 June 2001

**Journal
des débats
(Hansard)**

Lundi 4 juin 2001

**Standing committee on
justice and social policy**

**Comité permanent de la
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Chair: Toby Barrett
Clerk: Tom Prins

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LEGISLATIVE ASSEMBLY OF ONTARIO

**STANDING COMMITTEE ON
JUSTICE AND SOCIAL POLICY**

Monday 4 June 2001

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**COMITÉ PERMANENT DE LA JUSTICE
ET DES AFFAIRES SOCIALES**

Lundi 4 juin 2001

The committee met at 1538 in room 151.

The Chair (Mr Toby Barrett): Welcome, everyone. This is the regular meeting of the standing committee on justice and social policy for Monday, June 4, 2001. On the agenda I see three orders of business: report of the subcommittee; a notice of motion, Ms McLeod; and Bill 12, Ms Molinari.

SUBCOMMITTEE REPORT

The Chair: Moving up to the first order of business, the report of the subcommittee dated May 16, 2001.

Mr Carl DeFaria (Mississauga East): I'm pleased to move the report of the subcommittee. It reads as follows.

Your subcommittee met on Wednesday, May 16, 2001, to consider the method of proceeding on Bill 12, An Act to increase the safety of equestrian riders; and to consider Lyn McLeod's notice of motion pursuant to standing order 124, and recommends the following:

(1) That the committee meet on June 4 and, if necessary, on June 11. The first order of business on June 4 will be debate on the motion by Lyn McLeod, pursuant to standing order 124.

Mrs Lyn McLeod (Thunder Bay-Atikokan): Mr Chair, is it necessary to read the entire subcommittee report? I'd be happy to dispense with it and take it as presented.

The Chair: Shall we dispense with the—

Mr Marcel Beaubien (Lambton-Kent-Middlesex): I think for the record we should have it read in.

The Chair: We have a suggestion that maybe for the record we should continue.

Mrs McLeod: I'm fine with that.

The Chair: I understand this would not take up any of the 30 minutes allocated for discussion.

Mrs McLeod: I appreciate that.

Mr DeFaria: This debate, which shall not exceed 30 minutes, will be followed by consideration of Bill 12.

(2) That the committee hold public hearings and conduct clause-by-clause consideration on Bill 12. If consideration of the bill is not completed on June 4, the committee will meet again on June 11.

(3) That the clerk place an advertisement on the Ontario Parliamentary channel and on the Internet.

(4) That the deadline for witnesses to request an appearance before the committee is May 28.

(5) That the deadline for witnesses to submit their written comments to the committee is June 1.

(6) That each party give the clerk a prioritized list of the witnesses they would like to hear from as soon as possible.

(7) That the clerk, in consultation with the Chair, will make all scheduling decisions. Witnesses will be offered 10 minutes in which to make their presentations. While considering the total number of witnesses seeking to make presentations, witnesses may request more or less time in which to make their presentation.

(8) That each of the three parties may take five minutes for opening comments and questions.

(9) That the Minister of Transportation be invited to make a presentation to the committee.

(10) That the Legislative research officer gather coroners' inquests and legislation from other jurisdictions that pertain to Bill 12.

(11) That the clerk has the authority to begin implementing these decisions immediately.

(12) That the information contained in this subcommittee report may be given out to interested parties immediately, as opposed to after the committee has voted on it.

(13) That the Chair, in consultation with the clerk, will make any other decisions necessary with respect to this bill.

I move this report of the subcommittee.

The Chair: I have a motion. All in favour? I declare that report passed.

Next order of business: notice of motion pursuant to standing order 124.

By way of introduction I would like to briefly read standing order 124(a): "Once in each session, for consideration in that session, each permanent member of a committee set out in standing order 106(a) or (b) may propose that the committee study and report on a matter or matters relating to the mandate, management, organization or operation of the ministries and offices which are assigned to the committee, as well as the agencies, boards and commissions reporting to such ministries and offices.

"(b) ... Whenever a motion under this standing order is being considered in a committee, discussion of the motion shall not exceed 30 minutes, at the expiry of which the Chair shall put every question necessary to dispose of the motion and any amendments thereto."

Further to the 30-minute section, I would ask the committee, would you wish to split the time into 10 minutes each for each party? Are you amenable to that? OK. I will now turn this over to Mrs McLeod.

Mrs McLeod: I will attempt to place the motion in a way which is consistent with standing order 124. Pursuant to standing order 124, I move that the justice and social policy committee meet to study and report on the issue of the determination of hospital funding formulas and hospital budget allocations.

The Chair: Thank you, Ms McLeod. Would you wish to—

Mrs McLeod: Thank you, Mr Chair. I realize we have not actually brought a standing order 124 proposal before the committee since the changes in the standing orders and I do appreciate a chance to at least get this issue on the table. I sincerely hope that the committee would see fit to further today's half-hour discussion by considering this very serious issue further.

I want to suggest that there are a number of headings that we would study this matter under. First of all, because Bill 146, the public accountability act, is to be debated in the Legislature this fall, and presumably, if it's passed, the requirement that hospitals, among others, would have to submit balanced budgets each year, I think it would be very important for the justice and social policy committee, prior to that requirement being put in place, to have had an opportunity to look at what the hospital budget situation is now and what impact that requirement to eliminate deficits within the next budget year would have on patient services.

I'm aware, and I submit this for the record today, that the per capita funding for Ontario hospitals is currently below the Canadian average. I know that hospitals are indicating they are facing some \$750 million in deficits. I believe that if you put those two facts together—that hospitals themselves are facing \$750 million in deficits and that their funding on a per capita basis already is below that of the Canadian average—there could be serious cuts to patient services if hospitals indeed are forced to bring in balanced budgets without additional funding. This is why the issue of the current funding and the funding formula becomes really crucial in the face of this legislation.

It's also important that we have an opportunity to review the hospital operating plans. That is something the justice and social policy committee has not had an opportunity to do before, but these are public documents. They are documents presented by each hospital, outlining what dollars they would need to be able to continue to provide the patient services they have undertaken to provide in the following budget year. So we would have working documents that would be very informative for the committee in looking at the reality of the funding situation that faces our hospitals.

I think it is also fair to say that if we were able to call the hospitals to speak to their operating plans, they would be able to speak directly to the areas in which cuts would have to be made to achieve a balanced budget. Again, in

the situation of current funding, it would be important for us to recognize the kinds of pressures hospitals are facing. I would point, for example, to the fact that hospitals are telling us they are at 90% occupancy and sometimes closer to 100%, or even above 100%. That of course raises the question of beds and what is an appropriate number of hospital beds. I put as a fact on the record today that hospitals in Ontario have fewer acute care beds per capita than the hospitals in any other province in the country. I put that into the context of Bill 46 and the need to look seriously at hospital budgets in order to understand what the impact of any further cuts would be on beds when we are already at over-capacity in terms of any flexibility in the hospital system.

I would also ask that we look at the whole issue of report cards, because one of the things I would congratulate the Ontario Hospital Association on doing, with the full support of the government, is to introduce report cards so they can actually report on patient outcomes. We know the first of the report cards are now being done. We know there are some very real indications both of strengths and of weaknesses of the hospital system and it would be important for the committee to acknowledge the strengths as well as the gaps in services.

I would hope that in looking at this issue the committee would also be prepared to look at benchmarks. I think that if you're going to report, people would agree that whether it's education reporting or performance reporting, any kind of performance reporting, you need to have benchmarks against which to weigh the outcomes. We have not at this point in the Ontario hospital system developed benchmarks by which we hold hospitals accountable. Given the emphasis of the government on accountability, I think the development of those benchmarks would be extremely important for us to judge how well we're meeting the standard.

I would also ask that we look at efficiency reports. There have been a number of reports done for the Ontario Hospital Association by the Hay Group that indicate Ontario hospitals meet efficiency standards. I think we would want to look at the definition of those standards, but our hospitals, by the standards used in those studies, are seen to be highly efficient, whether it is the teaching hospitals in the large urban centres or the smaller community regional hospitals.

I think I'm probably almost out of my 10 minutes, Mr Chair.

The Chair: No, you have close to five minutes.

Mrs McLeod: In that case I can expand a little bit.

Mr Beaubien: You can share it with somebody else, if you wish.

Mrs McLeod: Or let somebody else, which indeed I will do. I will be delighted to give my colleagues some opportunity to participate in this.

The issue that perhaps most strongly led me to ask the committee to review the issue of hospital funding, besides Bill 46, which we are going to be deliberating in the Legislative Assembly very shortly, is the whole issue of the funding formula and the issue of equity.

The Ontario Hospital Association has worked with the government for some three years to develop a funding formula that would ensure equitable funding for hospitals. I know there have been some major challenges in developing that funding formula, because as long as any new funding formula is based on a rejigging of current budgets, it means that while some hospitals may gain dollars because they haven't received equitable funding in the past, other hospitals will lose dollars. I don't think there are many hospitals in the province today that would want to accept a loss of funding or would feel they were getting more money than they really needed.

1550

I appreciate the political dilemmas governments face in actually wanting to change the status quo for hospital funding. The reality, however, is that there are inequities in hospital funding, that hospital funding has kind of grown in a topsy-turvy fashion. That's probably been true for successive governments, that there are historical patterns that the tendency of governments over many of the last years have been simply to either increase or decrease hospital budgets across the board.

That has perpetuated the inequities that have existed historically. There is a real challenge to be able to deal with those historical inequities if it means taking some dollars away from hospitals, but I think it needs to be looked at. The hospital funding formula is endorsed by the Ontario Hospital Association. It would take additional funding if it were to be done without decreasing hospital funding in some hospitals. It is important that we know what a truly equitable funding formula would look like and what the consequences would be, even if that means that for some hospitals there would be a loss of funding. We should understand what that is and get a sense of whether or not there is a political will to actually provide truly equitable funding for hospitals.

I'm not sure if my colleague would like to add to that. The motion may catch her a bit by surprise because I didn't have a chance to discuss it with her before coming into today's meeting, just at the outset, but I know she has personal experience of hospitals in her own riding.

Mrs Leona Dombrowsky (Hastings-Frontenac-Lennox and Addington): I would add only this to what my colleague and critic for the opposition has indicated at this committee as to the purpose for her bringing this motion for the committee's consideration. I see this as an opportunity for a committee of the Legislative Assembly of all parties to consider what I'm sure is an issue in all ridings across the province, so that we can come together and consider where there are strengths within the system and also where there are gaps in service. I've got to think that if we collectively consider those and present ideas or recommendations to the government on how they might be addressed, how the people of Ontario might better be served by the hospital system, how the funding formula might better be adjusted to actually meet the needs of the communities they serve, this would be a most worthwhile initiative.

I would like to indicate that I support it wholeheartedly. I would ask that the other members of the committee consider it in that light, as an opportunity for all parties of the Legislative Assembly to bring our very best ideas forward and perhaps bring something very positive and meaningful to the Legislative Assembly for implementation for better health services for the people of Ontario.

The Chair: Mr Kormos, have you any comments?

Mr Peter Kormos (Niagara Centre): Well, sure, I've got around 10 minutes' worth, at the bare minimum.

We are going to be supporting the motion. I want to ask government members to reflect please on the history of the now significantly altered order under which Ms McLeod brings this motion. There was a time not that long ago when, as a right, a member of the Legislature, and it was a right exercised and I'm not aware of a single instance where anybody could allege it was abused—it was a right by opposition members to have a committee, and understand the right could only be exercised when there was no other business in front of the committee, to consider a particular issue for a very fixed period of time.

Ms McLeod has been in this Legislature longer than I have, but then I've been here longer than the rest of you.

Mr Beaubien: What does that mean?

Mr Kormos: It means I've had an opportunity to see that standing order used very effectively in a very responsible way by any members of the Legislature who were in opposition caucuses—Conservatives, Liberals and New Democrats. I've seen that standing order when it was available as of right and did not have to undergo the hurdle of a motion being passed by what in effect amounts to government members. That's what's happening now, and the opposition member, rather than being able to have the committee work, when it had no other business before it, as a right in a very limited way, has to come before the committee and basically appeal to, and in a very perverse way, I suppose, plead with government members to get them to concur with, in this case, her request for consideration of an issue that, I put to you, is not a partisan issue and is an issue that should interest all of us.

I simply put this to the government members: they have an opportunity today to have the committee system do a very important job of addressing an issue that should be of concern to all of us, regardless of where our ridings are. I also put to government members that they should exercise their own judgment in this regard.

This is very much like private members' public business. By and large, the tone in that two hours on Thursday mornings is very different from what it is during the rest of the legislative sitting week. I like to think that, even when matters are somewhat partisan, basically the members of the opposing parties cut the bill's author or the resolution's author a little bit more slack than they would, let's say, a cabinet minister presenting a bill, and that there's some recognition of the fact that we all get a very limited kick at the can in private members' public business. Ms Molinari is here today. Ms Molinari's bill

was passed by the Legislature during private members' public business, and as I recall—correct me if I'm wrong, Ms Molinari—it was passed with the approval of all three parties, not just your own fellow caucus members in the government caucus but opposition members as well.

I suppose opposition members could have played silly with the bill and raised concerns about the minutiae and defects in it, but no, they didn't. They not only passed your bill, but they did everything they could—and they did—to facilitate it going to committee where it is today. I recall the subcommittee meeting, at which I was present, as was Ms McLeod, where subcommittee members did everything they could to assist you, Ms Molinari, in making these committee meetings effective. I raise that because I think it was a typical sort of display of what happens, by and large, out of private members' public business.

Today you have another example of what amounts to private members' public business, but it's not in the form of a bill. It's in the form of a request that this committee occupy itself with the consideration of something that, as I say, is non-partisan, and is of great benefit to all of us in our respective ridings. Look, there isn't a single member of this assembly, any one of 103 representatives of their constituencies, who doesn't have to deal in a very intimate way with hospital funding and the operation of hospitals in their respective ridings, and if not directly in their ridings, in the adjacent ridings where their constituents go to get hospital care and treatment.

I wasn't a fan of the rule changes. I haven't been a fan of rule changes for a long time here. I suppose, in part, in at least a couple of instances I may have played some small part in being responsible for giving rise to the rule changes, but I can tell you I never approved of the rule changes.

This is a very modest request. I think it is particularly interesting that we are dealing with a private member's bill in this committee today and my impression is that the author of that bill is at the very least subbed on to this committee, if not a full-time member of this committee. Am I correct?

Mrs Tina R. Molinari (Thornhill): I'm a full-time member.

Mr Kormos: A full member. I'm asking you, ma'am, to demonstrate some of the goodwill that was demonstrated to you in the course of the presentation of your bill in the House, in the course of its referral to this committee, and in the course of preparation for the subcommittee hearing. I'm asking you to reciprocate with some goodwill of your own. I'm asking you, as a member of this committee with voting rights, to very specifically support Ms McLeod's motion. Let's understand that this consideration doesn't happen unless the committee is idle. I want to make that perfectly clear.

1600

I suppose committee members could vote against this motion because they don't want to work when there isn't any other business before it. Committee members could demonstrate sloth by defeating this request. That's not an

unparliamentary term is it, "sloth"? They could demonstrate sloth by opposing this because it would mean having to sit for—how many hours is it, clerk, about 12 hours still?

The Chair: Mr Kormos, I can ask the clerk to address that.

Mr Kormos: Please.

Clerk of the Committee (Mr Tom Prins): There's no change in the standing order. The time period is not defined. There is no time limit.

Mr Kormos: So, this committee, then, once it passes this motion, can set about, through its subcommittee process, defining the length of time. If the government members don't find the subject matter particularly appealing politically, the solution isn't to turn down Ms McLeod's motion; this solution is for them to use their clout in determining the amount of time. I don't expect that they would be so egregiously unkind as to pick a flippantly small amount of time, but they can control that. I leave it at that.

This is a very frustrating thing. I can't read minds, but I can read body language pretty good. I'm worried that Ms McLeod may be swimming upstream. I hope I'm misinterpreting body language. I hope that the committee members here—and I hope that Ms Molinari is here, because I'm confident that, at the very least, she would want to reciprocate the goodwill that the opposition parties have shown her. I'm sure that Ms Molinari would not want to generate any ill will or antipathy toward her or her bill at this critical point in its course through the Legislature.

Mrs Molinari: I appreciate the opportunity to speak on this motion on the floor. In fact, a lot of the comments that have been made we certainly agree with. This is not a partisan issue; I agree with that as well. This is really a duplication. The Ministry of Health is presently working on the new funding formula—it has been underway for the last two years—along with the joint policy and planning committee. It is a partnership of the Ontario Hospital Association, the Ontario hospitals and the Ministry of Health and Long-Term Care.

This is definitely underway. The Ministry of Health and Long-Term Care is continuing to work with the Ontario Hospital Association and others on how to best implement the new formula. The government has asked the Ontario Hospital Association to carry out a consultation with the hospital sector to determine the amount of support the hospital sector has for the new formula. The joint policy and planning committee completed the consultation in March.

The government is waiting for the results of the consultation and the Ontario Hospital Association recommendation so the government can implement the new funding formula without changes to legislation and regulation. This new funding formula will be more equitable and it will be a way to allocate government funding to hospitals. I'm certain that all of the comments made by Ms McLeod and Mr Kormos will be taken into consideration in our working together with all of the organizations in order to implement the best model possible.

As the government feels that this is a duplication of what's already in place and already happening, we will not be supporting the recommendation put forward. I will leave some time for my fellow colleagues if they would like to make some comments.

Mr Beaubien: Mr Kormos mentioned that he reads body language very well. I didn't realize he had a crystal ball. I didn't realize you were a charlatan; I thought you were a lawyer. However, I'll take your word for it then.

I find it offensive when you mention committee members not wanting to work. We have to look in our own backyards sometimes and assess our own personal situations. I think most of us are willing to work.

With regard to Ms McLeod, I happen to concur with the motion or the intent of the motion for a number of reasons. First of all, I had the opportunity to work in hospitals. I'm not going to tell you when, because that would tell you how old I am. I also had the opportunity to sit on the board of a hospital for nine years, between the years 1985 to 1994. If I recall, during those nine years, we were under the governance of a Liberal and an NDP government in Ontario.

Rightly or wrongly, there was always a lack of money. There was a lack of money when I worked in a hospital a few decades back. There have been some chronic, deeply imbedded problems, there's no doubt. I think there's no doubt there are more challenges today with the developments in medical procedures. They're less intrusive; consequently, they're costlier to perform. Maybe patients don't stay in the hospital as long. There have also been some leaps and bounds in the medical technology field with the equipment. We didn't have MRI machines a number of years ago. They're very costly to buy. They're very costly to operate.

I've had some concern also with regard to the way the funding has been provided to hospitals. I don't have a crystal ball. I didn't know if it was enough in 1985; I didn't know if it was enough in 1994; and, to be honest with you, I don't know if it's enough in the year 2001. However, I know that this government has spent more money on health care in the past six years. We started with 37% of the provincial budget in 1995; we are up to 45%.

If we look at what's happening in Nova Scotia, where the finance minister states that at the rate they're going in Nova Scotia, in four short years 100 cents of every dollar will be spent on health care, I don't think that's what we want in Ontario.

Consequently—because I'm probably running out of time—based on those brief comments I've made, I certainly don't have any problem with having the committee look at the way hospitals are funded in the province. I realize that the Minister of Health and Long-Term Care is doing a study. However, I think as politicians we do have a role to play, we do have a responsibility, and sometimes I like to challenge bureaucratic decisions, just as I'm sure that bureaucrats like to challenge political decisions. With that having been said, that's why I would support this committee looking at it.

The Chair: Ms McLeod has moved that this standing committee on justice and social policy study and report on “the determination of hospital funding formulas and hospital budget allocations.” Before I call the vote, I'll just read yet another section of standing order 124(c), “The proposal of a member for study and report must be adopted by at least two thirds of the members of the committee, excluding the Chair.” On November 1, 1999, the House determined that for the purposes of the two thirds majority required under standing order 124(c), the number be set at five. I'll call the vote.

Mr Kormos: Recorded vote, please.

Ayes

Beaubien, Dombrowsky, Kormos, McLeod.

Nays

DeFaria, Guzzo, Molinari.

The Chair: I declare the motion lost.

Mr Kormos: On a point of order, Mr Chair: Just a question. Is Ms Molinari's bill time allocated? Are all the questions going to be called at the end of the day tomorrow? Or is there no time allocation on it?

The Chair: We have a number of witnesses coming before the table. There are several amendments, as I understand. I don't know whether we would have clause-by-clause today if we have time. Does that answer your question?

Mr Kormos: Is it time allocated?

The Chair: No, it is not time allocated.

Mr Kormos: OK. Thank you very much. I just wondered.

1610

HORSE RIDING SAFETY ACT, 2001

LOI DE 2001 SUR LA SÉCURITÉ DES CAVALIERS

Consideration of Bill 12, An Act to increase the safety of equestrian riders / Projet de loi 12, Loi visant à accroître la sécurité des cavaliers.

The Chair: Our third order of business is Bill 12, An Act to increase the safety of equestrian riders, Ms Molinari. I would ask the committee for comments from all three parties. Are we amenable to five minutes each before witnesses come forward?

Mr Kormos: If I may suggest, perhaps the author of the bill should lead that off.

The Chair: Thank you.

Mr Kormos: It's a mere suggestion.

The Chair: I'll take that suggestion.

Mrs Molinari: I welcome the opportunity to discuss this bill in committee and open it to the presentations that are going to be made here this afternoon.

In my second reading debate of this bill, I highlighted some of the reasons why I put this bill forward. It's in memory of Elizabeth Hader, who was a 10-year-old girl in Newmarket who went on a weekend birthday party that her family organized for her and her friends to a horse riding establishment. All of the children at this party were having a very good time. Elizabeth was riding her horse, and she fell off the horse and died. Meanwhile there have been several coroner's inquests that have reported on the deaths of people, children, riding horses and not wearing proper helmets and footgear, deaths that could have been prevented if they had been wearing proper protection.

I have consulted with many organizations, and a lot of them are here today to make presentations on this bill. I encourage all the committee members to listen to the presentations because you will be hearing directly from them today on the things they told me. Generally, in essence, that consultation drafted the bill in its present format.

There are some amendments that I will be making to the bill, and I know the Ministry of Transportation has also submitted some amendments to the bill. The opportunity for that I'm sure will arise either at the end of today's session or possibly the next day. I'm certainly open to any amendments that anyone on the committee would like to make to the bill because, again, this is a non-partisan bill. It's a bill that will provide safety for anyone under 18 years of age who will be riding a horse.

I must tell the committee that during the consultation process a number of people wanted the bill to have more restrictions, wanted the age to be higher. They were looking for the penalties to be higher. So this is a first step in something that is not presently in legislation. There was a lot of controversy over the bicycle helmet when that was first introduced and it took a long time to get that passed. I haven't had very much controversy on this. Anyone who has contacted me and has suggested possible amendments—as a matter of fact, I received a letter after first reading of the bill, and in second reading debate I also said that at that point I was very prepared to make those amendments to the bill. My intent here is to provide legislation that does not presently exist and would provide for safety of those who are riding horses.

These are mainly children who are not aware of all the dangers. These are not people who ride horses on an ongoing basis and are aware; these are people like Elizabeth, who went to a birthday party and had no knowledge of the dangers she would have in riding the horse. Riding establishments are going to have to make sure that those who are riding horses are properly fitted to provide for their safety.

I know some of my colleagues would like to make some comments. I'm sorry I haven't been watching the clock, but if there's still time for them—I also want to say to the presenters who are here that I will have to leave for a few minutes because I'm also scheduled to debate this afternoon on the budget that's presently being debated in the House. So if I leave for a portion of the

time, it's not that—I have heard a number of their presentations and comments already and I welcome the presenters who will be coming.

Mr Chair, I now leave it up to some of my colleagues. I know they'd like to make some comments.

The Chair: Thank you, Mrs Molinari. You have completed your time.

Mrs McLeod: I want to indicate that at this point in time we see no reason not to be supportive of a bill that we believe has been put forward in a genuine concern about public safety. I suppose Mr Kormos might argue that I shouldn't be quite so forthright about that, but if there is an opportunity to take action which would prevent future deaths, nobody wants to be responsible for not taking that action. I appreciate the fact that Ms Molinari has brought forward this bill and given us an opportunity to act on it.

Clearly, it was very tragic that it was a recent death that led to the bill coming forward. I also want to recognize that it comes after a lot of years of inaction. Sometimes we have to recognize that governments have not seen something as a priority where action would have been possible. I appreciate the work that legislative research has done for us in providing us with some background. We've seen at least one of the inquest reports that was done more than 20 years ago now, so I appreciate the fact that action has been needed.

I will have a couple of questions along the way. I know in the subcommittee, as we discussed what presentations would be appropriate, Ms Molinari indicated to us that there were not many people she was aware of who had raised concerns. I note that there have been amendments proposed where there were some specific concerns with wording in the bill, so I appreciate that. I suspect we will hear the majority of people, if not all of the people, who are presenting to us will be supportive of the bill. Given the nature of the bill, that would not be a surprise. We have not attempted to beat the bushes looking for people who would be concerned or opposed to it. I think this is an issue which we would all want to lend support to. If there were any questions, they would be in regard to making the bill even stronger, and I believe Ms Molinari has made an attempt to do that.

Just in the area of questions I may have, though, I do want to note the fact that we would become the first jurisdiction, as I understand the work that legislative research has done, perhaps in the world but maybe just in Canada—and I'll look for a clarification of that. No, not in the world; there are two jurisdictions in the United States that have riding helmet requirements, as I understand it, but we'd be the first Canadian jurisdiction to pass legislation requiring riding helmets. One of my questions to put on the record would be, why has there been such apparent reluctance to put this kind of legislation in place?

Although I think I've made it abundantly clear that we want to be supportive in a non-partisan way of legislation which has a good intent, having said that, I want to note the fact that it was just in 1996 that the current govern-

ment repealed the Riding Horse Establishments Act. I find it somewhat odd that it would take a private member of the same government to bring forward legislation to replace legislation which the member's own government repealed in 1996. I would like to have an explanation of why the current Ontario government repealed the Riding Horse Establishments Act in 1996 and what this legislation does that is different from that legislation. Are we just replacing with virtually the same legislation what was repealed by the same government in 1996? Why was it repealed then? Why is it being replaced now?

Again, I appreciate the fact that the addition to the legislation deals with the requirement to make the wearing of helmets mandatory, which of course deals very specifically with the recommendations of previous inquests and the concern over the tragic death that precipitated this bill. I think it would be important for the committee to have some understanding of why we now have replacement legislation for legislation that was repealed by the current government.

Mr Chair, as we proceed with the deliberations, I hope those two questions could be addressed.

The Chair: Thank you, Mrs McLeod. There's about half a minute left.

Mrs Dombrowsky: Just one question that I would hope might be answered—it may happen this afternoon as we hear presentations, and I will note that in the background information there is an indication of an individual who was 22 years old. My question is, has there been consideration of possibly requiring people beyond the age of 18, if they've not had experience riding horses—would it not be in their better interests to have the operating establishment have them wear helmets as well? I look forward to possibly having that answer.

1620

The Chair: Thank you. Mr Kormos.

Mr Kormos: I find it very peculiar that the author of a bill would be steering her bill through committee, but then somehow, when your caucus is much bigger—heck, not only is it bigger but everybody's caucus is bigger than the NDP caucus, and your caucus is even bigger than the Liberal caucus—Ms Molinari can't stay here to respond to my comments about her bill because she's got to run off to the House to read a prepared speech? I find that unprecedented.

Once again, why should anything surprise me around here, huh? Why should I be surprised at anything? So here I am. Ms McLeod gets to talk to Ms Molinari. Ms Dombrowsky gets to talk to Ms Molinari. Did I do anything to offend her? Did I in any way—I don't think she's afraid of me. I've never given her reason to be afraid of me. I do have some questions.

I have no doubt that the Riding Horse Establishments Act was considered red tape and government inefficiency. I suspect that fellow from down Lincoln way who got defeated in the last provincial election is now—I hope he's not on the government tab—running their Red Tape Commission. I suppose he suspected that was one of those inefficiencies. Fair enough. The Riding Horse

Establishments Act didn't provide for this type of protection, but it would have been and could have been the act that was amended. I support coroner's inquest processes and their juries' recommendations. Those juries spend an incredible amount of time working very hard.

The sad thing is that I'm going to have to repeat all this when Ms Molinari gets back. No way is this bill going to get done today. That's the sad thing. That's the unfortunate thing. If Ms Molinari had only stayed here, we could've wrapped this up. But I've got to repeat it for her benefit when she gets back.

A couple of things, though: one fellow, W. Nagy, who has written two letters with respect to this bill, is a frequent correspondent with members of the Legislature. He uses the letterhead from his business, Nagy Guitars, Custom Made in Mississauga. Mr Nagy's observations are incredibly astute, insightful, and I welcome his contribution as I always welcome Mr Nagy's letters to my office. He's always there to provide commentary on this government and its policies.

The issue that's been raised about the small pony operations that go to small towns, that go out to the parking lot of the Seaway Mall or to Auberge Richelieu down in Welland on St Jean Baptiste Day, which is coming up soon, among other things—the people who have the small ponies usually lead them by the bridle. They've got little kids who get up on the back. Mom and dad are doing their snapshots. There are letters from at least two of those operators here. I have real concerns because their comments appear to be dead on.

I read the bill and it appears that the bill is going to apply to them as readily as it will to the riding stable where people take their horses out unsupervised and go galloping off into the Walkerton pastures. I've got real concerns about that. I expect Ms Molinari to address that, because I will not support legislation that's going to do those people bad. I know those people down where I come from and they are hard-working people. Some of those folks, OK, tiny little profit margins. They've got insurance costs that would choke a horse already.

This is an unenforceable piece of legislation. Nobody's going to be out there policing the riding stables. What it does, though, is create a statutory tort. That's what it does. The way it'll be policed is by saying there's a prima facie tort by virtue of the riding stable not complying with the statute. Therefore, an injured person will sue the daylights out of the riding stable, even if that person, for instance, declined the helmet. It really isn't an enforceable thing. It's not about the fine. You're going to see very few fines levied, even against the most delinquent riding stable operators.

What it does is create some instant tort liability that we'll tune up, I agree, but really it still amounts to insurance at the end of the day. It's the insurance company that's going to pay it out. That means the good riding stables are going to be subsidizing the rare bad one that results in injuries. I will go to the wall for the little mom-and-pop pony rides that take little kids around at the local Welland county fair, wherever it happens to be, the

supermarket or the plaza parking lots, fundraising events and so on.

The other problem I've got is, why 18? What's the magic number? Some of the American legislation I note uses the age 14 and under. Why 18? I don't know what the magic number here of 18 is.

The other one really has got to go. It says that these owners or operators of a horse riding establishment shall make this equipment "available for hire at reasonable rates." What a dumb section. What the heck are reasonable rates? To a prosperous parliamentary assistant, a hundred bucks is reasonable. To federal Liberal MPs who are going to give themselves a 20% salary increase today, a thousand bucks is reasonable. Those guys are giving themselves pay increases up in Ottawa: Tom Wappel, Carolyn Parrish, people like that. They should get pay reductions. What are reasonable rates? I don't buy it.

What has to be done if the bill's going to be effective is that, first, the cost of renting a horse for a person, whatever age and under—as it is, 18—the helmet and the appropriate footgear either have to be provided or you don't get to rent the horse. Get rid of the rates business. It simply doesn't fly with the nature of this bill. People either have to bring their own or the stable has to provide it. If the stable doesn't want to provide it, then it can't rent out horses to people who don't have their own. Second, we've got to protect the little mom-and-pop pony operators. Third will remain what we hear from folks who are here to talk to the committee.

But as I say, I'm going to have to repeat this all over again, probably twice as long as I took now, for Ms Molinari when she gets back. We are definitely going to be here again next Monday.

The Chair: We now go to the parliamentary assistant for the Ministry of Transportation, Julia Munro, MPP, and to presentations. Presentations from people who come forward to the witness table will be 10 minutes each.

Mr Kormos: On a point of order, Mr Chair: Ms Molinari isn't speaking in the House; that's Mr Phillips.

The Chair: That's not a point of order.

Mrs Julia Munro (York North): I'm pleased to be here today to speak to Bill 12 and highlight a couple of the parts of this bill that the ministry thinks are particularly important. Before I do so, though, I want to confirm the kind of comment Ms Molinari made initially, simply the fact that this is an issue that, as a representative of York region, I was very painfully aware of, and the circumstances. I recognize that, as legislators, anything we could do that would help prevent this is important.

I think it also speaks to the fact that the ministry has provided leadership in a number of areas with regard to helmet requirements. If you go back a little way, you discover that, of course, helmets were not required for many activities. Motorcycle helmets were introduced in 1968. Probably next was the need to provide snowmobile helmets in 1974, and as recently as 1995 was the inclusion of bicycle helmets.

This bill is important in speaking to the issue of safety. Safety for our young people, and obviously road safety, is an important priority for this government. Clearly the intent of this bill is one with which we are all in support. The bill provides for requirements for young riders to wear the appropriate protective gear. As we look at the other examples I've provided for you, recreational activity is clearly an important thing for people, but it is also important to provide those legislative frameworks to make sure that it's done in a safe way. We see that with a number of initiatives, whether it's bicycling, rollerblading, playing hockey, or riding a horse, as is the case here.

1630

The bill gives us the opportunity to make sure that we continue to provide that kind of legal framework to recognize a tragedy but also to recognize how important it is to continue with legislative requirements to bring further means of safety in our communities. So Mr Chair, we will be supporting this. There are some amendments that are more technical in nature that certainly do not take away from the intent of this bill.

The Vice-Chair (Mr Carl DeFaria): Thank you, Ms Munro. Are there any other comments?

Mr Kormos: I had my hand up first, Chair. It's true.

The Vice-Chair: Mr Beaubien had indicated—

Mr Kormos: But he's older than I am.

Mr Beaubien: Not much. I have some questions for Ms Munro. She mentioned that there might be some amendments coming from the Minister of Transportation. Are those amendments available at this point in time?

Mrs Munro: Yes; I believe the clerk has them.

The Vice-Chair: Mr Kormos.

Mr Kormos: Is there a problem? Ms Molinari said she had to go talk in the House. I'm watching the channel, and first it's Mr Phillips and then it's Mr Marchese. Should we send somebody out to look for Ms Molinari?

The Vice-Chair: Mr Kormos, let's deal with—

Mr Kormos: OK, thank you kindly. To the parliamentary assistant—I am worried about Ms Molinari, though. She wouldn't mislead us, so I wonder what happened to her.

What about the issue of the little mom-and-pop—you know the ones I'm talking about. They're in small-town Ontario, all over the place, where they're leading the horse by the bridle or the horses are set up in some sort of controlled carousel-type rig. My impression from reading the bill is that they'd be caught up by this bill as well, wouldn't they? It's kids that go on those, mostly little kids; mom and dad are taking snapshots.

Mrs Munro: I will consult with legal counsel on that, because obviously at this point it is open to your interpretation versus mine. I'll certainly inquire for you on that issue.

Mr Kormos: OK, but "horse" means any animal of the equine species." One of the American bits of legislation is that "horse" means horse, mule, pony or hinny. Do you know what a hinny is?

Interjection: A donkey.

Mrs Munro: Yes, a donkey.

Mr Kormos: That's because he told you. Boy oh boy, you'd never make it on one of those game shows on television. You can't do that. Because with the legislation—

Mrs Munro: But you have one call, though, don't you?

Mr Kormos: And you've got it, you used it up. The lifeline. I didn't know what a hinny was.

“Horse riding establishment” means a business—that's what we're talking about—“that provides horses for hire for riding...” There is no other interpretation that—see, the problem is that unless you put in your definition that riding means “exercising control over the horse”—do you know what I mean? Because I understand this legislation is designed to deal with people who go get their horse and head galloping off to the horizon. I understand that, and there's no quarrel with that element of the bill.

But unless there's some definition in here about what constitutes riding—it's sort of like driving a car. While driving a car, “care and control,” means being in a position to manipulate the steering wheel etc. So I know what's intended here. The intention is, I hope, to cover those people who are exercising control over that horse through the reins and so on.

But I've got folks here, like the people who own—well, Bernie or Pam. Pam's here too, isn't she? Yes, Bernie's here and Pam's here. They worked hard for 28 years, running a little mom-and-pop kind of pony operation. The kid on the horse isn't riding the horse, the kid's sitting on the horse, but the kid has nothing to do with controlling the locomotion, the horse travelling forwards—I don't know if horses go backwards or not—but stopping the horse—

Mr Garry J. Guzzo (Ottawa West-Nepean): The ones you've been on.

Mr Kormos: Yes, they're going the wrong way around the track. You were there that night. You know.

The Chair: Mr Kormos. Do you have further questions of the parties?

Mr Kormos: I'm sorry. I want to know about that. I want to know about these little mom-and-pop operations where the kid isn't exercising any control over the horse; the kid is riding it, though. Do we want that kid to be included?

Mrs Munro: Mr Kormos, I have already indicated to you as an undertaking that we will ensure we are able to get an answer to that question for you.

Mr Kormos: OK, thank you. But do we want that kid to be covered by the bill?

Mrs Munro: The intent is that this is for “a business that boards horses or provides horses for hire for riding or to be used in providing instruction in riding.”

Mrs McLeod: Just along the same line, I think it is one of the challenges when you have private members' legislation that some of the legislative details may unintentionally take us in a direction that nobody intended. I'm going to assume that there is no deliberate intention

to put the small pony ride operations at the local county fair out of business. But I would appreciate not only a legal clarification—we need to have absolutely clear legal advice that will withstand any enforcement challenge that might occur in the future. I'm not sure whether or not the Ministry of Transportation is in a position to provide that advice or whether there is legal counsel to the Legislative Assembly or its committees which could provide a definitive position on whether or not these small pony rides are affected.

Mr Beaubien: I want to be on the record also that I share the comments made by Mrs McLeod and Mr Kormos with regard to the small type of establishment. I know some people who own that type of establishment. To submit them to more possible liability exposure I don't think is fair. I would have difficulty in supporting that, especially when you look at the way the bill is written.

If you look under section 2, it says, “Properly fitted, hard and smooth soled footwear with a heel of no less than 1.5 centimetres.” From my experience in dealing in the insurance field for a number of years, it would be a smorgasbord for many lawyers to play with this particular item. It applies also to helmets. That creates some concerns. That's an issue that has to be dealt with.

The Chair: Response, Ms Munro, or is it time for the next witness?

Mrs Munro: Yes, actually, Mr Chair, I was going to suggest that we do that, as opposed to the individual parts of the bill.

ONTARIO EQUESTRIAN FEDERATION

The Chair: I wish to call forward to our witness table, please, the Ontario Equestrian Federation, Marcia Barrett, executive director. You have 10 minutes, and any time under that 10 minutes for questions.

Ms Marcia Barrett: My name is Marcia Barrett. I'm the executive director of the Ontario Equestrian Federation. The federation is a non-profit association whose mandate is to provide leadership and support to the individual associations and industries that comprise Ontario's horse community, as well as to try to ensure the welfare of the horse.

We undertake to accomplish this through a network of 35 breed and discipline associations, over 100 equine-related businesses and more than 300 horse show organizers, all of which embrace approximately three quarters to a million estimated Ontarians who participate in equine activity annually.

Since the tragic death of Elizabeth Hader, we have escalated our work in this area of rider safety.

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I'd rather have my colleague from the Association of Riding Establishments speak to—there was some concern about the repeal of the previous legislation, and that relates to the formation of that particular organization and how that came about. He can do that better than I can.

We deal with volunteers, and not a great deal with finances, so it was only with this incident that we attempted to put greater effort into minimizing risks. We have established a trail guide certification program for providers of this activity to interested—who for the most part are non-riders. The majority of our 10,000 members tend to be those who are involved as regular riders, but the trail ride tends to be the general public that has a love of horses or wants to experience horseback riding before going forward in a more serious nature.

We've also gone ahead with a site accreditation program as a result of this so that our member riding stables can be assessed and accredited that they're meeting the minimum standards we have developed.

We are extremely concerned with the education of the non-rider. I go back to the non-regular horseback rider. We're challenged to establish a common sense approach for them when they undertake to take a trail ride. As a parent, I can be quite honest in telling you that prior to my becoming involved in this, I likely would have done exactly what Mr and Mrs Hader did: taken my child for a trail ride and put my faith and trust in that operator that they were doing everything that could be done to minimize any risk.

At this point I would ensure that my children would not be on a horse without a helmet, the proper footwear, and that goes as well for the pony rides. That just scares me drastically, that I would be even less in control with a child. Yes, they're not in control of the horse. In most cases they're sitting on top of the horse, and as we know, most of those are youngsters at local fairs, zoos, whatever. For the most part, these are probably done on parking lots because they're not permanent facilities. I would not want a child falling off. An operator cannot stop that carousel, even though the horse isn't going to bolt and run away. As we all know, anyone who has children, a youngster can just take it into their head to throw themselves, for whatever reason, and I would have great difficulty in putting my child on a pony ride at this point.

We certainly support the legislation going forward. It's acknowledged by any one of our members, our board, that the sport of equestrian is a high risk one and it's our desire to minimize that risk in whatever way we can. We've been supportive of the activity that has been undertaken in local municipalities and now with this private member's bill. I would hope that the members of this committee can see it move forward as a necessity to ensure we don't lose any further lives.

The Chair: Thank you, Ms Barrett. Each party now has about a minute and a half for questions, beginning with Ms McLeod.

Mrs McLeod: May I ask you, first of all, did specificity of the regulations—we are dealing with regulations that are unique in the country with this piece of legislation, and almost unique in North American jurisdictions, and yet they're very specific. Mr Beaubien referred to subsection 2(1), paragraph 2, "properly fitted, hard and smooth soled footwear"—and I understand the "smooth"

may be eliminated in an amendment that's to be proposed—"with a heel of no less than 1.5 centimetres."

Does it need to be that specific, and how limiting is that kind of specificity? I think New York legislation leaves that up to regulation or that there's greater flexibility.

Ms Barrett: I'm not sure. I can't speak to how necessary it is. The intent, I believe, is that we go back to the non-riding general public going out to a trail-riding establishment, who generally tend to be teenagers, and for the most part they all wear sneakers, so it was an attempt to circumvent that and to have the proper riding footwear. The heel stops the foot from going forth on the stirrup.

Mrs McLeod: I guess the concern I have is—and in my family we've done a very little bit of riding as tourists, when you go into an area where there's horse trekking—all we have is sneakers. The helmet issue I certainly understand. I appreciate the fact that if you're riding regularly you're going to have the appropriate footwear, but are we saying the footwear part of it is so crucial that it would warrant—

Ms Barrett: Part of the legislation is for the stirrup, or a tear-away stirrup, so that such individuals can wear whatever footwear they may arrive in, but then they have a specific stirrup that would break away.

Mr Kormos: Thank you, and I appreciate your comments about the pony rides. But I hope, Chair, that at some point, because you've got Bernie here, by way of unanimous consent perhaps we can get him up here, because we should be talking to him too.

But this gets more and more convoluted, because if my kid is on my own property—let's assume that I was a very wealthy Tory and I had acres and acres of property and my kid was out there at the age of 15. My kid could gallop all over the place on his or her horse with no fear of there being any requirement, although I'm not disputing the need for it. Perhaps this is as far as you can go, because how do you regulate the individual?

How should this be handled in terms of who supplies the helmet? We've got some horse rental people who are saying the whole business of being in the helmet business, you've got head lice and things like that. If kids go to a go-cart track, I don't know whether they can rent a helmet there or not. I really don't know; perhaps it's something we should have found out, and how those people deal with it. Should the rider have to bring their own helmet or should there be an onus on the establishment to provide a helmet?

You say the footwear is dealt with by way of the different stirrups. You're not talking about renting out cowboy boots. I wear my own. If everybody started wearing cowboy boots, I'd have to stop wearing them. So we're dealing only with helmets.

Are you suggesting, really honestly and pragmatically, that the helmets should be provided by the establishment, or that the establishment should say, "No, if you're going to ride a horse you have to own a helmet"?

Ms Barrett: It could go either way, if that's what the operator wanted to do, but I think the majority of them

would probably provide helmets, just like a bowling alley provides bowling shoes.

Mr Kormos: You're right.

What about the age 18? In some American jurisdictions it's 14. What's the magic age of 18? If you're over the age of 18 you can be stupid and not wear a helmet; if you're under 18 you can be stupid, but you have to wear a helmet. Do you have any sense about the age 18, what's magic about that?

Ms Barrett: Ideally we'd like to see everyone wear helmets, but I think the age was brought in, I don't know whether that was with the Highway Traffic Act or the similarity to bicycle helmets.

Mr Kormos: Perhaps it was a parallel to the bicycle helmet.

Mr Beaubien: Thank you, Ms Barrett, for your presentation this afternoon.

I too agree with you that the safety of our children is very important. However, there is a caveat. When I read, "A helmet that meets current standards set for use while riding horses as established by the American Society of Testing and Materials"—I wonder why we don't have the CSA approval, but that's OK—"the British Standards Institute, (BSI) or the European Safety Standards." I guess we don't have any standards in Canada for this type of helmet.

But from my experience of playing hockey over the years, wearing a helmet and not wearing a helmet—and I think most people who play hockey today do wear a helmet—it is as dangerous to have an improperly fitted helmet as not having one. I think you see NHL players today where the helmet probably fits properly, but the strap is not hooked on or it's loose, and the helmet comes off.

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So would you expect individuals like Pam and Bernie, in making sure the equipment that the riders who are using their ponies have the properly fitted helmet, the properly fitted footwear? I go to shoe stores today; these people sell me shoes, and sometimes you have to pay a fair dollar, and sometimes those shoes have to be worn for a bit. They don't really fit very well.

I'm afraid, from a liability point of view, that we're going to increase exponentially—I don't know by how much—the exposure that these people are going to face in the future. How would you respond to that?

Ms Barrett: The footwear one is a little easier for me to answer, in that if you are improperly fitted at a shoe store or whatever, it is obvious. The operator always has the option then of using the breakaway stirrup, even if the supposed proper footwear is being worn. Conversely, the operator is the operator, and you can deny someone the opportunity to ride. You make the rules.

I'm trying to think of an example. If it's obvious that someone is walking around in a pair of shoes that may have the heel requirement and the hard soles and is not well fitted and they're going to lose them even as they walk around, and that individual is perhaps arguing, "I don't want tearaway stirrups," or whatever, then as the

operator you still have the opportunity to refuse to allow them to ride, to take their money.

The Chair: Ms Barrett, I'm afraid that uses up our time. Thank you for coming before the committee.

WILLSON LEWIS,
BARRISTERS AND SOLICITORS

The Chair: Our next presentation is Willson Lewis, Barristers and Solicitors—Catherine Willson, LLB. We have 10 minutes for your comments and any questions.

Ms Catherine Willson: Hello. I'm a lawyer with Willson Lewis. I've been practising civil litigation for approximately 12 years. I also practise horse law and I write for a national magazine called Horse Sport on the issue of horse law. So when I saw this bill, I had some comments to make. I've provided you with a handout under the cover of our firm, with my comments listed therein.

Specifically, in subsection 2(1), the bill originally states, "within the grounds of the establishment"—"shall permit any rider under the age of 18 years to ride, within the grounds of the establishment, any horse provided by the rider, unless the rider has and is correctly using the following equipment."

The concern I had with that was that it allowed for riders that were not riding out of the stable to come across the property. There are a myriad of horse trails throughout Ontario, and people pass over other people's properties on horseback. If it was a rider under the age of 18 not wearing the proper equipment who passed through your riding facility's grounds and fell off, you could possibly be held liable.

I understand that amendments will be made to deal with that issue, and it will be amendments so that basically the rider will have to ride out of that stable. So the person in charge of the facility will be responsible for any riders riding out of their stable, which will take care of that problem. People who are just riding through, the person who owns the property won't be responsible for them.

The second point was with respect to the "properly fitted, hard and smooth soled footwear," and the concern I had was with "smooth soled footwear." I don't know why "smooth soled footwear" is in there. Certainly in the wintertime you don't want to be wearing smooth soles. You want to have a sole with some kind of a grip. I believe that the wording "smooth soled" will be taken out of that as one of the amendments.

The question of "properly fitted," was raised here just now, and that is a good point. What is "properly fitted"? Maybe an amendment should be made that it simply says "hard soled footwear with a heel of no less than 1.5 centimetres" would be sufficient. That's right; how is the owner of an establishment going to be able to tell whether or not a shoe is properly fitted? Again, that might be the subject of some litigation down the road.

Point 3: Paragraph 2(1)3 requires "Suitable tack properly fitted on the horse." The word "suitable" is probably

inappropriate. Different professionals will require different tack on a horse. It is a subjective matter. One professional may use, for instance, a standing martingale, which is a piece of leather equipment that goes around a horse's neck that's designed to keep the horse's head down in a situation, where another professional would not. I think "suitable," being a subjective term, should be removed from the bill. Simply something such as "tack properly fitted on the horse" would achieve the objective you're trying to achieve without going over the top.

Subsection 104.1(1): Just the same comment regarding "smooth soled footwear," and I guess the same comment there with respect to "properly fitted."

The other concern I had was with the definition of horse riding establishment. I wondered whether or not that would include horse shows. I understand that it is not meant to include horse shows. However, there are horse shows where horses are boarded, or at least kept overnight or for a period of a week, and the definition of horse riding establishment does mean a business that boards horses. This is something on which people in the industry can comment. Most of the time, people bring their own food etc, so that probably isn't caught, but I do question whether or not horse shows are caught within that definition. I don't think they are meant to be.

On the issue of the small pony rides, that too is a good point that I hadn't thought of. In my opinion anyway, helmets are probably a good idea, but how do you police shoes? Usually you're at some kind of a do or some kind of a gala. Kids are there in their running shoes. You certainly can't get three- and four-year-olds into new shoes when they're riding the ponies. Pony operators may be able to have hats. I don't know how difficult that is, how expensive that is and what their budgets are like. But shoes—they could have the breakaway stirrups, but certainly the requirement for shoes should not apply to the ponies.

That's it. Five simple comments, if anyone has any questions.

The Chair: Thank you, Ms Willson. That leaves a little over a minute for each party.

Mrs McLeod: I actually don't believe I have a question.

Mrs Dombrowsky: I would have a comment with regard to the last point that you made. I am of course rather interested in what has been presented to the committee on behalf of the pony operators. It has been indicated that the helmet issue could be significantly problematic, particularly when one considers the health issue of pediculosis. I would suggest that the requirement of a helmet for those operations could pose a significant challenge and might even mean that these small operators would no longer be able to offer that wonderful opportunity for children.

I do appreciate the comments you made with regard to shoes that would relate to that particular business. Again, it would be very challenging in my part of the world, where pony rides are a regular attraction at the local fairs. People come to fairs dressed very casually and so the

shoe requirement, I would suggest, would be a very difficult one to meet.

I appreciate your comments, but I did want to offer my observations with regard to your comment about helmets.

Ms Willson: As has been indicated here, this is the first piece of legislation to tackle these issues. Maybe the best thing to do is keep it as broad as possible. If, down the road, there are areas that we can tighten up on as people become used to these types of restraints, then we can.

Mrs Dombrowsky: In your experience, has there been significant problems with litigation of people who operate pony rides?

Ms Willson: I haven't had a case like that, no.

Mr Kormos: Thank you, Ms Willson. I appreciate your coming. I've got to tell you, these stupid 10-minute slots are very ungratifying. I don't think any of us anticipated the variety of perspectives that would be made available to us.

I hear what you're saying, but heck, we've got a carousel down there at Port Dalhousie. You know the one you still pay a nickel for, the merry-go-round? I've seen your ponies, Bernie, and I'm sorry; in my view those artificial horses on that merry-go-round are more active than some of your ponies, if not all of them. No disrespect to your ponies. These are pretty docile, slow-moving things, so I don't know, I think we've got a little bit of a problem.

1700

Look, I've got a good friend, Diane Grenier. She's a lawyer down in Welland. She keeps horses at her parent's farm out in Pelham and she also lets people board horses there. I read this bill. Tell me if I'm wrong, OK? You're a real lawyer. Some of us used to practice law, but you are a real lawyer, so you can help us.

I've got my horse boarded at Diane Grenier's. She feeds it all week and takes care of it, but I go there on the weekend with my little niece Grace Hawkins. I take my horse out. It is my horse. I'm boarding it there. I put my niece Grace up on that horse. I'm the person in charge of my niece. I'm the person who owns the horse. I'm just renting the stable. But she's the one who gets busted if I don't put a helmet on my niece? Is that my reading of the bill? She gets busted because it is her responsibility to make sure that nobody is riding the horse when the horse is boarded there. Am I right or wrong? If I'm wrong, please say so.

Ms Willson: No, you're right, and I think it should be that way. Quite frankly, they're running a business. All businesses are run within certain rules. These stables have rules now as it stands. If you were at a rock climbing facility, you'd be required to wear appropriate equipment. If you're bowling, you're required to wear appropriate equipment. If you're at a stable, you should be too. Certainly if it was legislated I think that would be a help to the stable operators because they could say, "I'm sorry, I don't have a choice in the matter here."

Mr Kormos: "It's not me, blame the Tories."

Ms Willson: I think it could help.

Mr Beaubien: Well, if I were a rich NDP or socialist, I guess by making all these requirements, then I'd be able to afford the increased fees that we would charge those kids for riding the horses. But that's not reality.

But, Ms Willson, I agree when you mention that there has to be a clearer definition of what a riding establishment is all about, because I do have some concerns. I think there is a difference between having a ma-and-pa-type operation with young ponies on a carousel—a very smooth ride, I would think, when you compare it to a regular carousel in a circus. I don't think we expect people to wear helmets riding those horses, and the ride is probably rougher.

There's a difference between having a ride on an old pony that's managed and overlooked by whoever owns them or is responsible for them, as opposed to somebody riding into the bush or some trails. When we paint them all with the same brush, from a legal point of view I've got some difficulties. I agree that the safety aspect is very important, that we have to manage the element of risk and the level of risk. But what we are asking for with this bill is to paint the Pams and Bernies of the world with the same brush. Where is the fairness?

Ms Willson: There are amendments being proposed. You can do one of two things. You can exclude those small pony rides or you can keep them in there, have them buy breakaway stirrups and hats. If you're talking four or five ponies per ride, hats are not that much money. You can charge a reasonable fee for the use of a hat or it can be part of the price, however it works for the business. Either way, it is manageable. Either way, it works.

The Chair: Thank you for coming before the committee, Ms Willson.

Mr Kormos: Little people have little legs. I've seen little kids on those horses, I'm not kidding, where the legs don't go anywhere near where the stirrups are. Little kids have little legs. They don't reach the stirrups. I hope we get a chance to ask somebody about that.

ASSOCIATION OF RIDING ESTABLISHMENTS OF ONTARIO

The Chair: Our next presenter will be the Association of Riding Establishments of Ontario, Bruce Brown, president. We have 10 minutes, sir, for your presentation and any time left over for questions.

Mr Bruce Brown: Thank you.

Mr Guzzo: Let the record show that Ms Molinari has appeared on the television.

Mr Kormos: That's Mr Crozier.

Mr Guzzo: She was on there just recently. You missed her. I know you were worried about her.

Mr Kormos: She should be in committee taking care of her bill. I'm going to remind her of that.

Mr Guzzo: You can. I've learned not to attempt to tell any of the people in my caucus, male or female, how to behave.

The Chair: Committee, we now have before us Mr Bruce Brown.

Mr Brown: I hope we haven't cut into my 10 minutes.

The Chair: We will start now, sir.

Mr Brown: Thank you. My name is Bruce Brown. I guess I'm a mom-and-pop operator as well. I own a riding stable in Ajax. I've lived with the philosophy you're presenting today since about 1981. I ran a trail riding operation. We made helmets mandatory in 1981 for all our junior riders, strongly recommended for all adults. Yes, it's a bit of a cost burden, but it's the price of doing business today.

I represent the commercial operators who choose to be members of our organization. Our organization was very instrumental in getting the wording and the recommendations for the Aurora bylaw passed and has been active in this field for a long time. I don't feel the legislation goes far enough, but I'll be very grateful for whatever we get. I would like to see everyone mandated to use helmets. I guess we can't really legislate away stupidity on the part of adults, but we can protect our children.

We start children riding at our facility at age five. We have no problems providing helmets. Yes, there's a cost factor; it's built into the price. We're no more expensive than the place up the road that does not provide helmets, so I guess we're doing something right. We make suitable footwear mandatory. There are no exceptions to that rule at our particular facility. We also use a safety-style stirrup. I'm into overkill in a big way, but we haven't lost a child in 24 years, so I guess I'm doing something right.

Bernie and I have known each other for a long time. I understand Bernie's concern. There are logistical problems, but they're not insurmountable. Yes, there are going to be costs, but they're not insurmountable. I think they're workable. I sit here and think if Elizabeth Hader had been four years old and riding on a pony and died, maybe our attitude would be a little different. The one thing everyone seems to forget when they're talking about carousel horses and ponies and so forth and so on is that a pony is a living entity. Yes, you get them to the point where—and Bernie has excellent ponies; they're very predictable. But even he will have to admit that once in a while they do unpredictable things because they sometimes have a choice. Because there's that risk, I think they should be included in the legislation.

I found that if you introduce helmets right at the beginning—and everybody's talking about the footwear issue, but there is an exception allowing for safety stirrups, hooded stirrups. In Bernie's case, most of the time they use pony saddles, and most pony saddles come equipped with hooded stirrups. If you've seen a child riding on a saddle where their feet are this high above the stirrup, then the saddle's too damn big for the child and they should be adjusted appropriately because that too is an unsafe situation.

Two people have been killed in the last two years, and as far as I'm concerned, I think they both would have

survived if they'd been wearing proper helmets and appropriate footwear. Anyone who chooses to partake in the sport of horseback riding should have a reasonable expectation of survival. That's all I really have to say.

The Chair: Thank you, Mr Brown. We now have one and a half minutes for each party. We'll begin with Mr Kormos.

Mr Kormos: I hope Bernie Carey—we'll try after you're finished and see if we can get him up here.

Do you wear a helmet when you ride?

Mr Brown: Yes. Mind you, I haven't ridden for about 60 pounds.

Mr Kormos: I know. Horses look at me the same way too. They go, "Please don't, don't."

What about the age 18? What's your view on that?

Mr Brown: I think, without exception, my preference is all ages.

Mr Kormos: So just everybody wear a helmet. You see, my problem is—again, 17- and 18-year-olds, that's one thing. But you're telling your little kid who's five or six to wear a helmet and you know the kid's automatic response is, "Well, you're not wearing one. Why do I have to wear one?" I mean, these kids aren't stupid. These kids are very bright. They're brighter than I was. They're brighter than I am now, probably.

Mr Brown: They're wearing the helmets.

1710

Mr Kormos: That's right. When I was a kid, around three years old, in Welland, in Crowland, really, a fellow used to walk around with a pony and they'd take your photo on the back of the pony. I used to cry because my parents would never let me get my photo taken on the back of the pony.

Mr Guzzo: You could have been a Sandy Hawley.

Mr Brown: A few pounds ago, yes.

Mr Kormos: You're advocating eliminating the age, then.

Mr Brown: That's my personal preference. I realize it's unrealistic.

Mr Kormos: Why?

Mr Brown: It's my impression that it's not enforceable at this stage, much the same as the bicycle helmet law was proven to be unenforceable.

Mr Kormos: With respect, sir, that's like saying you'd change the Highway Traffic Act so only kids have to wear seatbelts. With all due respect, I say you can enforce helmets on motorcycles, and the reason the Highway Traffic Act applies is that motorcycles are on the highway. The Highway Traffic Act provisions deal with horses on roadways. This province has the power to tell people to wear a helmet when you're on a horse. I think you raise a good point. I think it should be all or nothing.

Mr Brown: At my facility, no one rides without a helmet, period. I don't care who owns the horse.

Mr Kormos: Point made. How do you provide the helmets? Can people rent a helmet there?

Mr Brown: They are available. That's for day camps only. When they're doing regular lessons, we ask them to buy their own.

Mr Kormos: But what if I show up just to ride a horse for an hour? People do that, right?

Mr Brown: Not at my place, no. I run a lesson facility. It's all pre-booked.

Mr Kormos: All right. But you know the kind of place I'm talking about, right?

Mr Brown: I ran one of those for eight years in Scarborough.

Mr Kormos: How would the helmets work?

Mr Brown: I just had a bunch of them and if they were under 16—at that time it was 16—they had to wear a helmet. If they were over 16, it was strongly recommended. We had signage all over the place.

Mr Kormos: OK, got you. Thank you very much.

Mrs Munro: Thank you very much for coming today and giving us the benefit of your expertise. I just have one question, one that actually was raised earlier by Ms McLeod. That is the question of whether these issues with regard to footwear and helmets should be in regulation. My question to you, sir, is, have you noticed changes in what would be regarded as safe gear during the course of the time of your business? Have there been changes?

Mr Brown: Tremendous improvements, especially in the helmet design. They're lighter, they're better fitting, they're more adjustable. Under the old helmets, we probably wouldn't have been able to fit a five-year-old; they were too heavy and their necks weren't strong enough. There are new lightweight helmets. There's ventilating. They have various pads to change the fitting on them. They're quick strap-connect. They really have improved tremendously.

I can comment on the smooth soled footwear too. When that went in, we were trying to prevent people from riding in lug shoes. We were just trying to prevent the big treads they have, like the snow tires on the boots. We were just trying to prevent them riding in those, because they'd catch in the stirrup, pure and simple.

There are hooded stirrups available. There is a picture of one style of them. There are breakaway stirrups, which are prohibitively expensive. These sell for about \$40 a pair, which is probably \$20 a pair more than you would normally pay just for the stirrup alone. They're adjustable. They come in various sizes to fit the smaller foot. It's very important, as far as I'm concerned, that the saddle fit the rider. To me, this is common sense legislation. I'm blowing my own horn a little bit, but I've been fairly successful in a mom-and-pop operation, operating under these standards since 1981, and I've been operating since 1977. It's not that much of a financial hardship.

Mrs Dombrowsky: My question is with regard to the health issue with the helmets. Is that a challenge for you in your operation?

Mr Brown: No.

Mrs Dombrowsky: Do you wear a helmet?

Mr Brown: All the time when I ride. I haven't ridden for a few years; I'm not in the best of health. But when I

rode, I used to ride with a helmet. When I finished riding, I was wearing a helmet, yes.

Mrs McLeod: In 1996, the Riding Horse Establishments Act—

Mr Brown: I can answer that one too.

Mrs McLeod: I would appreciate knowing your sense of why that was repealed and how this legislation is different—I appreciate that the mandatory helmet is totally different—just in terms of its effect on riding establishments.

Mr Brown: The Riding Horse Establishments Act was brought into effect about 1972, I think it was, and it was primarily animal care legislation. It really didn't address much in the way of safety and consumer concerns. It was administered by the Ministry of Agriculture. They had inspections. They'd come down and make sure your barn was OK and your horses looked OK and everything was kosher, but they really had no mandate nor standards to judge you on the safety issues.

The problem with the coroner's recommendations and stuff like that, why they weren't acted on back in the 1970s and 1980s, was basically that the Ministry of Agriculture was getting the recommendations. They circulated them, but they never did anything, because they felt it was probably outside their area of expertise.

We are looking here at consumer protection legislation, rather than horse protection legislation.

The Chair: Thank you, Mr Brown, that wraps up our time period.

INTERCITY INSURANCE SERVICES

The Chair: I would now ask Intercity Insurance Services to approach the witness table, Michael King. Ten minutes, sir.

Mr Michael King: Thank you, Mr Chair. My name is Mike King. I operate an insurance brokerage in Aurora, Ontario. I've been involved in the horse industry both personally and professionally my whole life. Among many other clients, we insure the Ontario Equestrian Federation, just so that you know, as well as the Association of Riding Establishments as organizations. We provide coverage for their individual members and we also insure, through affiliations with other brokers, probably in the neighbourhood of 700 or 800 facilities across the country in various jurisdictions.

We insure the full gamut of types of operations, everything from the pony ride type of facility that Mr Kormos has referred to so often, all the way to the show stable, the boarding place, the riding school and everything in between. So I have some perspective perhaps on all of those things.

One comment I wanted to make very briefly was something that Marcia Barrett referred to earlier. That was that the trail riding and the pony ride are sort of how people get involved with recreational riding. I think I would be typical of the vast majority of people who first become involved with horses by renting a horse for an hour on summer vacation somewhere sometime. I can

certainly speak from personal experience that that's exactly how I started. That was what tweaked the interest that led to the pony club, riding lessons and ultimately working in the horse industry while was in school. There's a natural progression for people to become involved in this sport.

As Bruce has alluded to, and others perhaps have as well, if there had been rules at that point very early on that riding helmets were a part of the gear, just as the saddle was, just as the bridle was, just as anything was, certainly I would never have questioned wearing a helmet. It wasn't until I hit the pony club where in fact you had to wear a helmet. That's just how it was.

I don't think anyone in this room—and it certainly has been apparent to me in the comments made that no one here is arguing the fact that this is common sense legislation, that indeed it does help to protect a generally unsuspecting member of the general public who may appear at a facility for the first time, having seen Roy Rogers as a kid and romanticized about galloping off into the sunset, which is not allowed in any facility that I've ever known about. No one allows that to happen any more; they just don't. If that does happen, it is by accident.

I will comment, then, on a comment that Bruce Brown made and that is that we are dealing with horses here. We are not dealing with mechanical devices; we are not dealing with something that can be turned on or off with a switch. I don't care how docile the pony is or how small it is; if a pony gets stung by a bee, which does have a tendency to happen sometimes, they're going to react.

Whether they're tethered to a carousel, whether they're being led by an adult, I promise you, if even a pony, at 650 pounds, wants to go that way, he's going to go. If he really wants it bad enough, he's going to go. There's not a whole lot of men that I've ever met who are going to stop him.

If a little four-year-old is sitting on top of that pony—and Mr Kormos referred to the little short legs on little short ponies—those little short legs have a tendency to do this sort of thing on a horse. They don't get around the horse. There's no grip; there's no reaction. The kid's gone. If that kid's not wearing a helmet, it is still four feet to the ground. If it is head first on pavement or in a parking lot, we've got a problem.

There's no operator who can guarantee me or any other consumer that that possibility doesn't exist. I guess my point's been made. That is, if anyone is considering excluding those types of facilities from the legislation, I think it is wrong. In fact, there's probably as much or more of a risk in that type of environment as there is in riding lesson environments, where a coach is theoretically just as in control and the horses are just as docile and used to their jobs in a riding ring or an enclosed space where they continue to do the same thing repetitively. They're predictable, just as a pony is on the end of a lead. So I question that.

1720

The other comment I wanted to make was that this legislation, among many other standards that have been

presented and developed over the last several months specifically, but certainly over a longer period of time through insurance underwriting, is helping operators run a more consistent business and are allowing them to provide a more professional service to the consumers.

If the cost escalates marginally because some operator finally has to go out and buy helmets, as compared to the ones like Bruce or others who voluntarily have gone out historically and bought helmets, so be it. It would seem to me that as a consumer and as a citizen of Ontario, I expect the legislation to help me with things I don't know about or the legislators to fix things I don't know about. Here's an opportunity to do that.

The Chair: We have about a minute and a half each.

Mr Beaubien: Thank you, Mr King, for your presentation. For the record, Mr Chair, I did obtain a copy of the Riding Horse Establishment Act. Mr Brown was quite right. The act was proclaimed in 1972 and it was amended in 1978. This act has nothing to do with riders. It deals with animal care and how you operate an establishment. To try to tie up the repealing of this act with this bill is absolutely ludicrous.

Mr King, you mentioned that a pony can be stung by a bee. I agree. You're in the insurance business. I spent 25 years of my life in the insurance business. The basic principle of insurance is to try to eliminate and manage the risk. No matter what we do, there will always be risk. We get up in the morning, the risk is there. I totally agree with you that we have to protect the people.

But I posed a question early on. If you have an ill-fitted or fitting helmet or boots, it does create a liability exposure. We compound the problem. Now we have the possible liability exposure if you don't have any equipment, but we compound it by having ill-fitted or fitting equipment. How do you reply to that?

Mr King: I reply in two ways. First of all, education is clearly going to be a part of the post-legislation process. There have already been a number of undertakings, by both the Ontario Equestrian Federation and the Association of Riding Establishments, to start that process by the development of literature involving the helmet manufacturers, or those who distribute helmets, in an effort to try and educate operators in the proper fitting procedures or perhaps as just general public awareness of how to fit a helmet.

I might pose the same question back. I'm not intending to be evasive, but hockey helmets are the same thing. I'm putting my utmost faith in the guy who sells my kid a hockey helmet in the store that that helmet is the right helmet and that it fits right. If it doesn't, do I have recourse to the retailer who sold me the helmet?

Mr Beaubien: You probably do.

Mr King: OK. I guess my point is, is this the first step in a process? Is it better than nothing? I would have to say in both cases that it should be. The insurance industry and risk management people like myself, and loss prevention people like myself, clearly advocate the use of any safety equipment that will help to minimize bodily injury claims, which are clearly a burden to society

generally and certainly a burden to the insurance industry.

There was reference earlier—I think by Mr Kormos, or perhaps it was yourself, I'm not sure—about the escalating and the out-of-sight insurance costs. A lot of those costs are driven by frivolous suits and by liability claims that go well beyond reason. That's perhaps a jaded view.

But my point is that if this legislation allows for insurers and other interested parties in the industry to provide an educational component, to have something to hang their hats on to be able to say in good faith that the Ontario government—and I must admit other jurisdictions, which you referred to, Ms McLeod, will follow and are in fact watching very carefully as to what will happen here today and in the next days to come.

We've had contact with operators in Alberta, British Columbia, Saskatchewan and New Brunswick personally, in our office, people asking about the legislation, asking about the implications of it, asking about when they can then start chasing their MPPs for assistance and some reference tool they can refer to, which hopefully will be Ontario legislation.

I'm not sure I answered the question, Mr Beaubien. I think I got off the track. I'm sorry.

Mrs McLeod: I'm not sure this is a fair question. You said you provided insurance for the equestrian association. If you were providing insurance for the riding establishments, would you have some concerns about the details of this piece of legislation?

Mr King: I do very much have concerns about it. One piece of information that I don't think has been distributed, or perhaps it has—there are already standards in place that the Association of Riding Establishments has put together through public forum meetings with interested parties in the industry and a list of criteria has come up. This has to do with inspection processes and other things, other guidelines that might be used as a standard. This law represents another component of those standards.

I do have concerns, but not from an increased exposure to liability. I think it is a very positive thing. I don't see any downside to this as an insurer, and we certainly do have a vested interest. We are one of the very few brokers in this province that even provides the service to the industry. It is a rather limited and very specialized niche. I'm certainly concerned about the wording in the end. We'll certainly have to interpret it in the event of a suit, but we have to take the first step.

Mrs Dombrowsky: First of all, I'm just a little curious about your claim of a 650-pound pony, because I think they're probably not of that size, the ponies in the pony rides.

Mr King: Four hundred and fifty.

Mrs Dombrowsky: Has your company dealt with any claims from pony rides?

Mr King: Yes, I have, as a matter of fact. I can tell you of an incident, without getting into details, because it is still an action. There was an incident arising where a

pony ride was brought for a fundraising activity at a restaurant in central Ontario, in a very typical situation, I would suggest. They were hired by the restaurateur to provide an entertainment vehicle for this fundraising activity. Guess what? One of the ponies got stung. The pony was being held by one of the operators, a responsible adult, and the kid tumbled and hit his head. He didn't die, but ended up in hospital. No helmet was being worn. It happens.

Mr Kormos: Intercity Insurance, sir; is this a broker-age?

Mr King: Yes.

Mr Kormos: OK. Who does the coverage?

Mr King: The underwriting company for us is Lloyd's of London.

Mr Kormos: There are no other insurers doing—

Mr King: I'm sure there are other insurers that are doing this.

Mr Kormos: Who are they, names that would ring a bell for me?

Mr King: Canadian General Insurance.

Mr Kormos: CGA—

Mr King: Sorry, they change so often now. CGU would certainly be one, although, having said that, and I can't say it with certainty, because we don't provide this class to them, to my understanding they do not provide coverage for pony ride operators.

Mr Kormos: That's interesting. I'm not finished yet, though, Chair. I just said that's interesting because I wish we had some of these insurance companies here, because they probably could give us even better info on this other stuff we are talking about.

What about the age 18? What's magic about 18? Why would Ms Molinari pick 18? Why wouldn't she say everybody? We already heard some people saying everybody should wear them. Surely, if you're talking about liability, if I'm 25, you would think that the owner of a stable should require me to wear one, right? Otherwise, I'm going to sue the owner of the stable, saying: "You never warned me I should wear a helmet. You never provided a helmet."

Mr King: And that's happened.

Mr Kormos: Well, there you go. Why shouldn't this be across the board? If we are going to make a three-year-old wear one on Bernie's fat little pony there, why shouldn't we make the 35-year-old wear one?

Mr King: I'll just stand by one of my previous comments, and that is that this is a first step. As many people have made comment today, this legislation, presumably, just in a practical sense cannot embrace all things to all people at one shot. This is a very important first step. I guess the general perception is that children—and I'm not a lawyer, so I can't define that. Perhaps you can. My understanding is that an infant child is under the age of 19 in this province, or under the age of 18? Help me out here, somebody.

Interjection.

Mr Kormos: Infant? Be careful, Ms Munro.

Mr King: Eighteen? There you go. So with the age of majority being 18, I guess we'll try to protect those who legally can't make decisions on their own.

Mr Kormos: Sixteen-year-olds can go out and—

Mr King: Yes, they can. You're right.

Mr Kormos: I think Ms Molinari should consider making adults wear them and see if she gets a response to that.

Mr King: I suppose she might do that.

The Chair: Thank you very much, Mr King, for your presentation.

1730

Mrs McLeod: Is that our final presenter?

The Chair: No, there's one more. Did you wish to make a point before?

Mrs McLeod: I have a couple of points I'd like to make before we adjourn and I know there is a vote tonight. So we have another presenter. I just have Intercity Insurance on my schedule. Who is the next presenter, then?

The Chair: I wish to call the final presenter forward.

PHYLLIS MORRIS

The Chair: I would ask Phyllis Morris to approach the witness table, please.

Mr Kormos: On a point of order, Chair: As you know, Bernie Carey is here. He's a small mom-and-pop pony operator. His partner is here as well. We've got time; we've got 30 minutes. I'm asking for unanimous consent for Mr Carey to be given a 10-minute slot as well.

The Chair: I think I hear consensus, if we could have a brief presentation. I'm amenable to that.

Mr Kormos: Thank you, Chair. Is that OK, Mr Carey? Sure it is.

The Chair: At this time, Phyllis Morris has the floor for 10 minutes, and we'll have questions within the 10 minutes.

Ms Phyllis Morris: Thank you, Mr Chairman and members of this committee. It's very difficult to sit here and listen to some of the debate and discussion that has just taken place. While I absolutely respectfully understand the difficult task that you all have to fine-tune, and words missing stand for appropriate legislation, because this is a very serious matter that we're taking—the mother of Elizabeth Hader was here earlier on, and I was taken aback by some of the comments and asked her to leave the room because it's very hard for her. This is a lady who has lost her child, a 10-year-old who had her whole life to look forward to, and was taken very tragically from what was meant to be a very pleasurable experience, as we've heard that this is all about. People want to go horseback riding.

When Laurie lost Elizabeth, she decided to go forward and try and change things, because it was very saddening to discover that in Canada, in Ontario, in York region, in Aurora we didn't have any legislation that would protect children under 18 and unsuspecting parents who aren't

used to the equestrian industry or the risk that is inherent in that type of sport. Once Elizabeth died and we looked into it and recognized that it had been coroners' recommendations over the past 14 years, and 23 deaths had occurred during that time in Ontario alone, it was very important to try and look for ways we could improve on that and prevent this happening again. We do know, of course, that no amount of safety legislation can prevent accidents or deaths, but it goes a long way, we hope, toward cutting down on some of them, if not all.

At the provincial level you're being asked now to bring forward legislation, and I urge you to move as quickly as possible.

I have to respectfully thank Tina Molinari, Julia Munro, Bob Runciman, John O'Toole, Frank Klees and the late Al Palladini, all of those who came forward and have helped support the idea of bringing in legislation. Certainly we've had the opposition members as well. Some of them have come forward and offered their support also.

Some time ago we were in the House and witnessed something that was wonderful in a democracy, seeing all parties stand and unanimously support second reading. Thank you so much for that. That went a long way to helping the family, who was still mourning, and all the others who were mourning as well the loss of those 23 children.

Clearly some of the experts you've heard from today are able to answer some of your specific questions. I also want to give recognition to the OEF, the ARE, the insurance industry and others throughout the community, throughout the province and indeed across Canada. Dr Janet Sorli of British Columbia came forward and gave her input when we were drafting Aurora's first licensing bylaw.

It must be stressed that the licensing bylaw we put in place goes a lot further than just helmets, boots and riding footgear. I would be happy through Ms Molinari's constituency office to pass forward any of those licensing bylaws so that members of all parties can read some of the hard work that went into drafting those rules and grappling with some of the wording and the terms that I've heard questioned today quite sensibly. When you're passing legislation, you have to be sure of what you're doing, and I applaud your taking the time to vet that.

In York region alone, six of the nine municipalities have already passed licensing bylaws. Again, that goes a lot further than what the province is doing here. We recognize that that calls for a lot more things. The helmet and boots and the riding footgear are essential: one without the other doesn't do enough. We've heard from the experts that that is essential. I also applaud the idea of any way you could find to bring in those pony rides and those carousel rides. They should also be included. We've heard the age of 18 questioned. Clearly again the province isn't in a position through this legislation to legislate someone's intelligence after 18, but we're talking of just trying to protect a vulnerable part of society, the under-18s, at this point.

It's like the smoking bylaw, I guess: 20 years from now, 10 years from now or, hopefully, just a year from now, people may look back and say, "Why didn't we do it sooner? People's lives could have been saved." So we're coming to you just very humanly, because it is inhuman to watch parents suffering through this. Please, I'm actually coming to you and saying, don't delay this, don't hold it back. Do everything you can to support this bill. It's crucial. It is inhuman to watch a parent suffer through what could have been prevented happen.

I'd welcome any questions.

The Chair: Thank you. We have about a minute and a half for questions from each party. Mrs Dombrowsky.

Mrs Dombrowsky: I guess perhaps I would like to make my comments around the age 18 issue. No one here is trying to delay or stall this legislation. When we enact a law, we really want to make it the most comprehensive, the best, the most inclusive. I would suggest that the death of any individual, whether they are 18, younger than 18, a mom of 35 with three children, would be as tragic. The point I would suggest we need to consider very seriously at this committee is that if an individual goes into a place of business to ride a horse and it's indicated that they've never had any experience riding a horse, would it be a better law if we said that person should wear a helmet? We had a statement here earlier by an individual who's quite experienced as a business person in this area who would suggest that's probably reasonable.

Ms Morris: May I address that just briefly? The issue there is the assumption of risk. Again, if people know the risk and it's explained to them and they have an opportunity to assume it, then they can take that risk after 18. But I respect what you're saying.

Mrs Dombrowsky: I did want to make the point that I think much of the questioning this afternoon was to determine how we can make the strongest law we possibly can. I do appreciate the comment that you offered this afternoon.

Mr Kormos: Reading the New York state legislation, which as I understand it is the only American jurisdiction that has helmet laws for horse riding, other than municipal—

Ms Morris: And Florida.

Mr Kormos: Other than municipal legislation? Let me see what the—we've got England and Wales. The ordinance in Florida is the city of Plantation; it's municipal legislation. The only state legislation is in New York state. It uses age 14. Here you've got age 18. I think I know why 18 was chosen. But I asked operators like this gentleman, who says that as far as he is concerned, anybody riding a horse in his establishment is expected to wear a helmet.

Mr Brown: Or at horse shows.

Mr Kormos: Or at his horse shows. In other words, he's not going to tolerate or condone or be a party to somebody riding a horse and not wearing a helmet.

Mr Brown: I do lose business.

Mr Kormos: Why don't we just say, "You've got to wear a helmet"? I know what you're saying. I think the lawyers—what do they call it, Mr DeFaria? *Volenti non fit injuria*? Is that the phrase for voluntary assumption of risk? I think that's the phrase. Ms Munro will correct me if I'm wrong.

I hear what you're saying: certain-aged people knowing that they're assuming the risk. We don't use that standard for seat belts. We don't use that standard for helmets for motorcycle riders. I'm saying that—look, the coroner's report, as I read it, from this most recent jury—"it be mandatory that suitable protective headgear and footwear be made available at all riding establishments." It doesn't restrict it to age. I don't know why the author of the bill isn't amending it. It makes it so much easier. Then you don't have somebody chasing you down. Look at George Bush's daughters, with the phony ID. You don't have kids trying to say, "Oh, I'm 19," when they're only 18, because they don't want to wear a helmet. And you've got that syndrome of your kid saying, "Well, how come I have to wear a helmet? You don't have to wear one." Why don't we just make it a law that says that people, when they're riding horses, have to wear a helmet?

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Ms Morris: I would applaud it if you did.

Mr Kormos: Would it be a better bill than the one that's before us now?

Ms Morris: I'm very comfortable with the bill that's before us right now. Of course, as a parent I would encourage people to set an example when they're riding a bike or a horse and wear a helmet. But, again, this bill before us is to be applauded because it's a bill that's clearly on the table now and it's one that could be passed with the support of all parties. If you can amend it, that would be welcome.

Mr Kormos: You know Bernie, who has the small ponies at the carnival? He's going to be up next. His people, along with some of the folks down in St Anns, down where I come from, have written a letter as well. They're saying this puts on an unfair restriction. They've got the little ponies that they lead around on a tether.

Ms Morris: I believe what we're talking about are commercial enterprises which are offering a service for money.

Mr Kormos: Right.

Ms Morris: We should stress that this is a service for money. Having observed one of these carousels, one of these pony rides yesterday, again as a parent and as someone who has helped bring forward local licensing bylaws, those would be things I would wish personally to see included.

Mr Kormos: OK. Good enough. Thank you kindly.

Ms Morris: All children should be protected.

Mrs Molinari: I want to thank Ms Morris for her presentation this evening, and all of the speakers. I want to address the question about being 18 years old and why that was selected. It's merely because it's consistent with the bicycle helmet act. It was in an effort to provide some

consistency with another piece of legislation that has already been passed.

In the consultation process with the Ontario Equestrian Federation, the Association of Riding Establishments and Intercity Insurance Services, at their annual general meeting, my staff and I spent a whole day there consulting with a number of people who have riding establishments. This was the best first start. It was a beginning.

There are a number of amendments that can be made in the period of time. The consultation that came to me, I remember responding to some of their comments. If I were to have taken in all of the things they were requesting, this legislation, rather than being three or four pages, would have been probably 300 pages. I would have thought that to pass legislation like that would have taken a lot of time. So with this one, it's a beginning, it's a start for something that is not there presently. This is something that I feel, and all of the stakeholders I've consulted with and those who have come here believe, is a good start and a good beginning.

I am open to amendments, and I've indicated that to the members opposite, even in private meetings that we've had, that all I want is for legislation to be passed as quickly as possible so that no other child, no other person will be subject to an unsafe riding environment.

With that, I want to again thank Mrs Morris and all the presenters. I know there is another presenter we've added on the agenda, and I'm looking forward to hearing from him as well. But all of the work you've done, certainly in assisting me in getting this bill forward, is to be commended, because I know you've been working on this for a lot longer than I have. It has been a lot longer battle for you to get this moved forward. Hopefully, with the support of all parties, we can actually make this law before the end of the month. I appreciate your coming forward.

The Chair: On behalf of the committee, thank you for coming forward.

The committee has requested a final submission, and then Mrs McLeod had some remarks at the end—or did you wish to make some remarks now?

Mrs McLeod: I just wanted to request further information to be tabled with the committee. I'll just do that as the next presenter is coming forward. As Mr Kormos said earlier, I go back for so long that it may be that my recollection of the way things once were done is not the same thing any more. But at one time, if a government bill was coming forward, there would have been impact analyses done by other ministries. I'm just wondering if there was any impact analysis done on this bill as a private member's bill, given the significance that it may have. I'm thinking in terms of the Ministry of Trade and Economic Development and the Ministry of Tourism, Culture and Recreation, and if there has been any impact analysis done by other ministries. If we could just be made aware of any concerns that might have been expressed prior to the next meeting, I would appreciate it.

The Chair: Is there information on that now, or we can table that at the next meeting?

Mr Beaubien: No, it's a separate issue. I want to—

The Chair: So we can consider that at the next meeting.

Mr Beaubien, quickly.

Mr Beaubien: For a point of information, because I don't know anything about riding—and I certainly see the merit of having a helmet—but we keep talking about footwear, and I'd like to have somebody explain to me for the record why it's imperative to have the proper footwear. I'm not being facetious. I just don't know.

Mr Kormos: Because you need a heel to catch on the stirrup.

Mr Beaubien: Is that the reason? OK.

Mr Kormos: Do you think I wear cowboy boots to make me look taller?

Mr Beaubien: No. OK, thank you.

BERNIE AND PAM CAREY

The Chair: The committee has requested a final submission, and I would ask that person to come forward and approach the witness table. Come forward, sir.

Mr Bernie Carey: I want my wife to come and talk. She's the smooth talker and she's—

Mr Kormos: If she were a smooth talker, she'd be a politician. I want both of you to come up, please.

The Chair: We have room for two people certainly.

Mr Carey: We didn't come prepared for this. We don't—

Mr Guzzo: Mr Chair, the bells are going to be ringing shortly. Let's get going, we're cutting this very close.

The Chair: Yes. If you could just give us your names, please.

Mrs Pam Carey: Bernie and Pam Carey.

The Chair: Have a seat, sir.

Mr Carey: I just thought I had a big enough mouth that I didn't have to do this here.

The Chair: No, we need a microphone.

Mr Carey: Thank you, Bruce, for acknowledging my phoning. I have to say the same about you. You have friendly, good operators.

I faxed Tom Prins something my wife wrote. Is it possible for you to read that?

Mr Kormos: We've all read it. Perhaps we could just ask you questions.

Interjection: That'd be a better way.

The Chair: All right then.

Mrs Carey: That's a better idea.

The Chair: Certainly. In rotation, then, we would begin with Mr Kormos.

Mr Kormos: As I understand it, you're concerned, as you travel around and you deal with a carnival or at the parking lot in the Seaway Mall—

Mr Carey: Or the Winona Peach Festival.

Mr Kormos: OK. How many youngsters a day are you accommodating on your ponies?

Mr Carey: Well, go per hour.

Mr Kormos: OK.

Mrs Carey: With a carousel type, we do probably 60 to 75 kids an hour.

Mr Kormos: How many hours a day would you work on a good day?

Mrs Carey: Saturday I was at Concession Street in Hamilton for eight hours.

Mr Kormos: Eight hours, so that's 500 youngsters, give or take?

Mrs Carey: Yes.

Mr Kormos: Now, you've heard the proposition that maybe—because you've heard folks saying that yes, a fall off one of your ponies is dangerous. How do you charge them for a ride on that pony?

Mrs Carey: On those things we're paid by the hour by a BIA or whatever. We're there to provide free rides for—

Mr Kormos: When you do charge with a ticket admission, what do you charge a person?

Mr Guzzo: She won't answer that question. That's not a—

Mr Kormos: No, I want to know what a kid pays for—

Mr Guzzo: Why are you worried about it?

Mr Kormos: I want to know what a kid pays to take a ride on a pony. What's it worth?

Mr Carey: It depends if the NDP is paying or the PCs.

Mr Kormos: And you charge them twice as much.

Mr Carey: When we go to Thornhill it's probably \$3.

Mr Kormos: Per ride?

Mrs Carey: Yes.

Mr Kormos: The reason I'm asking it, Mr Guzzo, is when you're charging that kind of money, can you afford to throw a helmet in? I assume you've had considerations about the need to clean the helmets. I don't know—they spray bowling shoes with something.

Mrs Carey: We've asked our customers about wearing helmets, and their concern is head lice. Our riders are getting off. We take our riders off and put the next rider on. In the midst of that, we'd have to change a helmet. Now, the kids that size or school-age, whatever, and parents are worried about the transfer of head lice, and they just say that there's no way their kids are going to do that.

Every kid on the street is not walking along with a helmet. Plus we've got to have how many helmets to cover that many sizes of heads? I don't know of any disinfectant or anything that you could spray into the helmet in the meantime, or put some kind of sleeve on the head before you change.

We've looked at all kinds of different options because we figured this was coming, but it's just not doable.

Mr Kormos: When you put the kid on the horse, where do the parents stay? Do they stay outside the circle?

Mrs Carey: They're welcome to walk with the child.

Mr Kormos: OK. And if the parent isn't there, who else is there? What other kind of adult?

Mrs Carey: We have our own staff in there, which is at least two, and an extra person, normally. There are normally three people of our staff on a job that has five ponies on a turnstile, plus the parents who want to walk with their kids. We have kids who don't even know they're on a pony, but the parents think this is wonderful. They walk with their kids, though. They stay with their kids. We have little seatbelts on our saddles that keep the kid where he's supposed to be. The only way the child is going to fall off—

Mr Kormos: Seatbelts?

Mrs Carey: Yes, we have seatbelts, and the kids understand seatbelts because they're used to going in a car. We just say, "We're going to put the seatbelt on." But that keeps them where they are. If the pony shakes—if they're itchy, they shake their whole body—the child stays there because of the seatbelt.

Mr Kormos: Thank you kindly. Oh, we've got 10 minutes.

The Chair: I think we have time, if the committee permits, for brief comments or questions.

Mr Guzzo: He wants to know how much Mr Kormos used to charge for an impaired driving defence when he was practising law.

Mr Kormos: To my friends, I didn't charge them nothing.

Mr Beaubien: You mentioned it would be difficult to change helmets quickly and then to spray them. Parents are concerned with head lice. Can you feasibly do it? You mentioned you may process 500 kids in one day. How many kids would you process in one day if you had to go through that process?

Mrs Carey: The ride itself only lasts four minutes.

Mr Beaubien: So it would take you a couple of minutes to put the helmet on?

Mrs Carey: Probably an extra four minutes, so you're going to do half.

Mr Beaubien: Would it be reasonable to ask that young children—as Mr Kormos pointed out, their feet don't even fit in the stirrups—have proper footwear?

Mrs Carey: Most of the kids who ride the ponies, their feet do not go in the stirrups. The younger ones don't have the leg movement, whatever, to support themselves on their feet anyway.

Mr Beaubien: So basically if this bill was to go through in its present form, it would put you out of business.

Mrs Carey: Pretty well.

Mr Carey: Just let me say one thing. When Pam said she worked in Hamilton for eight hours on Saturdays, she

did, but she had two sets of ponies. Those same five ponies didn't work eight hours.

Mrs McLeod: Would this bill shut you down as an operation?

Mrs Carey: Very likely. We run 45 ponies. We have three trucks and three trailers that go out. In a birthday party in a backyard, you're looking at—whoever comes to the birthday party, 12 or 15 kids. You've got those 12 or 15 kids. Within that hour, you're putting that helmet on and off each of the kids, whether they are one year old or five years old, all different size heads. We've been called on the phone and they've said their kid had hoof-and-mouth disease, that they rode our pony and got it. People don't know, so they've got to blame somebody.

Mrs McLeod: I don't want to minimize the concerns that have been raised by others coming before the committee at all, but I do want to ask how long you've been in business and whether or not you have had accidents.

Mrs Carey: We had our riding stables, so we know that side of it as well. He started a riding stable in 1962. We sold that out in 1985, and we've been in just ponies since 1985.

Mrs McLeod: And your accident record?

Mrs Carey: Well, totally ponies. We got out of the horses in 1985.

Mrs McLeod: Can you tell me a little bit about the accident record while you've been running the pony operation?

Mrs Carey: We've had no accidents. We've had kids fall off, but they weren't hurt, in a park or whatever. Kids do bail, but now that we use seatbelts, they can't bail. Kids will get scared and think, "Oh, I don't want to be here any more. It's time to get off," but we have the seatbelts there, so they don't have a choice now until we let them off.

Mrs McLeod: Is that an alternate safety requirement? It's not a requirement; you do that.

Mrs Carey: It's not a requirement. We've done that on our own.

Mrs McLeod: Is that something which could potentially be put in the bill as an alternative safety?

Mrs Carey: I know a couple of other pony ride operators that do it; I know lots that don't. We saw it in Florida at a pony ride that we went to to be nosy about. We thought it was a great idea, so we just implemented it ourselves.

The Chair: Thank you. We appreciate your coming forward on short notice. We appreciate the information.

I think we have consensus. This committee is adjourned.

The committee adjourned at 1755.

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