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Assemblée législative  
de l'Ontario  
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## **Official Report of Debates (Hansard)**

**Monday 18 June 2001**

## **Journal des débats (Hansard)**

**Lundi 18 juin 2001**

**Standing committee on  
general government**

**Comité permanent des  
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Public Service Statute Law  
Amendment Act, 2001

Loi de 2001 modifiant  
des lois en ce qui a trait  
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d'un véhicule)

Chair: Steve Gilchrist  
Clerk: Anne Stokes

Président : Steve Gilchrist  
Greffière : Anne Stokes

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
GENERAL GOVERNMENT**

**COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES**

Monday 18 June 2001

Lundi 18 juin 2001

*The committee met at 1540 in committee room 1.*

**PUBLIC SERVICE STATUTE LAW  
AMENDMENT ACT, 2001  
LOI DE 2001 MODIFIANT DES LOIS  
EN CE QUI A TRAIT  
À LA FONCTION PUBLIQUE**

Consideration of Bill 25, An Act to amend the Public Service Act and the Crown Employees Collective Bargaining Act, 1993 / Projet de loi 25, Loi modifiant la Loi sur la fonction publique et la Loi de 1993 sur la négociation collective des employés de la Couronne.

**The Chair (Mr Steve Gilchrist):** Good afternoon. I'll call the committee to order. The first order of business today will be to do clause-by-clause consideration of Bill 25, An Act to amend the Public Service Act and the Crown Employees Collective Bargaining Act, 1993.

**Mr Peter Kormos (Niagara Centre):** On a point of order, Chair: I am seeking unanimous consent to move what is motion number 18 in your package out of order in an amended form.

**The Chair:** Do you have a copy of the amended form? I'm sorry, Mr Kormos, do you wish to introduce—  
*Interjection.*

**The Chair:** My question is, are you asking that we change number 18 when we get to it?

**Mr Kormos:** No, sir. I'm asking for unanimous consent to move it now, not in order, and amended so that it reads as is, plus the words "from a qualified medical practitioner." So that it reads: "Section 34 of this act does not authorize the use of personal information that is medical information from a qualified medical practitioner."

**The Chair:** Is there unanimous agreement that we consider this motion now? It is agreed.

**Mr Kormos:** I move that section 34 of the Public Service Act, as set out in section 15 of the bill, be amended by adding the following subsection:

"Medical information excluded

"(9) Section 34 of this act does not authorize the use of personal information that is medical information from a qualified medical practitioner."

**The Chair:** Further debate?

**Mr Kormos:** Please, very quickly, the concern was about the nature of the information that was going to be shared across the board pursuant to the amendment in the

government bill. We would have preferred that medical information of all types be excluded from that, medical information that's shared across the board; however, we are prepared, as we have, to amend this to identify that "medical information from a qualified medical practitioner" not be among those things that are shared across the board.

**Mr Dave Levac (Brant):** I have a question of clarification to the parliamentary assistant. When we say "from a qualified medical practitioner," is there an assumption that there are medical records in people's files that are not from a practising medical officer of some sort?

**Mr Wayne Wettlaufer (Kitchener Centre):** No, not medical information insofar as that is concerned, Mr Levac. But there could be statistical information, ie, sick days, which might be related. We need records of sick days from an administrative standpoint.

**Mr Levac:** If that were issued by a medical officer, for instance, an excuse or a reason why they were absent, would that be removed?

**Mr Wettlaufer:** The statistic itself would not be removed, but the reasons would never enter into that file.

**Mr Levac:** Very good. So it was more a reason for any of the files needed for the statistics the government wishes to hold. What the NDP is asking is that, as long as it's medical information, have it removed, with the amended formula of "from a qualified medical practitioner."

**Mr Wettlaufer:** That's correct.

**The Chair:** Is there any further debate? Perhaps, Mr Kormos, I'll get you to move an amendment to the amendment first. We'll vote on that and then we'll vote on the amendment as amended.

**Mr Kormos:** I move that the motion identified as motion number 18 be amended by adding the words "from a qualified medical practitioner."

**The Chair:** All those in favour of the amendment? Opposed, if any? Carried.

Back to you, Mr Kormos.

**Mr Kormos:** I move that the motion, as amended, section 34 of the Public Service Act, as set out in section 15 of the bill, be amended by adding the following subsection:

"Medical information excluded

“(9) Section 34 of this act does not authorize the use of personal information that is medical information from a qualified medical practitioner.”

**The Chair:** All those in favour? Opposed, if any? The amendment carries.

With that we will revert back to section 1 of the act. Are there any amendments or debate on section 1?

**Mr Kormos:** Yes, we are opposed to section 1.

**The Chair:** Thank you. Any further debate? Seeing none, I'll put the question. All those in favour of section 1?

**Mr Wettlaufer:** I'm sorry, I was looking at the amendment.

**The Chair:** OK. We're back at section 1, not amendment 1.

All those in favour of section 1? Opposed? Section 1 is carried.

Section 2: any amendments or debate?

**Mr Kormos:** Yes. I move that subsection 7.1(1) of the Public Service Act, as set out in section 2 of the bill, be amended by adding “in accordance with the regulations” after “to the term classified service.”

**The Chair:** Would you like to speak to the motion?

**Mr Kormos:** Very briefly, the purpose is to anticipate, or there is perhaps some feckless anticipation, that there would be regulations defining the conditions under which there can be term classified service appointments.

**The Chair:** Any further debate?

**Mr Wettlaufer:** We feel that the Civil Service Commission has the authority to determine the circumstances under which term classified employees may be used and appointed. This allows the civil service to efficiently and effectively exercise control over the use and appointment of term classified staff in a responsive manner. We don't believe that the limitation is necessary.

**The Chair:** Any further debate? Seeing none, I'll put the question.

Mr Kormos has moved NDP motion number 1. All those in favour? Opposed? The amendment fails.

Shall section 2 carry?

**Mr Kormos:** Debate on section 2, sir. We're opposed to section 2 of the bill.

**The Chair:** Duly noted.

All those in favour of section 2? Opposed? Section 2 is carried.

Section 3.

**Mr Kormos:** I move that section 3 of the bill be struck out and the following substituted:

“3. Subsection 8(1) of the act is repealed and the following substituted:

“Appointment by minister to unclassified service

“(1) A minister or any public servant who is designated in writing for the purpose by him or her may appoint, in accordance with the regulations, for a period of not more than three years on the first appointment and for any period on any subsequent appointment a person to a position in the unclassified service in any ministry over which the minister presides.”

If I may, similar to amendment number 1, this adds the words “in accordance with the regulations,” with the anticipation that there could be regulations restricting that power of appointment or defining the conditions under which it takes place.

**The Chair:** Any further debate?

**Mr Wettlaufer:** Again, it's very similar to the first amendment. We feel that the CSC has the authority to determine the circumstances. We think the limitations are definitely unnecessary.

**The Chair:** Any further debate?

Seeing none, Mr Kormos has moved NDP motion number 2. All those in favour? Opposed? The amendment fails.

Section 3.

**Mr Kormos:** We're opposed to section 3 as it stands unamended.

**The Chair:** Further debate? All those in favour of section 3? Opposed? Section 3 is carried.

Section 4: any debate?

**Mr Kormos:** We are opposed to section 4 of the bill.

**The Chair:** Any further debate? Seeing none, I will put the question. All those in favour of section 4? Opposed? Section 4 is carried.

Section 5, Mr Wettlaufer.

**Mr Wettlaufer:** The government moves that subsection 23(1) of the Public Service Act, as set out in section 5 of the bill, be struck out and the following substituted:

“Delegation of powers, deputy minister

“(1) With the consent of his or her minister, a deputy minister may delegate in writing any of his or her powers under this act to a public servant, a class of public servant or, with the commission's approval, to another person or persons, except that he or she may only delegate his or her powers under subsection 22(3), (4) or (4.1) to a public servant or a class of public servant.”

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**The Chair:** Further debate?

**Mr Kormos:** We recognize that this is some modification to the original proposal and we support it, although we certainly wish that it were stronger.

**The Chair:** Any further debate on the amendment?

**Mr Wettlaufer:** Just a comment that we feel that it's a response to the NDP-suggested amendment number 6. That's it.

**The Chair:** Seeing no further debate, all those in favour of the amendment? Opposed? The amendment carries. That takes us now to page 4.

**Mr Bruce Crozier (Essex):** I move that subsection 23(1) of the Public Service Act, as set out in section 5 of the bill, be struck out and the following substituted:

“Delegation of powers, deputy minister

“(1) With the consent of his or her minister, a deputy minister may delegate in writing any of his or her powers under this act to a public servant or a class of public servant.”

**The Chair:** Do you wish to speak to the amendment?

**Mr Crozier:** Yes, very briefly. In debate we spoke to this. We feel that the words of the bill as it stands would allow, with the referral to the commission's approval to any other person or persons—that this is simply a privatization move and that it would in effect lose accountability in that it could be moving to the private sector.

**Mr Kormos:** We support this amendment.

**Mr Wettlaufer:** We think that the flexibility in the initial bill would be lost with this amendment. This removes the right of the deputy minister to delegate authority to another person or persons.

**The Chair:** Any further debate? Seeing none, I'll put the question on Liberal motion number 4. All those in favour? Opposed? That amendment fails.

**Mr Levac:** Mr Chair, for clarification: I notice across from me there are three people. Do Mr Wettlaufer and yourself count as a vote when necessary?

**The Chair:** Mr Wettlaufer is subbed in.

**Mr Levac:** OK. I just didn't understand the process. I wanted to make sure it was clear.

**The Chair:** My hand hasn't been going up.

**Mr Levac:** No, I just needed to know who does.

**The Chair:** I only do that in a tie.

That takes us to page number 5.

**Mr Crozier:** I move that subsection 23(2) of the Public Service Act, as set out in section 5 of the bill, be struck out and the following substituted:

“Delegation of duties, deputy minister

“(2) With the consent of his or her minister, a deputy minister may delegate in writing any of his or her duties under this act to a public servant or a class of public servant.”

For the same reason as I stated before, that the commission's approval to delegate to another person or persons simply moves it away from the government and loses accountability and simply is a move to privatization.

**Mr Kormos:** New Democrats support this amendment.

**Mr Wettlaufer:** Again, we feel that the deputy minister needs the right to delegate to another person or persons because of flexibility. We must have that flexibility in today's workplace.

**The Chair:** Any further debate? Seeing none, I'll put the question on Liberal motion number 5. All those in favour? Opposed? That amendment is lost.

Now we need Mr Kormos.

**Mr Kormos:** I move that section 23 of the Public Service Act, as set out in section 5 of the bill, be amended by adding the following subsection:

“Restriction

“(2.1) Despite subsections (1) and (2), powers of recruitment, appointment, classification, termination and release may not be delegated to a person who is not a public servant.”

By way of explanation, this amendment is designed to ensure that it is a public servant to whom a power is delegated; that is to say, the powers including hiring,

firing, classifying, appointing an employee may not be delegated to a non-public servant.

**Mr Levac:** The Liberal caucus will support that amendment for the same purposes as Mr Crozier's previous amendments.

**Mr Wettlaufer:** Again, we introduced government motion number 3 as a response to this. We feel that number 6, the NDP motion, is too restrictive.

**The Chair:** Any further debate? Seeing none, I'll put the question on Mr Kormos's motion. All those in favour? Opposed? The amendment is lost.

**Mr Crozier:** I move that section 23 of the Public Service Act, as set out in section 5 of the bill, be amended by adding the following subsection:

“Publication

“(4) A rule or requirement established under subsection (3) shall be published in the Ontario Gazette.”

**The Chair:** Any further debate?

**Mr Kormos:** New Democrats support that amendment.

**Mr Wettlaufer:** We feel that it is a technical amendment to allow those who have been delegated or sub-delegated functions in the regulations to take steps incidental to carrying out the matters required by the regulations and we don't feel that it's appropriate or necessary to publish in the Ontario Gazette.

**The Chair:** Any further debate?

**Mr Crozier:** Simply to say I can't imagine why the government wouldn't want it published. It's another way, I guess, that the government doesn't want to inform the public, and that's the reason that we submitted this motion.

**The Chair:** Any further debate? Seeing none, I'll put the question. All those in favour of the amendment? Opposed? The amendment is lost.

**Mr Crozier:** I'm getting kind of discouraged here, Chair.

**The Chair:** Mr Kormos has one already.

**Mr Kormos:** Is that a message about likelihood of future success?

**Mr Crozier:** I move that section 23.1 of the Public Service Act, as set out in section 5 of the bill, be struck out.

**The Chair:** Further debate?

**Mr Kormos:** New Democrats support this amendment.

**Mr Wettlaufer:** Section 23.1 of the bill allows the Civil Service Commission to delegate its functions in a regulation to a deputy. Section 24 of the Public Service Act allows the CSC to delegate certain of its specified powers or functions. The proposed section 23.1 is necessary to add flexibility to allow powers and duties and regulations to also be delegated.

**The Chair:** Any further debate? Seeing none, I'll put the question. All those in favour of the amendment? Opposed? The amendment is lost.

Any further debate on section 5? I guessed as much. Mr Kormos.

**Mr Kormos:** New Democrats oppose section 5 of the bill as it stands.

**The Chair:** Thank you very much. Any further debate? Seeing none, shall section 5, as amended carry? It is carried.

Section 6.

**Mr Crozier:** I move that subsection 24(2) of the Public Service Act, as set out in section 6 of the bill, be struck out and the following substituted:

“Subdelegation

“(2) A deputy minister who is authorized under subsection (1) to exercise and perform powers and functions of the commission may in writing delegate that authority to any public servant or class of public servant.”

**The Chair:** Would you like to speak to that amendment?

**Mr Crozier:** I would again, just to say that under that subsection (c), “with the commission’s approval another person or persons” is merely a move to privatization. With that, the government is foisting accountability, if there is any left, onto the private sector.

**Mr Kormos:** New Democrats support this amendment.

**Mr Wettlaufer:** We feel that subsection 24(2) as proposed initially is needed for flexibility in the modern workplace.

**The Chair:** Any further debate? Seeing none, I’ll put the question. All those in favour of the amendment? Opposed? The amendment is lost.

Further debate on section 6?

**Mr Kormos:** We are opposed to section 6 as it stands.

**The Chair:** Any further debate? Seeing none, shall section 6 carry? It is carried.

Section 7, any debate?

**Mr Kormos:** We’re opposed to section 7.

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**The Chair:** Anything further? Shall section 7 carry? It is carried.

Section 8.

**Mr Wettlaufer:** I move that the definition of “association” in subsection 26(1) of the Public Service Act, as set out in subsection 8(2) of the bill, be struck out and the following substituted:

“‘Association’ means an association which is not affiliated directly or indirectly with a trade union or with any organization that is affiliated directly or indirectly with a trade union and which represents a majority of the members of the Ontario Provincial Police force and of other persons who either are instructors at the Ontario Police College or who are under the supervision of the commissioner of the Ontario Provincial Police or of the chief firearms officer for Ontario and described in paragraph 2 of subsection (2); (‘association’).”

**The Chair:** Do you wish to speak to it?

**Mr Wettlaufer:** It’s an amendment proposed to reflect the change in the name of the chief provincial firearms officer to chief firearms officer and that is because the name of the position was changed in 1998 from chief provincial firearms officer to chief firearms

officer following the introduction of the federal legislation.

**Mr Kormos:** Perhaps I can be of help to the parliamentary assistant. It also embraces, as I understand it—and you can correct me if I’m wrong, Mr Wettlaufer—the instructors of the Ontario Police College.

**Mr Wettlaufer:** Yes, it does, at their request. That is correct.

**Mr Kormos:** And the New Democrats are opposed to this.

**The Chair:** Any further debate? Seeing none, all those in favour of the amendment? Opposed? The amendment carries.

**Mr Wettlaufer:** I move that paragraph 2 of subsection 26(2) of the Public Service Act, as set out in subsection 8(4) of the bill, be amended by striking out the portion before subparagraph i and substituting the following:

“2. The civilian employees’ bargaining unit which shall be established if the association is certified under subsection 28.0.5(1) as the exclusive bargaining agent for any of the three groups of public servants described in subsection 28.0.2(1) and shall consist of persons who either are instructors at the Ontario Police College or who are under the supervision of the commissioner of the Ontario Provincial Police or of the chief firearms officer for Ontario and who,”

**The Chair:** Further debate? Seeing none, all those in favour of the amendment? Opposed? The amendment is carried.

**Mr Wettlaufer:** I move that subsection 8(5) of the bill be struck out and the following substituted:

“(5) Subsection 26(3) of the act is repealed and the following substituted:

“Bargaining authority

“(3) The association is the exclusive bargaining agent authorized to represent the employees who are part of a bargaining unit referred to in subsection (2) in bargaining with the employer on terms and conditions of employment, except as to matters that are exclusively the function of the employer under subsection (4), and, without limiting the generality of the foregoing, including rates of remuneration, hours of work, overtime and other premium allowance for work performed, the mileage rate payable to an employee for miles traveled when the employee is required to use his or her own automobile on the employer’s business, benefits pertaining to time not worked by employees, including paid holidays, paid vacations, group life insurance, health insurance and long-term income protection insurance, the procedures applicable to the processing of grievances, the methods of effecting promotions, demotions, transfers, layoffs or reappointments and the conditions applicable to leaves of absence for other than any elective public office, political activities or training and development.”

**The Chair:** Further debate? None? I’ll put the question. All those in favour of the amendment? Opposed? The amendment is carried.

Further debate on section 8?

**Mr Kormos:** New Democrats are opposed to section 8.

**The Chair:** Anything further? Seeing none, shall section 8, as amended, carry? It is carried.

Section 9. Any debate?

**Mr Kormos:** New Democrats are opposed to section 9.

**The Chair:** Any further debate? Seeing none, shall section 9 carry? Section 9 is carried.

Sections 10 and 11. Any debate?

**Mr Kormos:** New Democrats are opposed to sections 10 and 11.

**The Chair:** Anything further? Seeing none, shall sections 10 and 11 carry? Sections 10 and 11 are carried.

Section 12.

**Mr Wettlaufer:** I move that the definition of “designated position” in section 28.0.1 of the Public Service Act, as set out in section 12 of the bill, be struck out and the following substituted:

“‘Designated position’ means an employment position held by a public servant who either is an instructor at the Ontario Police College or who is under the supervision of the commissioner of the Ontario Provincial Police or of the chief firearms officer for Ontario and who is represented for purposes of collective bargaining by either AMAPCEO, OPSEU or PEGO; (‘poste désigné’).”

**The Chair:** Any further debate? All those in favour of the amendment? Opposed? The amendment carries.

Further debate on section 12?

**Mr Kormos:** We’re opposed to it.

**The Chair:** Shall section 12, as amended, carry? Section 12, as amended, is carried.

Section 13. Any debate?

**Mr Kormos:** The New Democrats are opposed.

**The Chair:** Any further debate? Seeing none, shall section 13 carry? Section 13 is carried.

Section 14.

**Mr Crozier:** I move that subsection 29(5) of the Public Service Act, as set out in subsection 14 of the bill, be struck out.

**The Chair:** Mr Crozier, do you wish to speak to your amendment?

**Mr Crozier:** Just that when it suggests that the Regulations Act should not apply, we feel it should.

**Mr Wettlaufer:** We feel that the motion to strike subsection 29(5)—

**Mr Crozier:** Let’s say it adds flexibility.

**Mr Wettlaufer:** No. We feel it should remain in the bill. The regulation itself is subject to the Regulations Act.

**Mr Kormos:** The New Democrats support the amendment.

**The Chair:** Further debate? Seeing none, all those in favour of the amendment? Opposed? The amendment is lost.

Any further debate on section 14?

**Mr Kormos:** We are opposed to section 14 as it stands.

**The Chair:** Shall section 14 carry? Section 14 is carried.

Section 15.

**Mr Wettlaufer:** I move that subsection 33(1) of the Public Service Act, as set out in section 15 of the bill, be struck out and the following substituted:

“Criminal conviction or discharge considered conclusive evidence

“(1) If a public servant is convicted or discharged of an offence under the Criminal Code (Canada) in respect of an act or omission that results in discipline or dismissal and the discipline or dismissal becomes the subject matter of a grievance before the Public Service Grievance Board, proof of the conviction or discharge shall, after the time for an appeal has expired or, if an appeal was taken, it was dismissed and no further appeal is available, be taken as conclusive evidence that the public servant committed the act or omission.”

This is in line with the Criminal Code. The amendment brings the provisions consistent with subsection 22(1) of the Ontario Evidence Act.

**Mr Kormos:** While I appreciate the purpose of the amendment, New Democrats believe that this section is designed to defeat the litigation currently before the Court of Appeal, to circumvent that judgment, which I don’t believe we are even aware of yet. I think there has been a reserved judgment. Quite frankly, New Democrats would have preferred to have heard that judgment. That would have determined what the state of the law was in Ontario at least. If that judgment was one which said, “Proof of conviction is in and of itself complete evidence of a commission of an act,” as this bill purports to say, then I would have lived with the law in that regard. I think it’s entirely inappropriate for the government to circumvent an appeal court judgment before that judgment is even rendered or made public. We are therefore opposing this amendment and this section and the intent.

**The Chair:** Any further debate? Seeing none, I’ll put the question on the amendment. All those in favour? Opposed? The amendment carries.

**Mr Wettlaufer:** I move that subsection 33(2) of the Public Service Act, as set out in section 15 of the bill, be struck out and the following substituted:

“Adjournment pending appeal to be granted

“(2) If an adjournment of a grievance is requested pending an appeal of a conviction or a discharge mentioned in subsection (1), the Public Service Grievance Board shall grant the adjournment.”

**The Chair:** Further debate? Seeing none, all those in favour? Opposed? That amendment carries.

**Mr Kormos:** I move that section 34 of the Public Service Act, as set out in section 15 of the bill, be amended by striking out “person” wherever it occurs and substituting in each case “public servant.”

The purpose of this is to maintain the integrity of the public service.

**Mr Levac:** We in the Liberal caucus would support that amendment.

**Mr Wettlaufer:** We don't agree with the proposed amendment.

**Mr Crozier:** Any reason why?

**Mr Wettlaufer:** Security measures are already in place to protect the privacy of personal employee information, and the bill contains provisions to ensure human resources information is collected, used and disclosed only to the extent necessary. It restricts the use of contractors whose services may be required for efficient and effective administration.

1610

**The Chair:** Any further debate? Seeing none, all those in favour of the amendment? Opposed? The amendment is lost.

As you know, we've already dealt with Mr Kormos's motion number 18, which was carried.

Shall section 15, as amended, carry?

**Mr Kormos:** The New Democrats are opposed to section 15 as it stands.

**Mr Wettlaufer:** Is there any part that you agree with?

**The Chair:** OK, I'll ask the question again. Shall section 15, as amended, carry? Section 15, as amended, is carried.

Section 16.

**Mr Wettlaufer:** I move that paragraph 1 of subsection 1.1(3) of the Crown Employees Collective Bargaining Act, 1993, as set out in section 16 of the bill, be struck out and the following substituted:

"1. Members of the Ontario Provincial Police and public servants who either are instructors at the Ontario Police College or who are under the supervision of the commissioner of the Ontario Provincial Police or of the chief firearms officer for Ontario and who are represented by the Ontario Provincial Police Association for purposes of collective bargaining."

**The Chair:** Further debate? Seeing none, all those in favour of the amendment? Opposed. It carries.

Further debate on section 16?

**Mr Kormos:** New Democrats are opposed.

**The Chair:** Shall section 16, as amended, carry? It is carried.

Section 17. Any debate?

**Mr Kormos:** New Democrats are opposed to section 17.

**The Chair:** Shall section 17 carry? Section 17 is carried.

Section 18.

**Mr Wettlaufer:** I move that subsection 48.1(1) of the Crown Employees Collective Bargaining Act, 1993, as set out in section 18 of the bill, be struck out and the following substituted:

"Criminal conviction or discharge considered conclusive evidence

"(1) If a crown employee is convicted or discharged of an offence under the Criminal Code (Canada) in respect of an act or omission that results in discipline or dismissal and the discipline or dismissal becomes the subject matter of a grievance before the Grievance Settlement Board, proof of the employee's conviction or

discharge shall, after the time for an appeal has expired or, if an appeal was taken, it was dismissed and no further appeal is available, be taken by the Grievance Settlement Board as conclusive evidence that the employee committed the act or omission."

**The Chair:** Further debate?

**Mr Kormos:** We oppose the amendment because we oppose, of course, the section being amended. Once again, this is a matter that's before the Court of Appeal. The Court of Appeal is deciding precisely that; whether or not proof of the conviction is in itself conclusive evidence that the person convicted committed the act or omission. I am prepared to live with what the Court of Appeal says but, until we decide that, I believe it's premature and inappropriate for this type of amendment or the section that its amending to be proposed by the government or anybody else.

**Mr Wettlaufer:** The term "discharge" is not an acquittal. Those who commit an offence are as guilty if they've been discharged as they are if they have been convicted. We feel the amendment brings the provisions consistent with section 22(1) of the Ontario Evidence Act.

**The Chair:** Further debate? Seeing none, all those in favour? Opposed? It is carried.

**Mr Wettlaufer:** I move that section 48.1(2) of the Crown Employees Collective Bargaining Act, 1993, as set out in section 18 of the bill, be struck out and the following substituted:

"Adjournment pending appeal to be granted

"(2) If an adjournment of a grievance is requested pending an appeal of a conviction or a discharge mentioned in subsection (1), the Grievance Settlement Board shall grant the adjournment."

**The Chair:** Further debate? Seeing none, all those in favour? Opposed? The amendment is carried.

Further debate on section 18?

**Mr Kormos:** New Democrats are opposed to section 18.

**The Chair:** Shall section 18, as amended, carry? Section 18, as amended, is carried.

Sections 19 and 20. Any debate?

**Mr Kormos:** I just want to make it quite clear; obviously by the time we've voted on the matter of clauses or sections 19 and 20, and then I trust on the full title, that's it. It's over with.

I want to indicate to you that New Democrats are very concerned about this Bill 25, the tone of the bill and quite frankly what the intent of the bill is. We believe very strongly that the bill is the process of paving the way for further and, at the end of the day, what amounts to almost complete privatization of what we now hold and should hold in high regard, that is to say, our public service, those public service workers who serve us in any number of communities, probably every community in the province, and in so many different ways. New Democrats condemn this agenda of the privatization of public sector jobs. We condemn what is an attack on the public service.



There was, during the brief debate around second reading of this bill, some rather thorough analysis of why an independent, professional public service is critical to, among other things, a democratic society. I regret to tell you that I believe this government will realize, down the road, and subsequent governments will rue the day when this government took actions like it's taking in the course of Bill 25.

New Democrats have a high regard for the public service. We do everything we can to support it. We have aligned ourselves very clearly with OPSEU—the Ontario Public Service Employees Union—their membership and their leadership, Leah Casselman. I'm proud of that association with OPSEU and its leadership.

We will be opposing this bill on both sections 19 and 20 and on the full title vote here in committee.

As you know, Chair, the government has moved time allocation once again to force this bill through. The process of public hearings was deplorable. There clearly was but one brief period in an afternoon to hear from people. I simply want to register with you and with the other members of this committee our strongest possible concern about this bill, about its intent, about what it will do in the most negative way, and indicate that New Democrats are opposing it here in committee as well as on third reading.

**Mr Crozier:** Considering brevity, I can say now that we, the Liberal caucus, oppose all the sections of this bill, oppose the bill itself and will oppose and speak to that on third reading, notwithstanding the fact that time will be very limited.

When I had my opening remarks on Bill 25, I went to some length to give the history of the public service, not only to understand chronologically how the public service came about, but why it came about. As I spoke at that time, and again very briefly today, I feel anything that allows the move toward privatization, which I think this is, demeans the public service and, just as importantly, opens the government up to influence by those who the Premier has often said he would not be influenced by, and those are special interests. Those special interests will want to fill the void that's going to be left by taking away the responsibility and accountability of the public service.

It wasn't just by mistake that the public service was formed. It was formed because the political influence that was brought to bear on governments came to the point where there was so much patronage historically in the system that, in my view, something had to be done. I regret that I see this bill as a move away from that and therefore I think is a step backwards. Those, among all the reasons that we gave in debate at second reading, are the reasons we feel we cannot support this bill in its entirety.

1620

**Mr Levac:** I want to echo and maybe reinforce in another direction Mr Crozier's comments. One of the bedrocks of our democracy is to ensure that no one particular group ever dominates to the degree that would

bring harm to our communities. The concern I will lay out here is that we may end up seeing that happen; maybe by default but I would hope not by design.

There's a report from the Task Force on Public Service Values and Ethics. What I fear is happening is the slow erosion of that. Their foundation is based on getting the best and most honest advice from the public service "in the public interest even if it is not what the government of the day wants to hear." In a quotation to this foundation that's been provided in a report, on pages 47 to 49, public servants feel the overriding fact to "speak the truth to power." What I fear may be happening in this bill, save and except the argument that it provides for flexibility, is that we are shifting that speaking of the truth to power and inevitably what I believe may be happening is that when you put different people in there, not having the public servant as the base, you may not be hearing "speak the truth to power." What we may see a shift to is "speak to what one wants to hear."

If that does take place, then we will not be served as what the public service is all about and we may indeed find ourselves down a slippery slope of renewing what was happening before the public service was put in place. I fear it would take too long a time to reassemble that. We see that happening in the teaching profession, we see that happening in the nursing profession. As much as everyone is now standing up and saying, "We value you," it's too late. There are an awful lot of people who will not return, who have not returned and have made statements to the same fact that, "Because you didn't value us in the first place, we're not coming back."

My caution is based on a concern that history has taught us that the creation of the public service was for the good of the citizenry, not for the good of the government. Therein lies my concern about Bill 25, save and except the concerns I laid out in my previous statement to Mr Adkin regarding the membership having the freedom to choose its association as long as road barriers are not put up to discredit that in any way, shape or form; and my discussions with local OPPA members that there are pieces of evidence that make it very clear that within this particular bill are probably areas that we can accept as changes to the public service, that are broad enough to be accepted by many.

I do have a question of clarification, Chair, if I may. We have received in our packages on Bill 25, I believe, an exhibit that was put on our desk after clause-by-clause, exhibit 203009, filed on June 18, 2001. Is that after the date on which submissions are provided? I don't have my general government note with me in terms of the subcommittee report, Mr Chairman. While you're looking that up, if it's within that date, that time frame, I accept the report, and if it's not, I respectfully suggest that it should be removed and destroyed.

**The Chair:** It has been the practice of committees to continue to circulate information after bills. They just don't form part of the consideration as each committee is drafting their proposed amendments.

**Mr Levac:** I understand. Thank you.

**The Chair:** I can tell you, even with Bill 159, which you will recall we held hearings on back in February, last week I had another submission directed to me in my capacity as Chair.

**Mr Levac:** I just don't know the process.

**The Chair:** It's a fair question, Mr Levac. The reason for putting the deadlines in place is to be fair to all three parties, that you have the benefit, circulated from the Chair, of whatever submissions have been received in a timely fashion to allow you to craft amendments for today. If anyone chooses to miss those deadlines, it's still information we think is appropriate to every member of the committee, but obviously they've missed the opportunity to have their input before an amendment is crafted.

**Mr Levac:** I understand how it works. Thank you, Mr Chairman. I appreciate that.

**The Chair:** Any further debate?

**Mr Wettlaufer:** There will be ample opportunity to debate this when it comes up for third reading, but I think it's important to mention to every member of the committee right now that our government has felt right from day one in 1995 that it's necessary to re-engineer government for the 21st century, and we're in it now, of course. We need to harness the expertise that puts government, no less than business, on the cutting edge. Because of that, we feel that this legislation here and the amendments incorporated will make the public service stronger, more flexible and responsive to the needs of the taxpaying public.

**The Chair:** Further debate? Seeing none, shall sections 19 and 20 carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 25, as amended, carry?

**Mr Kormos:** Recorded vote, please.

#### Ayes

Dunlop, Galt, Miller, Wettlaufer.

#### Nays

Crozier, Kormos, Levac.

**The Chair:** Bill 25, as amended, is carried.

Shall I report the bill, as amended, to the House?

**Mr Kormos:** Recorded vote, please.

#### Ayes

Dunlop, Galt, Miller, Wettlaufer.

#### Nays

Crozier, Kormos, Levac.

**The Chair:** I shall report the bill, as amended, to the House. Thank you very much for your input on that.

## HIGHWAY TRAFFIC AMENDMENT ACT (OUTSIDE RIDERS), 2001 LOI DE 2001 MODIFIANT LE CODE DE LA ROUTE (PASSAGERS À L'EXTÉRIEUR D'UN VÉHICULE)

Consideration of Bill 33, An Act to amend the Highway Traffic Act to prohibit persons from riding on the outside of a motor vehicle / *Projet de loi 33, Loi modifiant le Code de la route pour interdire à des personnes de circuler à l'extérieur d'un véhicule automobile.*

**The Chair:** We will now move into the second order of business before us here today, and that will be clause-by-clause consideration of Bill 33, An Act to amend the Highway Traffic Act to prohibit persons from riding on the outside of a motor vehicle. The clerk did send copies of the amendments out, but if anyone—

*Interjection.*

**The Chair:** The copy I have has three amendments. Is that correct?

**Mr Doug Galt (Northumberland):** There are three amendments. That's right.

Unfortunately for the parliamentary assistant to the Minister of Transportation, there are two bills going to hearings today, as was last Monday afternoon, but I'm quite comfortable putting the motions forward, Chair, if you'd like to proceed.

**The Chair:** Please do.

**Mr Galt:** Just a quick comment before I put them—

**The Chair:** Before we do, I guess I'll invite input on section 1 of the bill.

**Mr Galt:** Basically, and I'll put it into the record, thanks to all the committee members that were here last week for their unanimous support of the direction. Basically what I'll be reading in is the same intent going into a different section of the bill, but accomplishing the same, as well as riding in trailers.

I move that section 1 of the bill be struck out and the following substituted:

"1. The Highway Traffic Act is amended by adding the following section:

"Riding in back of trucks prohibited

"188.1 (1) No person shall drive a commercial motor vehicle on a highway while any person occupies the truck or delivery body of the vehicle.

"Same

"(2) No person shall occupy the truck or delivery body of a commercial motor vehicle while the vehicle is being driven on a highway.

"Riding in trailers prohibited

"(3) No person shall drive a motor vehicle on a highway while any person occupies a vehicle being towed or drawn by the motor vehicle.

"Same

"(4) No person shall occupy a vehicle being towed or drawn by a motor vehicle on a highway.

"Identification of passengers

“(5) Where a police officer or officer appointed for carrying out the provisions of this act believes that a person is contravening subsection (2) or (4), the officer may require that the person provide identification of himself or herself.

“Same

“(6) Every person who is required to provide identification of himself or herself under subsection (5) shall identify himself or herself to the officer by surrendering his or her driver’s licence or, if he or she is unable to surrender a driver’s licence, by giving his or her correct name, address and date of birth.

“Power of arrest

“(7) A police officer may arrest without warrant any person who does not comply with subsection (6).

“Regulations

“(8) The Lieutenant Governor in Council may make regulations,

“(a) exempting any person or class of persons and any vehicle or class of vehicles from subsections (1), (2), (3) and (4);

“(b) prescribing conditions for the exemptions; and

“(c) prescribing the circumstances in which the exemptions are applicable.

“Same

“(9) A regulation may prescribe different conditions and different circumstances for different classes of persons or vehicles.”

#### 1630

I think basically what we’re seeing here is how legislative counsel drew it up first, sort of looking at it under seat belt legislation, and when the ministry looked at it, it would make more sense, according to them, under the Highway Traffic Act, to come in under a towing section. There’s a section already there about the towing of bicycles or toboggans behind cars or trucks. Also, there is a section about boats and house trailers, which you’re not to ride in. This is tidying up all trailers and riding in all trucks.

That is the basis of that motion and the core of this particular bill. I look forward to comments from other members of the committee or possibly from staff, if there are any questions to staff.

**The Chair:** Any further debate?

**Mr Crozier:** It’s my understanding that we support this bill of Mr Galt’s and I’m sure we’ll continue to do that. At the risk of being told, “You just don’t understand,” I’ll ask it anyway. In about the third or fourth sentence, after “188.1,” “No persons shall drive a commercial motor vehicle on a highway while any person occupies the truck...” If I stop there, how can you drive it on a highway and not occupy it?

**Mr Galt:** I may have to go to staff to explain that.

**Mr Crozier:** And the next one is the same. It says, “No person shall occupy the truck or...,” and then it goes on. I’m wondering if it shouldn’t say “occupies the truck delivery body of the vehicle.”

**Mr Galt:** Mr Ward, could you come forward? Is that in order, Chair?

**Mr Crozier:** It’s that word “or” that is confusing to me.

**Mr Galt:** I have to bow to legal terminology. At the time, last week, we talked about the bed of the truck—just as long as it’s properly worded.

**The Chair:** Perhaps you could just introduce yourself for the purpose of Hansard.

**Mr David Ward:** I’m David Ward of the road user safety branch of the Ministry of Transportation.

**The Chair:** Welcome.

**Mr Ward:** Thank you. If you read that motion as one full sentence without stopping or breaking, the intent of that is to talk about truck bodies and delivery truck bodies as one. So the intent is to capture the body of a truck as well as the body of a delivery truck. That was the way it was written.

**The Chair:** Can I just ask you—Mr Crozier didn’t have the benefit of our earlier discussion—if you can confirm or contradict this. We were told all pickup trucks are defined as commercial vehicles, so when they use the term “truck”—I believe that captures the truck body—that is designed to capture not just big commercial vehicles such as you and I as laymen might envision but even pickup trucks.

**Mr Crozier:** Even if that’s the case, how can you drive it without occupying it? It says, “No person shall drive a commercial vehicle on a highway while any person occupies the truck...” You may want me to continue on, but it does say “or,” so I propose that it can be taken as two separate sentences or two separate flows of thought. I’m not trying to be difficult. I’m just saying that when that word “or” pops up in there, it means one thing or another. I don’t know how you can drive a commercial vehicle if you don’t occupy it; or, in the next one, if no person can occupy the truck, I don’t know how it can be driven on the highway.

**Mr Galt:** So would you be more comfortable if after “truck” we said “body” or “delivery body”?

**Mr Crozier:** No. I’m thinking that if I were reading it, and thank goodness I’m not a lawyer reading it, I would remove the word “or.”

**Mr Galt:** I see what you’re suggesting.

**Mr Crozier:** Yes, that it’s a truck delivery body, or a truck delivery body, blah, blah. I’m not going to belabour the point. If a lawyer tells me that’s the way it should be—

**The Chair:** Perhaps we could ask Mr Ward if there is a consistency with the use of this terminology elsewhere in the Highway Traffic Act already.

**Mr Ward:** Yes, I would suggest that it is consistent with other parts of the Highway Traffic Act. The way that provision is written, “No person shall drive a commercial motor vehicle on a highway while any person occupies the truck,” this section is not referring directly to the driver of the vehicle; it’s referring to another person who occupies the truck and/or the delivery body. That first offence—

**Mr Crozier:** In the first one it says it says “drive.”

**Mr Ward:** “No person shall drive” the vehicle, “a commercial motor vehicle on a highway,” and then it goes on to say, “while any other person occupies the truck or delivery body of the vehicle.” So it’s in fact dealing with the third party there.

**Mr Crozier:** Have you just put another word “other” in? You just said, “Any other person.”

**Mr Ward:** “Any person.”

**Mr Crozier:** Again, I don’t know how you could drive the truck if there was somebody in the passenger seat. That’s another person.

**Mr Galt:** Is there a definition of “truck”? Does that mean the delivery part of it?

**Mr Ward:** If we took the word “or” out and put “while any other person occupies the truck or delivery body of the vehicle,” does that capture it?

**Mr Crozier:** “While any other person occupies a truck delivery body,” just taking the word “or” out.

**Mr Ward:** I think when we were envisioning a delivery body we were trying to capture the group who might be riding in the back of the cube van.

**Mr Crozier:** Yes. I understand what you’re after. We won’t belabour this beyond 6 o’clock.

**Mr Galt:** Just as long as it says what we want it to say.

**Mr Crozier:** I understand exactly what you want it to say.

**Mr Norm Miller (Parry Sound-Muskoka):** It’s under “Riding in back of trucks prohibited.”

**Mr Galt:** It is a good point. There is a heading.

**Mr Miller:** The title of it is “Riding in back of trucks prohibited.” That covers it. I agree with you, though.

**Mr Ward:** I think what legislative counsel may have done, if I may, is taken the current definition of a commercial motor vehicle out of the Highway Traffic Act, which is verbatim, and transferred it to the motion in this bill. So we already have the definition of a commercial motor vehicle meaning “a motor vehicle having permanently attached thereto a truck or delivery body.”

So it’s verbatim as per the definition, the current wording of a commercial motor vehicle.

**Mr Galt:** So in that way you’re referring back to the definition of “truck,” which should be OK.

**Mr Ward:** Right, because the commercial motor vehicle is already defined in this other section of the act and it’s consistent with that definition.

**Mr Galt:** I’m reasonably comfortable with it now.

**Mr Crozier:** Point made.

**The Chair:** Loath as I am to enter into the debate, would adding the word “body” after “truck” not make it clear, to address the point raised by Mr Crozier: the “truck body or delivery body”? If our worst sin is that it’s slightly duplicative, can we live with that, that it might address, as opposed to a truck “cab”—I think “truck body” would be clearly understandable. Mr Wettlaufer?

**Mr Wettlaufer:** Chair, are you suggesting that legalese is not proper English?

**The Chair:** We have entire commissions set up to deal with that question.

**Mr Crozier:** We know what we want to do. We just don’t want some lawyer grabbing it and saying, “Well”—

**Mr Galt:** As the Chair suggested, if we put “body” in there, what harm would it do?

**Mr Ward:** The only thing is, it may create an inconsistent application with our current definition of “commercial motor vehicle,” which is what I just pointed out. So in the interest of consistency, I think it might be wise for us to be consistent with our current definition of the act.

**The Chair:** OK. Thank you.

**Mr Levac:** Having said what you just said, can we take a look at the consistency of the present law, if it states the same thing, as to whether or not your department or the legal department feels that it does answer what Mr Crozier is bringing to our attention today? If it does do that, then I’m assuming you would be able to make that change somewhere down the line to satisfy that.

I personally will weigh into this and say, if I read this the way I read in terms of the use of English, I can say that it says “the truck,” and in terms of what the Chairman offered and everything else. If it’s to maintain the consistency, can we take a look at both of those?

**Mr Ward:** I think that’s fair.

**The Chair:** Thank you. Any further debate? Seeing none, I’ll put the question on the—

Sorry. Mr Miller?

**Mr Miller:** Just in that same section, the use of the word “highway.” Previously, I believe, you had a speed in mind.

**Mr Galt:** We’ve removed all exemptions and they will appear after some consultation as a regulation. That’s the intent.

1640

**Mr Miller:** So it could apply to a secondary road as well?

**Mr Galt:** As I understand, the definition of a highway is all commercially travelled roads, which is gravel roads, paved roads, the 401.

**Mr Ward:** Yes, a generic term.

**Mr Galt:** It’s anything that is a public roadway.

**Mr Crozier:** I just hope that on September 1, when the Harrow Fair opens and I ride in the back of that little red truck, some police officer doesn’t come and get me, that’s all.

**Mr Galt:** Some of the thinking, and I appreciate your comment, has to do with parades. Most parades are approved by the local council. I think similarly we can come up with—I’m going to meet with the Farm Safety Association and the Ontario Federation of Agriculture to look at an agricultural exemption etc. Garbage trucks, as municipal vehicles, need to be looked at, fire trucks etc.

**Mr Levac:** That is covered off, as was told to us from this perspective by, I believe, regulation 8(c), describing the circumstances in which the exemptions are applicable. In that discussion it was believed that by taking the exemptions out of the original proposal, it would provide us not only with these bills’ exemptions but with the time

it takes to get the exemptions fleshed out, to speak to Mr Crozier's issue.

**Mr Galt:** Just to help Mr Crozier, the suggestion was that it would be helpful if this received third reading and royal assent at the end of this month and then the ministry could do some advertising. This has gone through. However, it's not proclaimed until the regulations would be in place in the fall. So the time frame, the time thinking was that this would be through by the end of June and then the exemption and regulation wouldn't come into effect, or the whole thing wouldn't come into effect, until the end of the calendar year. So you're safe for the fair.

**Mr Crozier:** I'm safe for the parade. OK.

**The Chair:** Any further debate? Seeing none, I'll put the question on the amendment. All those in favour? Opposed? The amendment carries.

Shall section 1, as amended, carry? Carried.

Section 2:

**Mr Galt:** I move that section 2 of the bill be struck out and the following substituted:

"Commencement

"2. This act comes into force on a day to be named by proclamation of the Lieutenant Governor."

As we were just talking about a few minutes ago, this has to do with the consultations. We decided last Monday that it probably would be a wise idea to meet with various groups. I was struggling with these exemptions, and it's very difficult to come up with something that's agreeable. We were looking at an agricultural one, for example, to be at 60 kilometres, and a lot of people really disagreed with that kind of speed, that it should be less than that, moving from one farm to another with people in the back of a half-ton. So let's have a chat with the people who are really out there in the field, so to speak, and we'll come up with some sort of agreement and bring these forward in the fall.

**The Chair:** Further debate? Seeing none, I'll put the question. All those in favour of the amendment? Opposed? The amendment is carried.

Shall section 2, as amended, carry? Carried.

Section 3:

**Mr Galt:** There's a slight modification here from the original intent. First, I'd better put it forward.

I move that section 3 of the bill be struck out and the following substituted:

"Short title

"3. The short title of this act is the Jay Lawrence and Bart Mackey Memorial Act (Highway Traffic), 2001."

Originally we talked about it being the Jay and Bart clause, but I think it has a little more meaning—it was a suggestion from the ministry—to be a memorial act. I think the parents of both young men would appreciate that.

**The Chair:** Any debate? Seeing none, I'll put the question. All those in favour of that amendment? Opposed? The amendment is carried.

Shall section 3, as amended, carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 33, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Agreed.

Thank you very much, and congratulations, Mr Galt, on your initiative making another step through the process.

**Mr Galt:** Thank you very much, Chair. Just a procedural question to maybe help me through this a bit, if you're clear on it. I've often seen some of the third readings go through on the last day or evening of the sitting. How is third reading of a bill such as this usually handled? What's my expectation from here?

**The Chair:** I think you would be best to discuss the matter with the House leader, who in turn would speak to her two counterparts in the other two parties. Normally, if it was to be accorded that, you might have time for a brief statement and that would constitute third reading.

I thank all the committee members. With that, the committee stands adjourned until Wednesday at 3:30.

*The committee adjourned at 1646.*





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