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Wednesday 11 June 2003

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des débats
(Hansard)**

Mercredi 11 juin 2003

**Standing committee on
regulations and private bills**

**Comité permanent des
règlements et des projets
de loi d'intérêt privé**

Chair: Rosario Marchese
Clerk: Trevor Day

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS**

**COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ**

Wednesday 11 June 2003

Mercredi 11 juin 2003

The committee met at 1005 in committee room 1.

**SOCIETY OF PROFESSIONAL
ACCOUNTANTS OF ONTARIO ACT, 2003**

Consideration of Bill Pr6, An Act respecting the Society of Professional Accountants of Ontario.

The Chair (Mr Rosario Marchese): I would like to call the meeting to order and welcome everyone. There seems to be a great deal of interest in the issue that we're about to deal with. We're dealing with Bill Pr6, An Act respecting the Society of Professional Accountants of Ontario. The sponsor of this bill is Raminder Gill.

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale): Chair and members of the committee, I'm pleased to be a sponsor of this private member's bill. As members would know, any body that wants to bring forward a bill has to be sponsored by a member. I'm pleased to be sponsoring it, which in no way is yea-or-nay support on my part; I'm here to present the bill. As we can see, there are several interested parties here and I'm sure they'll be happy to bring it forward and answer any questions.

Today I happen to be a member of the committee as well. So with your permission, I will go back to my chair and listen to the proceedings.

The Chair: Very well. Thank you, Mr Gill. We'll call the applicants: William Nichols, Zubair Choudhry, Bernie DiVona and Louise Pelly. If you would just introduce yourselves as you speak, for the purposes of Hansard, so that we know who you are.

Mr William Nichols: Good morning, ladies and gentlemen. My name is William Nichols. We appreciate the opportunity to share our aspirations with you and we look forward to your support.

I'm president of the Society of Professional Accountants of Ontario. I served as director of finance and secretary-treasurer for Markham Hydro Electric Commission, the 10th-largest municipal utility in Ontario. I also served there as acting general manager.

I should first like to convey our thanks and appreciation on behalf of the board to Mr Raminder Gill, MPP, for sponsoring Bill Pr6. I am pleased to introduce to the committee Bernie DiVona, Zubair Choudhry, and Louise Pelly, who is our litigation expert.

The proposed private bill would continue the Society of Professional Accountants of Ontario as a corporation without share capital, but more importantly will give the society much-needed tools in its ongoing efforts to regulate and discipline its members, and most importantly to regulate its designation, "RPA."

The Society of Professional Accountants of Ontario has been established as the Ontario zone of the Canadian Institute of Accredited Public Accountants since 1978. The Canadian Institute of Accredited Public Accountants was first created in 1938. The designation RPA has been in use since in 1989 and the society was registered originally under the Partnerships Act.

After re-registration was declined, efforts were made to secure statutory incorporation by private bill. Since this was not forthcoming by the close of the year 2001, the society was incorporated in January 2002 as an Ontario corporation by letters patent without share capital.

Enacting Bill Pr6, an Ontario statute, would provide the legal framework to regulate and discipline members as a self-governing profession in Ontario. The provincial statute would provide the society with the authority to regulate and discipline members designated as registered professional accountants, RPAs, as follows: only registered persons may purport to be a member; anyone who contravenes is guilty of an offence; authorizes the society to decide who is registered; inspect the practice of members who are practising; and discipline such persons for any breaches of professional ethics or for professional incompetence.

1010

The society has the knowledge and experience requirements that individuals must possess in order to become and remain members. Details are set out in the background material submitted in the package to your committee members at index 5.

The society currently has a legal basis for its designation RPA, but has authority only to seek redress in a civil court from an unregistered person who may use the mark RPA. The protection of this word mark is important to the society. As you will see at index 7 of the material that I submitted, the RPA designation is already recognized as a valid guarantor by the Ontario registrar of vital statistics and the federal passport office.

The civil process that is currently required is onerous and expensive. This bill will make protection of the word mark faster and more efficient.

The impact of enactment into the law of this province Bill Pr6 will provide improvement in professional standards, improvement in the credibility of the profession, protection of the title for those who have achieved standards, identification for the public of competent and ethical practitioners, and professional recognition.

Registered members will benefit from increased respect for the professional designation RPA, increased income for members, better quality of practice for practitioners, protection from unethical practitioners, and partial relief from joint and several liability.

Our members are not seeking to challenge the existence of the rights of other accountancy bodies in Ontario, and the bill expressly provides in subsection 11(2) that membership in the society does not include the right to practise as a public accountant. We are not seeking to establish a new accountancy body; rather, we're seeking to improve the accountability and recognition of a group established since 1978. No government resources will be required to finance the society.

In conclusion, the Society of Professional Accountants was granted a charter as a corporation by letters patent under the provisions of part II of the Canada Corporations Act on August 2, 1991. Members designated as registered professional accountants, RPAs, are eligible passport guarantors, and the Society of Professional Accountants participated on the committee to review the licensing of public accountants in June 1993 at the invitation of the Attorney General.

While the RPA credential is recognized by the Civil Service Commission in Ontario on the same basis as the CA, CGA and CMA credentials, the Public Service Commission of Canada will only recognize the credential if the organization is enabled to carry out its objects and govern and discipline its members under provincial legislation. The Society of Professional Accountants of Ontario was therefore incorporated as a corporation without share capital under the Corporations Act (Ontario), and is seeking continuation by way of a private bill in order to put the Society of Professional Accountants on the same basis as the other professional organizations.

The bill is necessary to grant the Society of Professional Accountants of Ontario the legislative authority to carry out its objects in Ontario and to govern and discipline its members.

The enactment into law of Bill Pr6, the Society of Professional Accountants of Ontario Act, 2003, will offend no existing legislation. Gentlemen and lady, we'll leave this matter in your hands and hope you will give active consideration to help us strengthen the viability of our organization. Thank you for providing me this opportunity to speak to the bill on behalf of our members. We now await questions on the bill from members of your committee.

The Chair: Thank you very much. We do have other interested parties who want to comment. We also have Mr DiVona, who would like an opportunity to speak as well.

For the purposes of some fairness, I will allow three interested parties to speak, then allow Mr DiVona to make some comments, and then we will have the Ministry of the Attorney General complete this process, assuming there are no other interested parties.

If you will permit other interested parties, I call the Institute of Chartered Accountants of Ontario to come forward. That would be Tom Warner and Peter Varley. Please identify yourselves again for Hansard.

Mr Tom Warner: I'm Tom Warner, vice-president and registrar with the Institute of Chartered Accountants of Ontario.

Mr Peter Varley: Peter Varley, vice-president of public affairs for the institute.

Mr Warner: I'd like to thank the committee very much for giving us the opportunity to appear this morning and to make a short presentation.

The Chair: My apologies. I didn't tell you how much time you have. I was quite willing to permit three minutes. We could stretch it a bit beyond, if we need to, but please try to keep it within that time frame.

Mr Warner: That should be sufficient.

The Chair: Very good.

Mr Warner: On behalf of the 33,000 chartered accountants and CA students in Ontario, I wish to express our strong opposition to Bill Pr6, An Act respecting the Society of Professional Accountants of Ontario. We have been on record over the years as opposing the incorporation of the Society of Professional Accountants of Ontario, which would allow its members to be known as "registered professional accountants" and to use the initials "RPA."

There are already three well-established accounting bodies in Ontario that provide for the entire spectrum of the public's needs and for access to membership in them for all who are qualified. We believe that the creation of an additional accounting body in the province will proliferate the number of designations, confuse Ontario citizens and businesses and mislead them into thinking that the standards of the proposed new body are similar to the three established bodies. Those bodies are: the institute, which awards the CA designation; the Society of Management Accountants of Ontario, which awards the CMA designation; and the Certified General Accountants of Ontario, which awards the CGA designation.

The Society of Professional Accountants of Ontario is not in the same category as any of these other three accounting bodies when the education, examination and experience requirements for qualification and the ongoing measures of management and regulating members in the public interest are considered. Its members being more like individuals who receive diplomas in accounting, the Society of Professional Accountants of Ontario does not require separate legislation.

In addition to our general opposition to the incorporation of the Society of Professional Accountants of Ontario, we have specific concerns about the measures contained within Bill Pr6. Subsection 6(b) of the bill

provides as one route for admission to membership without completing the normal RPA qualification program that an individual may hold “a licence to practise as a public accountant in any jurisdiction in Canada.”

Subsection 11(2) of the bill states, “The rights and privileges of a member of the society do not include the right to practise as a public accountant, as defined in the Public Accountancy Act, unless the member is licensed under the act.”

However, it is our submission that these provisions set the stage for future lobbying efforts by RPAs to seek recognition as a designated body for public accounting purposes under the Public Accountancy Act by claiming that some of their members who are “public accountants” are being unfairly denied access to licensing. RPAs have shown in the recent past through a written submission to the Red Tape Commission, which was reviewing the issue of access to public accounting in Ontario, that they aspire to be recognized through public accounting licensure in Ontario.

1020

With the recent passage of Bill 213, CMAs, CAs and CGAs will have access to the practice of public accounting in Ontario. We understand that one of the objectives sought with the passage of Bill 213 was to put an end to the decades-old dispute among these accounting bodies over who should have access to public accounting licensing in Ontario. Yet, it is likely that the adoption of Bill Pr6 will only open up a whole new round of lobbying on the part of a fourth accounting body with a new accounting designation.

We strongly urge that Bill Pr6 not be adopted for the reasons we have outlined today. Thank you.

The Chair: Questions of the interested party?

Mr Gill: Thank you for being here. One quick question: did words like “not in the same category” come forward before, perhaps when the CGAs or CMAs brought something similar forward?

Mr Warner: There are certainly differences between the existing three accounting bodies in terms of the requirements for obtaining each of the respective designations. Our submission is that the RPAs are considerably different from the other three in respect of their education, examination and experience requirements and that they are training people, in fact, at a much lower level in terms of the kinds of services they would be able to provide.

The Chair: Other questions? Seeing none, we thank you for your presentation.

We'll invite other interested parties: for the Public Accountants Council for the Province of Ontario, Mr LaFlair and Mr Lipton.

Mr Kevin Weber: Mr Weber, actually, from Mr Lipton's office.

Mr Peter LaFlair: Committee members, thank you very much for giving us the time to present our views on this act. We think that the subject matter affects public policy and it is contrary to the public interest in some ways. We also feel that it adversely affects the rights of

Ontario's professional accountants. As such, it might be more properly the subject of a public bill than something before this committee. That said, we did put our comments in writing and they are before you, I believe.

The Chair: Yes. Every member has it.

Mr LaFlair: We think that the RPA designation is currently used to indicate persons qualified to practise public accounting. Its use in Ontario by those not so qualified would mislead and confuse the public. In effect, this bill asks the Legislature to sanction the use of a “designation or initials indicating or implying that the person is licensed as a public accountant.” That particular wording comes from the current Public Accountancy Act. That means that people using a designation or initials indicating or implying they're licensed would be in contravention of the act, which is no doubt one of the reasons they are seeking this act. That provision is intended to protect the public from such misrepresentation and confusion. That's one of the reasons, the main reason, for our strong opposition to this bill.

The next part of our presentation sets out what the functions are of the council as set out by the Public Accountancy Act. It basically requires that persons who practise public accounting meet minimum qualifying standards and then sets out rules of conduct that govern the standard of practice in that profession. It then places the responsibility for that regulation on the licensed members of the profession.

Anybody who's preparing financial statements that are going to be used outside of an organization is required to have a licence, but anyone now can produce financial statements that aren't for use outside of the organization. So you don't have to be licensed. There's no restriction against any of these people from currently performing such work.

The council is responsible for prosecuting persons who aren't licensed who use the name or title of public accountant, or its equivalent, or hold themselves out as public accountants, or use any designation or initials implying or indicating that they are licensed.

As was mentioned previously, there are the three existing bodies. Each is part of a national organization. Each has its own different set of recognized professional standards. I guess we don't believe the public policy reason has been demonstrated to justify a further accounting designation. We don't see a demonstration of a recognized distinct scope of accounting activity that requires licensure and protection. The request for such a grant implies the existence of current government regulation oversight and responsibility over this kind of activity, but there isn't any. There's no restriction. Any person may produce and report on that information for private use.

As best we can determine, the sole reason for this incorporation is to assist people who have not met the standards of the CAs, CGAs or CMAs, but nonetheless wish to represent to the public that their training, experience and education has been examined and deemed

worthy of government recognition. That would, in the eyes of the public, perhaps give them some equality.

This designation they seek would be easily confused with titles used currently in the United States of America, which designates people who are qualified to practise as public accountants. The majority are CPAs in the States—certified public accountants—who use the designation CPA. But there are also PAs, RPAs and LPAs to indicate qualified public accountants. They have licensed public accountants who use PA, RPA, APA, AP and LPA. In fact, there are some jurisdictions, including, I believe, New York, which specifically say you can't use RPA because you're not licensed. There is confusion, and they've tried to avoid it through their legislation.

As you're probably aware, users of financial information have a wide variety of backgrounds, sophistication and understanding of what they're getting. The general public, however, lacks the knowledge necessary to make an assessment of the accuracy of performance that someone who is a director of a public company, for instance, might have.

The Chair: Mr LaFlair, I'm going to ask you to wrap it up as soon as you can.

Mr LaFlair: OK. I think, then, what we see is that this act would also bring a liability on to current professional accountants—the CAs, the CGAs and the CMAs. They are all professional accountants. They can no longer call themselves professional accountants who are registered with either the CAs, CMAs, CGAs, or licensees. They're registered as licensees. They could no longer call themselves registered professional accountants, and we think that that takes away one of their rights.

I think some of the historical background is there. There are also copies of previous submissions we've made, which indicate that we've been concerned with this for some time.

Have I missed anything, Kevin?

Mr Weber: Not at all, Peter. But the two main points to be made are:

(1) The term "professional accountant" simply means an accountant who practises for reward, and "registration" simply means being registered with an organization. In that, there are currently thousands of registered professional accountants in the province. They all have the right to use that designation. This bill would take that right away from them and give it to a much smaller group of people. So right away, it's something affecting thousands of people, not simply a small designated group, as is appropriate for this sort of bill.

(2) It does create confusion. The terms CA, CMA and CGA, by the simple fact that they don't have a "P" before the "A," can't possibly be confused with the term "public accountant" and can't possibly create an exception to the rule in 24(1)(c) of the Public Accountancy Act, which prevents people from using confusing designations. By having an RPA, that can easily be misread by someone who is not familiar with the regime to mean "registered public accountant." In effect, this would create an exception to a section in the Public

Accountancy Act which is designed to protect the general public. Now we've gone beyond the few thousand people who are currently accountants. We're dealing with something that affects the general public of Ontario.

The Chair: Thank you, Mr Weber. Questions of the interested parties by any member? Seeing none, we thank you.

1030

Mr David Hipgrave: Good morning. I'm David Hipgrave, president and CEO of the Society of Management Accountants of Ontario. Thanks for the opportunity to appear before this committee. I believe there is a letter that we sent to the clerk of the committee which has been distributed to committee members.

The Society of Management Accountants is a professional association responsible for the accreditation, regulation and continuing professional education of certified management accountants in Ontario. The society currently has 15,000 certified members and 3,500 candidates in the province. We are an integral part of CMA Canada, which has 44,000 members across Canada and around the world. We have a tradition of taking a leadership role on issues affecting the accounting profession. As a professional organization, we strive to ensure that the positions we take on various issues reflect what we feel is in the public interest. This was our position in reviewing and commenting on the issue of incorporation of the Society of Professional Accountants in previous years, and it is unchanged today.

Today, I wish to respectfully express the society's opposition to the application by the Society of Professional Accountants of Ontario for special legislation to enable it to grant the designation Registered Professional Accountant, RPA. Our opposition is based on three primary reasons: first, fair access to the profession; second, full coverage of marketplace needs; and third and last, undue risk of public confusion. Let me briefly expand on these three points.

Fair access to the profession: the Society of Management Accountants of Ontario believes that currently there are no arbitrary or unreasonable barriers to entry into the accounting profession in Ontario. While each of the three existing bodies—the Certified General Accountants Association, the Institute of Chartered Accountants and the Society of Management Accountants—has varying entry requirements, none imposes conditions or requirements that would make a fourth accounting body necessary.

Full coverage of marketplace needs: the Society of Management Accountants believes that the three existing bodies provide a full range of accounting and business advisory services to businesses of all types and sizes. The breadth and depth of services available to all organizations, including small businesses, do not make a fourth accounting body necessary.

Undue risk of public confusion: the Society of Management Accountants of Ontario is concerned that if this application were successful, it could lead to confusion about the very different roles and accreditation processes

of what would be two accounting societies in Ontario. In addition, the Society of Management Accountants is also concerned that the public may believe that the Society of Professional Accountants is an umbrella group representing all professional accountants in Ontario, which of course it is not.

On behalf of the Society of Management Accountants and our 18,500 members across Ontario, I would like to restate our strong opposition to this application. Thank you.

The Chair: Thank you very much. Questions of the deputant? Seeing none, we thank you.

We call back Mr DiVona, and Mr Choudhry as well, if you'd like to come back in case members have questions for you. I've forgotten to ask that questions of the members before.

Mr Bernie DiVona: Good morning, Mr Chair, members of the committee. My name is Bernie DiVona. I am a registered professional accountant in Ontario. I want to come here on my own accord to support the proposed legislation.

Very briefly, I'd like to use myself as an example of why I support this legislation and why, in fact, I think it's necessary, appropriate and in the public's best interest in Ontario. I'm a registered professional accountant. I got my first designation, a BA in economics and commerce at the University of Toronto, right across the street. I also have a master's in business administration. I am currently the budget chief of the city of Vaughan, chairman of the audit committee of the city of Vaughan, chairman of the library board finance committee, chairman of the finance liaison committee and immediate past chairman of Vaughan Hydro Electric Commission, the sixth-largest utility in Ontario. On a daily and a regular basis I deal with each of the other professional associations in Ontario in my elected capacity. Therefore, the argument I have heard today and previously in correspondence that we are considerably different, I respectfully submit that in fact by my own interaction and the quality of the work we do, myself and others of our committee do, we currently already do exist. We in fact exist in government, non-government, businesses, consulting and many different parts of our society. We have a role. We currently exist and we provide these services. In fact, not only do we provide these services in Ontario, we actually provide these services in many provinces throughout Canada.

The point I wish to make, if I could, in terms of the education and qualifications and the rest, is that it was as onerous as any other association. In fact, we even have an education committee to that end. We have our committee chairperson here today, if you'd like to ask that person questions. I find that important because when someone makes the argument that we should have fair access, I respectfully submit that the general purpose of this legislation is really basic. It actually says that we wish the right to exist on equal footing as anybody else. We would like, therefore, to provide fair access to those who come to our country who have foreign educations,

foreign designations and experience, to be immersed within the Canadian establishment, be immersed within Canadian business and provided an opportunity to practise.

Are we asking for anything different than any other accounting association in Ontario? We respectfully submit not. Each of the other three accounting associations have had a long history. CAs, to be honest with you, objected to the formation of those other associations, yet they've grown and prospered and provided a benefit. The law says everybody has a right to access, right to exist. That's what this legislation does.

When someone makes a comment that there are three associations in Ontario, does that mean that if you do what we do, it's to our detriment? I would like to submit for your own review that currently there are 12 accounting bodies practising in the United Kingdom. Does that mean that right this minute the United Kingdom is less served by numbers? Numbers don't necessarily mean quality. Numbers just mean difference: a different process, different accesses. We respectfully submit that it is in the public's best interest to let the market decide. Allow us to exist, prosper and make the necessary choices.

Is the status quo acceptable? It is our submission that in fact the purpose of this legislation is a normal, natural progression of any association or any group in any field to want to exist.

From the municipal perspective, if I could, two associations were just recently incorporated by a private member's bill. Does that mean we're going to stop that process? I respectfully submit not.

I'd like also to point out that we do not believe people will be confused if there is a different designation after a name. I believe people are smart enough and professional enough to recognize that the quality of the work is necessary and appropriate. If they have a CA, they know what that means. With an RPA they will know what that will mean. Therefore, we're submitting that the fourth-largest accounting association that currently exists, that has members, that is growing and has a public interest, has a role to play.

The last point I'd like to make is that we've repeatedly heard that there is no need in the market, as expressed earlier. We respectfully submit that the accounting associations, the financial reporting, both in this province on our economy and the worldwide economy, do show that there has to be a revitalization and a more active role. For example, the WorldComs of this world, the Enrons and the Northern Telecom fiascos of the past—you know what? That shows that the traditional role of accounting has not met the needs of the people. I'm not saying we're going to be able to solve it, but if we come to the table with our members, our expertise and our professionalism, we respectfully submit that it will provide us the opportunity to make sure those deficiencies that we know currently exist in financial reporting and other aspects can't take place.

We are not asking to become public accountants under the Public Accountants Council. We are not asking to

actually bypass any minimum standards, as was respectfully submitted earlier. We're asking for no other legislation to be encumbered in any way, shape or form. Thank you very much.

The Chair: Thank you, Mr DiVona. Questions to the applicants by any members? Mr Hoy?

1040

Mr Pat Hoy (Chatham-Kent Essex): Either of the people seated can answer this question for me. There is no doubt that this bill has quite a broad scope. For example, it establishes classes of membership within the society; beyond just creating the society alone, it creates classes within it. With the broader public interest and the broader public good in one's mind, why have you chosen not to have this bill presented as a public bill or a government bill? Why have you chosen to go this route, rather than through the Legislature itself?

Mr DiVona: I can only tell you from my perspective. When I got involved three years ago, we were advised that this is the preferred route that the government of Ontario and the staff recommend. Through my conversations with the Premier's office, they advised me to do so. I then went to my own member of Parliament, Mr Greg Sorbara, and he said he would support this legislation, that it is necessary and appropriate and the proper course of action. So we've taken the best action and process that we were advised is necessary and appropriate.

Mr Hoy: I respect your answer. Personally, I think the scope of this bill is quite broad. It affects thousands of people who are already organized, and as you've heard, are opposed to the proposition of Bill Pr6. I really do think that the sanctity of the right to organize is one that should have full public hearing, full debate. You cite my colleague in his support, but I believe all, including the proponents of this society, would be better served if this bill had gone through the Legislature.

The Chair: That's a statement?

Mr Hoy: Statement. They can comment if they care to.

Mr Nichols: We already exist as a corporation. There's no question about it. We are already in existence as a corporation, and the use of RPA is a certified trademark. It's already in use. The privilege you are giving us is really to enforce it.

Mr Zubair Choudhry: I just want to add to what William just said. I think the idea here is not only to maintain the competency of our members, maintain the credibility of our members and provide quality services to the general public; it's also important for this bill to provide protection to the general public and the businesses, so that when they are hiring an accountant, they know that accountant is being disciplined by a body and is not incompetent to provide those services to any business. I think for the general public's benefit, for the small businesses in the province of Ontario—as you know, 80% of the businesses are the engine of the economy of Ontario, and most of our members are providing our services to small businesses.

We are not here to start from scratch; we already exist. We need tools. We want to have that right to discipline our members and maintain their continued education so that they are providing quality services.

Mr DiVona: May I clarify the question, Mr Chair?

The Chair: If I could just ask you to wrap up, because I think I've permitted much comment from the group. One last comment?

Mr DiVona: I apologize. I just want to clarify a comment that I made, and also the question that was asked by the honourable member of Parliament.

He's referring to classes. The bill has classes referred to within. There may be concerns or confusion as to whether we are creating more classes. I'd just like to sit back and reflect upon what will happen with the passage of this bill.

Currently, all our members will have one designation, be recognized and accredited. Therefore, there will be one class for us. At the same time, each of the three other associations will also have their own designation and one class for each of their members.

I would also point out that we, the Society of Professional Accountants of Ontario, also have other associations, other people who are designated, who are members. We have CAs amongst us who have RPA memberships. We have CMAs and CGAs with us. At the same time, concurrently it can be said the CAs also have members, because they have a CA member and an RPA member. There is also a CGA in RPA members, a CMA in RPA members. Right now, as it currently exists, people in Ontario are allowed to have joint designations, joint recognition, joint memberships by their own choice. So the legislation, in fact, does create classes, but it's no different than any other legislation that currently exists.

The Chair: Thank you, Mr DiVona. I thank the group. I think we need to move on. I appreciate it. I think we've had—you have a question?

Mr Morley Kells (Etobicoke-Lakeshore): No, I actually wanted to you ask a question after.

The Chair: You want to ask me a question?

Mr Kells: No, in a few minutes. I'm sorry, I moved too quickly. Finish up.

The Chair: I appreciate all the comments you made. I think we've covered a lot of ground. Thank you.

I will invite the Ministry of the Attorney General staff people to come forward, Mr Gregory and Abi Lewis. Again, if you would please identify yourself as you speak.

Mr John Gregory: Good morning Mr Chairman and members. My name is John Gregory. I'm general counsel of the policy branch of the Ministry of the Attorney General. I have with me Abi Lewis, who is counsel in our branch as well.

We did submit, I guess it was late yesterday, a written document to the committee. The ministry has some serious reservations about the legislation and about creating a statutory designation for a new body of professional accountants, particularly at this time, frankly, because we had Bill 213 passed by the Legislature to deal

with access to public accounting. That bill, as you will appreciate, is not yet in force. There is a good deal of deliberation, public discussion and private discussion going on about that. To come with a statute that creates another body, which is in fact doing something else for another purpose, is fairly confusing.

The Society of Professional Accountants, which is applying for the legislation, has, as they say, already used this designation in practice. People are out there using RPA after their names, and of course they're entirely entitled to do that. As Mr Nichols pointed out, there is a way of legally preventing other people from doing that. If I went out and hung up my shingle as an accountant, the law permits me to do that—not as a public accountant, to do audits, but if I said, "I'll do your financial statements, I'll do your tax returns," I can do that today if I chose to. However, if I put RPA after my name, the Society of Professional Accountants could come along and sue me for passing myself off as one of them. They have a legal right. It's not an offence under a statute to do it. It is a civil kind of action, but there is a way of enforcing it.

Likewise, the federal Trade-marks Act allows for something called a certification mark. The usual example is a housekeeping seal of approval. You can get a certification mark to protect a designation that isn't goods for sale, but a kind of designation to show product quality or service quality would be available to them as well.

Creating a statutory designation does suggest that the government—the Legislature, at least—is standing behind its standard to some extent, which I think at this point, particularly, is misleading. Perhaps in a few years' time when things settle down with the public accounting debate, they can come back and say, "OK, there won't be confusion; the dust has settled. Let's start another debate."

We're not saying that the ministry would oppose this forever, but I think at this time it's problematic. I believe I heard Mr Nichols say as well that his bill would, in fact, give the members of his association some protection against joint and several liability. I don't see that in the act. I looked at the act after he mentioned that. I don't see it in the act. If it were true, we'd have really strong reservations about that, but I'll just let that pass because I don't think it's in the bill. But I think it's basically confusing and problematic in this context.

I'm happy to answer questions.

The Chair: Any questions?

Mr Kells: I appreciate what you've just covered. There might be some comments in what I'm going to ask but I want to know if you concur with the feeling that many of the groups have here that there will be confusion in the marketplace if this is allowed to proceed. I must say, as I listen to the evidence, it is very confusing. I think we have a problem here, where we're taking three words, "registered professional accountant," which are very generic in nature and, in a marketing sense, applying it to one group. As has been testified here, they have the right to use that terminology or that description anyway, but it's not a policy of this government at this time to get

into the business, if you will, of applying generic terms to one section of a profession. I just wondered if you had any comment on that observation of mine.

1050

Mr Gregory: I think there's a good deal of force to that. Certainly, thinking of it as a parallel to a kind of statutory trademark under provincial statute, one of the requirements for a trademark is that it be distinctive in some way; it's not just a generic. I can't trademark the word "paper" to sell my paper. I have to say Gregory's Papers or Toronto Papers or something that makes it more distinctive. The more generic it is, the more difficult it is to give a monopoly of it to anybody. Certainly, that's the policy of the Trade-marks Act. I think there's a good case for that being a policy of an Ontario statute.

They have said, "Yes, we've been using this for several years. It has become distinctive." We've heard other accounting bodies say, "No, it's not." Certainly "professional accountant" is fairly generic. So it's a question of time and it's a question of marketplace recognition. That's certainly a risk.

Mr Kells: Thank you for the answer. My observation on that is if it's so generally known, it doesn't necessarily need a government bill to enshrine it in any way.

But let's continue on from that. You did mention, and it's quite obvious that we've been looking at the profession, even though the province doesn't regulate this profession, there are bills brought by the government or before the government in regard to it. We're looking at it right now, asking the profession to take a look at how they operate, and that's an ongoing initiative. So I think there's also a question of prematurity here and I was just wondering if you would comment on that. As you said, we haven't written it off forever, but it does seem premature at this time in relation to what's going on out there.

Mr Gregory: Premature or unfortunate coincidence, but certainly at the time when a lot of attention is being paid to who does accounting and how and for the public accounting debate, we in the ministry would suggest that it is probably more important to the public interest to get that one resolved without confusing people by thinking, "The government has just recognized them. How is this connected?" It's a little hard to explain. As I say, the ministry isn't dug in for ever and ever on this one, but I think at present it would be unfortunate.

Mr Kells: Finally, I agree with the early observation made by the honourable member Mr Hoy that we wonder why this couldn't better be done, if it must be done, as a public bill and as part of government policy, if we decide to get into the regulations of the accounting industry in a major way. I guess that goes to prematurity too, but it also goes to the regulation. If we were to allow this designation to this private bill, then it almost gives one section of the accounting industry a form of regulation, which we can't deal with at this time.

Mr Gregory: Frankly, I'm less concerned about that because the other three accounting bodies that have been mentioned all have private bills. The CAs, the CGAs and

the CMAs all take their authority from private legislation rather than public legislation. So the fact that it's private legislation doesn't invalidate it as such. Certainly something that one has to keep in mind about private legislation is that its impact is not only on the people specifically addressed; it's on the rest of the world too. It gives me the right to use a designation but it prevents you from using a designation.

Interjection.

Mr Gregory: Mr Lewis has suggested the Chartered Accountants Act is public legislation; it's not consolidated in the statutes. Certainly CGA and CMA legislation—

Mr Kells: Perhaps that's why we're having a review, or trying to have a review.

Mr Gregory: Well, the Public Accountancy Act, on the other hand, which says who can do audits and who can't, is very definitely public legislation. Bill 213, which amended it, is public legislation. The debate now is on public legislation, and that's what we'd like to keep in the front of our minds at present.

Mr Ted McMeekin (Ancaster-Dundas-Flamborough-Aldershot): Mr Kells touched on most of what I wanted to speak to, and Mr Gregory's comments, particularly the last one, relating to Bill 213, strike me as being wise counsel. We've just been through a process that at the best of times could be described as hectic and somewhat controversial. It would seem to me it's not generally in the public's interest to confuse, or to propose legislation without adequate opportunity for consultation and hearings and debate.

My own sense is that, particularly on the heels of Bill 213, it would appear to me at cursory glance, as one who has experienced a transmission dropping on the highway coming in this morning—my apologies for being late; I had a chance to sit and reread some of my notes while I was waiting in the car for the tow truck to come—that it's not generally in the public's best interest to add some choppiness to waters we're trying to calm.

I appreciate the association coming this morning. It's not as if a failure to support this bill at this point in time is taking anything away from anybody, as has already been noted. The association exists. It's just a matter of not choosing to extend additional rights and privileges. I appreciate the comments that were made. As for myself, I would prefer to see the waters calm, and if this is to reappear, that it reappear, with all respect to the presenter, as a public bill.

Mr Gill: Mr Chair, may I add, with your permission?

The Chair: Sure, but not questions of the—

Mr Gill: No. In response to Mr McMeekin's comments, this particular concern, Mr McMeekin, goes back many years. Formerly, as much as I know, this group's discussions with the Attorney General have been since December 1999, as soon as the new government was formed. One might say, "We didn't know enough about this thing." But I know this has been going on. They have been meeting with members for at least four years that I

know of. By no means is it a brand new policy coming forward today.

The Chair: Are there other members with other comments? My sense is that we're ready for the vote. I think we've heard enough.

Mr Choudhry: If we could just add one thing.

The Chair: I will permit another intervention, but that will be the last intervention we'll hear from the group. Go ahead, please.

Ms Louise Pelly: I just want to make one comment, Mr Chairman. Apropos of the fact that it's a private bill, this was recommended by James Flaherty when he was Attorney General in March 2000. We have a letter—it's in your binder—to that effect, and that is why we came forward with a private bill.

The other point I want to stress is that there is a federally incorporated branch or chapter of the society that uses the RPA designation. It is already, and has always been, recognized by the Civil Service Commission of Ontario. The main reason for wanting to continue the Ontario chapter by way of a private bill is that the federal government won't recognize it, even though the Ontario government does, because it will only recognize it if it's incorporated under provincial legislation. So you have a rather strange situation of the Civil Service Commission of Ontario recognizing the RPA designation, but the equivalent federal body doesn't because it doesn't want to tread, presumably, on provincial toes, and requires it to be provincially incorporated.

The Chair: Thank you, Ms Pelly. Any questions by the members? Are we ready for the vote?

Shall sections 1 to 14 carry? All in favour? All opposed? These sections do not carry.

Shall I report that the bill—no, the title doesn't carry, obviously. Shall the bill carry? It doesn't carry because people voted against it, I'm assuming. Let me go through it.

Shall the title carry? Not carried.

Shall the bill carry? The bill does not carry.

Shall I report that the bill not be reported to the House? One member says no; the rest say yes.

Thank you very much.

I thank all the people who participated in this discussion and debate. Obviously, you've heard the verdict from the members.

1100

TYNDALE UNIVERSITY COLLEGE
& SEMINARY ACT, 2003

Consideration of Bill Pr21, An Act respecting Tyndale College & Seminary (formerly Ontario Bible College and Ontario Theological Seminary).

The Chair: We'll move on to Bill Pr21, An Act respecting Tyndale College & Seminary. The sponsor is Mr McDonald.

Mr AL McDonald (Nipissing): Good morning, Chair, and members of the committee. It's my pleasure to be here on behalf of Mr Dunlop, who is unable to attend.

I'd like to introduce to the committee for its consideration Bill Pr21, An Act respecting Tyndale College & Seminary (formerly Ontario Bible College and Ontario Theological Seminary). I understand that the applicants are here. They may be able to make presentations and answer any questions.

The Chair: Would the applicants come forward, please: Dr Stiller, Dr Carter, Ms Whitt and Michael Kray?

Dr Brian Stiller: Mr Chair and committee members, my name is Brian Stiller. I serve as president of Tyndale College & Seminary. With me are Michael Kray, our solicitor; Dr Craig Carter, vice-president and academic dean of the college; and Ruth Whitt, the executive assistant who actually coordinated our application.

Mr Chair, I have put before you a briefing sheet which gives you the outline. Tyndale was formed in 1894, the oldest school of its kind in Canada. In the 1960s it combined with a college out of London, Ontario. It developed a graduate school in the 1970s, which is now the largest in Canada and the 14th-largest in North America. We have some 10,000 alumni.

This bill is requesting amendment to our bill for two primary reasons.

Under rationale for amendment, first is housekeeping. We simply have governance issues that we wanted cleaned. We changed our name some years ago to Tyndale. Second, we have completed the provincial education quality assessment board review with application to include within our degrees that we currently offer a BA and a BA honours within the three areas of business, social sciences and humanities. We are supported by the ministry.

We're pleased to answer any questions you would have.

The Chair: Thank you. Questions of the applicants? If there are no questions, obviously they're very happy with you.

We'll see whether there are other interested parties who would want to make a submission. Is there anyone present in the room wanting to make another submission? OK, we thank you for that. Any comments?

Mr Kells: My comments will be very brief. As the gentleman says, the ministry supports this application. I'd just like to reiterate our wholehearted support for what you're asking for.

Mr McMeekin: I want to echo that. We on this side also support it. There are no public monies involved here.

It's an extension that has been blessed by the college that reviews it, and that's important. In my own riding, with Redeemer College University, we've done similar things. I know this institution at a personal level and I'm pleased to see that things are well. This is the day the Lord has made, so rejoice and be glad in it.

The Chair: There are two amendments. We'll move them as we get to that section, I guess.

Are we ready for the vote?

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

There's a motion to amend section 3.

Mr McDonald: I move that clause 3(a) of the bill be struck out and the following substituted:

"(a) to provide university level instruction in various academic disciplines in humanities, religious studies, social sciences and business studies, as well as in certain professional studies."

The Chair: Any discussion on that amendment? All in favour? Any opposed? That carries.

Shall section 3, as amended, carry? Carried.

Shall section 4 carry? Carried.

Shall section 5 carry? Carried.

Shall section 6 carry? Carried.

Shall section 7 carry? Carried.

Shall section 8 carry? Carried.

Shall sections 9 to 13 carry? Carried.

There is a schedule change. There's an amendment there.

Mr McDonald: I move that paragraph 1 of the schedule to the bill be struck out and the following substituted:

"1. Bachelor of Arts, Bachelor of Arts (Honours) in humanities, social sciences or business studies."

The Chair: Any discussion on that amendment? All in favour of the amendment? Carried.

Shall the schedule, as amended, carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill, as amended, carry? Carried.

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

I believe that's it. Thank you, applicants.

Thank you, members. We have no other business. We are adjourned.

The committee adjourned at 1107.

CONTENTS

Wednesday 11 June 2003

Society of Professional Accountants of Ontario Act, 2003 , Bill Pr6, <i>Mr Gill</i>	T-11
Mr Raminder Gill, MPP	
Mr William Nichols	
Mr Tom Warner	
Mr Kevin Weber	
Mr Peter LeFlair	
Mr David Hipgrave	
Mr Bernie DiVona	
Mr Zubair Choudhry	
Ms Louise Pelly	
Tyndale University College & Seminary Act, 2003 , Bill Pr21, <i>Mr McDonald</i>	T-19
Mr AL McDonald, MPP	
Dr Brian Stiller	

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