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Tuesday 11 April 2006

Mardi 11 avril 2006

Speaker
Honourable Michael A. Brown

Président
L'honorable Michael A. Brown

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**LEGISLATIVE ASSEMBLY
OF ONTARIO**

Tuesday 11 April 2006

**ASSEMBLÉE LÉGISLATIVE
DE L'ONTARIO**

Mardi 11 avril 2006

The House met at 1845.

ORDERS OF THE DAY

ACCESS TO JUSTICE ACT, 2006

LOI DE 2006

SUR L'ACCÈS À LA JUSTICE

Resuming the debate adjourned on April 5, 2006, on the motion for second reading of Bill 14, An Act to promote access to justice by amending or repealing various Acts and by enacting the Legislation Act, 2005 / *Projet de loi 14, Loi visant à promouvoir l'accès à la justice en modifiant ou abrogeant diverses lois et en édictant la Loi de 2005 sur la législation.*

The Deputy Speaker (Mr. Bruce Crozier): Further debate?

Mr. Norm Miller (Parry Sound–Muskoka): It's my pleasure this evening to join the debate on Bill 14, An Act to promote access to justice by amending or repealing various Acts and by enacting the Legislation Act, 2005.

For those watching, this is an omnibus bill that deals, among other things, with regulating paralegals, reforming the justices of the peace system and providing alternatives to provincial offences court for resolving municipal bylaw disputes such as parking infractions. It also allows police officers to testify in court via electronic means for provincial offences, and allows for the extension of limitation periods.

I would say at the outset that it's too bad it is an omnibus bill. I think it would be better if some of the sections were dealt with in separate bills, because it would be easier for us to decide if we're completely in favour of or against the bill.

Starting with the section on paralegals, I think we would all agree, and paralegals would agree, that it makes sense to have a regulatory body and that the benefit of that would be to protect consumers and enhance the professionalism of paralegals. But I note that there are differences of opinion among the Professional Paralegal Association of Ontario and law society lawyers as to the best way of going about this.

The law proposes that paralegals will be regulated by the law society, and the professional paralegal association prefers self-governance. In fact, two major studies commissioned by the Ontario government rejected the regulation of paralegals by the law society, and the law

society itself acknowledged the potential for conflict of interest, because of course paralegals compete with lawyers.

I have received a couple of pieces of correspondence to do with this very conflict, and I'd like to give the different perspectives. First of all, a lawyer from my riding, Diane van de Valk, writing about Bill 14, says:

"I am a member of the Law Society of Upper Canada (LSUC) and the Ontario Bar Association. I share the concerns raised by the Ontario Bar Association regarding Bill 14, schedule C."

I've got those concerns, and I'll bring them up in a minute.

"In particular, I am of the view that:

"—Paralegals should be called 'paralegals;' the issuance of two types of licences, one to those who 'provide legal services' and the other to those who 'practise law,' will cause public confusion;

"—Transparency and public accountability require that the government define the legal services paralegals can and cannot offer; LSUC should not be charged with this responsibility; and

"—Transparency and public accountability also require that the government specify which groups of professionals (e.g. mediators, trustees in bankruptcy, etc.) require licensing and which should be exempt; LSUC should not be charged with this responsibility."

That was from Diane van de Valk, from Bracebridge, Ontario, raising some concerns from the perspective of a lawyer in the bar association.

1850

I also received, from a paralegal, concerns about the bill from a different angle:

"We urgently need your support to defeat Bill 14 (Access to Justice Act, 2005) with respect to, in particular, the regulation of paralegals in Ontario."

I'll just highlight a couple of sections of this e-mail I received.

"It is abundantly clear that one of the underlying benefits for having paralegals regulated by lawyers is that they will be able to get rid of or, at the very least, minimize their competition." There's that conflict I was talking about.

"Most paralegals in Ontario absolutely agree with the Attorney General and the law society that our profession should be regulated, that paralegals should take prescribed paralegal courses and should pass licensing exams and be covered by professional liability insurance ... but we want to be regulated by our own profession-specific

regulators, not by the law society. The law society looks upon paralegals as unwanted competition and will, no doubt, try to regulate paralegals to the best interests of lawyers in Ontario and not necessarily the best interests of the public."

She goes on to say, "Lawyers, doctors, dentists, architects and engineers are regulated by their own profession-specific regulators. Paralegals want the same thing. We are capable of regulating ourselves. We all know that it is time for paralegals to be regulated in Ontario, but not by the law society."

Donna Kubota, president of Solutions Corporate Paralegals, wrote me that. So two very different perspectives on how this should be achieved.

I only have a short time to speak to this, this evening, so I want to go to the justices of the peace part of the bill. There has been a real shortage of justices of the peace. This bill would move toward changing the way justices of the peace are appointed. I would say it's a real shame that in the three years the government has been in office, they have not appointed more justices of the peace, that they've taken so much time. I point out that in the region of Niagara in 2005, 58 court days were scheduled for closure between January and August. In Waterloo region, 75% of intake court dates were cancelled. The city of Hamilton's court calendar for the first eight months of 2005 showed half- and full-day closures and eliminated 125 days of court time. So obviously the government has taken its time in bringing this bill forward, and we've seen justice not served by this delay.

I do feel that there can be some improvement in the way justices of the peace are appointed with this bill. Some minimum qualifications should be established for justices of the peace, such as a university degree, comparable college diploma or 10 years of pertinent service.

There are many questions that arise from the bill as well. The bill would change it so that there would no longer be non-presiding justices of the peace. Is that a good thing or not? Courts would be authorized to establish a code of conduct for justices of the peace. I think that is a positive thing.

On a related matter, an issue that I would like to raise from the district of Muskoka to do with justice is the OPP staff complement in the district of Muskoka. I note that the district chairman, Gord Adams, has recently written to the Honourable Michael Bryant, Ministry of the Attorney General, to do with the OPP staff complement in Muskoka. We've heard from the government—I think they've announced several times—that they've hired 1,000 new police officers in Ontario. If that's the case, I don't know why, on January 4, 2006, it was necessary for the chair of the district of Muskoka to be writing, asking that the OPP staff complement be increased. He's talking about provincial offences court and the need for additional police security:

"In particular, Muskoka is in the position of having to bear the cost of paid duty officers in order to provide adequate security during early resolution and first attendance courts. The lack of adequate OPP resources in Muskoka

is the cause of this situation, thus shifting provincial costs from the province to the district of Muskoka.

"There has been considerable media coverage of provincial government announcements increasing the number of police officers throughout Ontario. I understand that no additional officers have yet been placed in Muskoka. Therefore, I have been asked to contact you, Minister, and inquire when the OPP staff complement will be reviewed in the detachments covering Muskoka."

I think that's an excellent point. As I say, it seems to have been announced many times that these 1,000 police officers have been hired, and yet Muskoka has not seen any of them, and the district chairman is forced to write a letter to inquire about where, in fact, these officers are.

I actually thought I was going to have 20 minutes, so I had a lot of other things I wanted to talk about, including tow trucks. The member for Niagara Centre brought up tow trucks in question period today. I have a whole report here by the Ontario Recovery Group on the need for regulations for tow truck operators on our highways, particularly on the 401 and the major highways where we have chasers out there, we have no regulations, no training, and it's not a safe situation. I wish I had another 10 minutes to continue talking about it, but I'm sure that the member from Hamilton, in her two-minute response, will comment about this.

I also wanted to talk about all the good work that the leader of the official opposition, John Tory, has put into youth violence and the report that he put together with a lot of thought to help deal with that problem.

This bill definitely needs to go to committee, and we look forward to getting lots of public input at committee.

The Deputy Speaker: Questions and comments.

Mr. Peter Kormos (Niagara Centre): In around eight minutes' time, Ms. Andrea Horwath, the member for Hamilton East, is going to be speaking to this bill on behalf of New Democrats. I anticipate somewhat confidently that this bill is going to be put to second reading vote this evening. What that means is that the next stage inevitably has to be—has to be, has to be—committee. There's no two ways about it.

To put that in a time frame: Here we are in mid-April. I suspect that the committee to which the bill is assigned will be meeting in subcommittee over the course of the next week or so. I suspect that committee will be sitting here in Toronto during the month of May, listening to submissions; could do it well into June, because of course we're scheduled to sit, the House calendar schedules us to sit, until June 22. With a reasonable period of third reading debate, I expect that this bill, should it survive committee—because it may not be reported back by the majority of committee members—and, should the government be interested in calling it for third reading—because, you see, it's all up to the government.

I pleaded with the Attorney General back last spring, saying, "Introduce the paralegal bill. We can work with it during the summer months." Yes, during the summer months. That's how long ago it was. I had the law society

calling me every day. I said, "Look, I'm doing the best I can, but the government is dragging its heels."

Regrettably, when they came up with this omnibus bill, they muddied the waters. It would have been oh, so much more preferable to have had the paralegal regulatory scheme stand alone so we could deal with that. Rather, we've got some rather sloppy efforts here—it could be fixed in committee—to reform the JP appointment system, and Lord knows it needs reforming, and some horrendous amendments to the Provincial Offences Act. I'm looking forward to that committee, Speaker. I hope you're looking forward to Ms. Horwath.

The Deputy Speaker: Questions and comments. I think the member for Durham was up first.

Mr. John O'Toole (Durham): The member for Parry Sound–Muskoka mentions a part that's extremely important to all of us. It's the section dealing with the law society and the jurisdiction. More importantly, I have to put on the record here, and the member for Parry Sound–Muskoka did mention this, that under these proposed amendments the law society "would let society officials disclose information on bad lawyers if"—that's the key operative word, "if"—"there is a significant risk of harm to a person," said a spokesperson for Attorney General Michael Bryant." Who's going to interpret if and when these things are disclosed on bad lawyers?

I've read petitions in the House, and that's why this is so pertinent to all of us. This petition that I'm holding up here is actually one I've read a couple of times. What it's calling for is: "The undersigned ask the Honourable Michael Bryant, Attorney General, for his in-depth investigation of the Ontario judicial system and to make the public aware of his findings immediately."

1900

What it says here in this particular transcript is that Mr. Tory, who's a lawyer, said that "Bryant must toughen his proposal so it 'requires' the society to pass information to police. Tory also said Ontario has some of the best white-collar crime investigators in its police departments, but 'we just don't have enough of them.

"'Fraud is fraud and theft is theft'....

"Yesterday, the Star revealed that lawyers who steal thousands—even millions—of dollars from clients rarely go to jail."

That's the issue here. This bill doesn't go nearly far enough in empowering the law society to actually make sure someone who is involved with fraud or theft pays the price. The law society seems to have the provision to protect them. They are a self-regulating profession and, as such, the disciplinary function of the law society takes precedence. They discipline them by suspending their licences for a few months, whereas the victims are the ones we're really talking about here tonight. This bill doesn't protect them.

Ms. Andrea Horwath (Hamilton East): It's my pleasure to make a few comments on the debate tonight by the member for Parry Sound–Muskoka, and I have to say I agree with him. He raised a number of very salient issues when it comes to the pieces of Bill 14 that are

piled on top of each other, because it is an omnibus bill and I'm going to be talking about that a little bit further along this evening.

I think he raised a number of important issues around justices of the peace, around paralegals, around a number of other things that are of concern. Not dissimilar from my friend and colleague from Niagara Centre, Mr. Kormos, I also look forward to the opportunity to hear what people have to say when this bill goes into committee and has the opportunity to be discussed by people from the public who are concerned about all the elements of Bill 14.

Mr. Kormos: How do people get to appear before the committee?

Ms. Horwath: People get to appear before the committee when the government decides to actually put it on a committee agenda and have that issue come up at committee and then go to a public hearing process as part of the committee process. Public hearings are advertised and you can actually go on the Internet, you can tune in to the legislative channel and you can call up the Clerk's office and find out exactly which bills are in the public process right now.

So for anybody who is considering an interest in Bill 14, whether you're a paralegal, whether you're someone who wants to become a justice of the peace or whether you are someone who is just concerned about your rights and about the way the Attorney General is suggesting that perhaps the way evidence is presented might affect your ability to get a fair trial, these are all things that are in the public interest. So I encourage people who are interested in Bill 14—and there should be many people interested in it—to come and speak to the legislators who sit around here, particularly the government members, because ultimately the shape Bill 14 takes at the end of the process—it will be the obligation of the government to hear what people have to say and make the appropriate changes.

Mr. Toby Barrett (Haldimand–Norfolk–Brant): I've enjoyed the presentation of the member for Parry Sound–Muskoka. He was about to talk about the tow truck industry in those cases where—I assume he was going to make mention of the infiltration of organized crime in the tow truck industry, which I think is quite appropriate when we're debating the justice act.

I'm concerned about delayed access to courts. Given the recent incident of a day or so ago, I'm very concerned about the impact of organized crime essentially on our economy. There's an underground economy there obviously involving drugs and prostitution. I'm very concerned about where this province is heading.

Six years ago we did not have the Hells Angels in Ontario. There were crackdowns over the years, as I recall, and four years ago, I think in 2002, the previous government cracked down, virtually eliminating the Outlaws motorcycle gang. In my view, the end result of that was to indirectly strengthen the organization of the Hells Angels.

Very recently we have seen the elimination of eight members associated with another gang known as the

Bandidos. I don't know much about them at all. I haven't been keeping count, but it suggests to me that inadvertently, with either police crackdowns or enforcement within other non-Hells Angels organizations, we now have something approaching a pure monopoly with respect to the Hells Angels motorcycle gang in Ontario. Whether this legislation does anything about that—if not, everything has to be thrown at this particular problem.

The Deputy Speaker: The member for Parry Sound–Muskoka has two minutes to respond.

Mr. Miller: Thank you for the comments from the members for Niagara Centre, Hamilton East, Durham and Haldimand–Norfolk–Brant. Certainly the member from Niagara Centre stated correctly that this omnibus bill muddies the waters—I think that's the term he used—because there is the paralegal issue, the justices of the peace issue and others. It would be better if they were separate bills. I raised concerns both from the Ontario Bar Association and from paralegals. I do believe this bill needs to go to committee to get full public input.

The member from Haldimand–Norfolk–Brant brought up the situation with tow truck drivers and organized crime, making some connections there. Of course, we had that awful incident this week with bike gangs. I bring up tow truck operators just from the perspective of the need for more regulation for safety and for incident management in the province, especially on the major highways. I note that the Ontario Recovery Group has started a new head office for Ontario in the town of Bracebridge, in Muskoka, and that Doug Nelson, formerly of Northland Truck Centre, is the new president of that group. They've put a comprehensive incident management package together with many suggestions for the training of tow truck drivers, for regulations on the major highways, for all the qualifications they should have, like proper insurance, communications, training—all the various things that go into this to make our highways safer, to deal with incident management and to make the industry more professional. I really do believe that the government should be listening to groups like the Ontario Recovery Group and bringing in some regulations to improve the tow truck industry in the province of Ontario.

I look forward to Bill 14 being referred to committee so that all sides on the issues can have time to make comment.

The Deputy Speaker: Further debate?

Ms. Horwath: It's my pleasure to have a few comments about Bill 14, An Act to promote access to justice by amending or repealing various Acts and by enacting the Legislation Act, 2005. I have to say, right off the hop, that this bill is one of those omnibus bills. It's one of those bills that's got a heck of a lot of stuff in it.

Interestingly enough, a couple of issues came up in my own community and other communities, particularly around justices of the peace. Of course, the minister talked about how this bill was coming and it was going to solve the problem. I'm going to get to that a little bit later on. But it's also about paralegals; it's also about

evidence; it's also about a number of other issues that are all piled into this bill.

Funny that, earlier tonight and at this evening session I've been in this House, both bills I've been debating, both bills I've been speaking in regard to on behalf of New Democrats, are omnibus bills. So I thought it was really important to remind the people on that side of the House, remind the Liberals, what they used to say about omnibus legislation because, interestingly enough, the legislation that we were debating at the earlier session, Bill 78, was an omnibus piece of legislation. In fact, members of the Liberal caucus defended their perspective on that piece of legislation, Bill 78, as an omnibus bill. Here we are again but 45 minutes later talking about another omnibus piece of legislation, Bill 14.

Here's something that I think is important for people to remember on that side if they were here at the time, and if they weren't, it should be something that you take note of and maybe discuss in your caucus meeting. This is a quote. This is a phrase or a caption that was spoken by no other than Steve Peters on October 23, 2002. Here's what Minister Peters had to say:

“Another famous trademark of the Harris government, unfortunately, is going to be their unrelenting support for omnibus legislation. It's a bill that's in front of us this evening which talks about efficiency, but I don't think it's in the interests of the taxpayers of Ontario, whom all 103 of us here represent this evening. I don't think that the taxpayers of Ontario are looking at us to be efficient in the manner of ramming through omnibus legislation.... It's not responsible, it's not efficient to deal with them in the manner of an omnibus bill.”

1910

Well, we had an omnibus bill in education. Now we're having an omnibus bill in nothing other than access to justice, which in itself is kind of an oxymoron. Access to justice, omnibus bill; ramming something through, access to justice—somehow those two things don't seem to match, in my mind anyway. Interestingly enough, the government is happy to bring all of these pieces forward in an omnibus format, which causes us no amount of trouble, particularly on the opposition benches. There might be things that we think need to rise to the top in terms of priority and we would be happy to move forward on, but of course because the government decides to wrap these things up in omnibus bills, it causes us to have to take pause, drags out the process and doesn't really serve anybody's interest very well at all.

As I said earlier tonight in regard to education, similarly with this justice bill, the bottom line is that the government likes to talk its own talk, but when it comes to how they're acting, they act a heck of a lot like the government we had before them, the Harris government, notwithstanding their protestations to the opposite. They say, “Trust us. Trust us. We're going to take care of all the problems that we had with the previous government,” but when push comes to shove and they're the ones doing the legislation around here, when they're the ones bringing issues forward, they happen to be walking in the

same footsteps as the government before them, and that's a travesty, in my opinion, for the people of Ontario.

Having said that, there are a couple of issues that I think are of extreme importance and need to be once again put on the record. They have been raised by our very able and very wise critic in this area, a very experienced member of this House, the member from Niagara Centre, Peter Kormos. He has brought forward a number of the important issues of this bill on behalf of New Democrats. I'm simply here to amplify those concerns and to bring some of my own perspective from my own experience, short and brief as it may be in relation to the member of whom I speak. But nonetheless, it is important to acknowledge that not only do members who have a lot of experience in this House have issues from their own communities and their own experience, but even those of us newbies here also have some pieces to bring to the discussion.

One of those is the issue around evidence. If you happen to read the Hansards, if you want to understand some of the criticisms that are coming forward around this bill or at least some of the concerns, one of the ones that our critic raised so appropriately was the issue around the Occupational Health and Safety Act in regard to the extent to which offences under pieces of legislation and laws that exist right now, like the Occupational Health and Safety Act and the Highway Traffic Act, and the extent to which the people who are affected by breaches of those pieces of legislation—those rights—are not able, in the context of this bill as it sits, to have the opportunity to face the people who have broken those laws and negatively affected their lives.

I think about a particular case in Hamilton, an industrial city, where a worker was injured severely in an occupational accident when he was cleaning out a tank on the waterfront. Unfortunately, because of a lack of safety equipment and because of inappropriate regulations in the workplace—practices around accessing these tanks—a fire ensued and the entire tank became a fireball. This gentleman was burned severely and to this day is unable to work and unable to pick up the pieces of his life. Unfortunately, ministry officials decided not to continue with this particular case. I raised it in the Legislature and I'm very disappointed by it. Had it gone forward, at least Tom Gall would have had an opportunity to sit across the table or to sit in a courtroom and stare down those employers he knew had put his life at risk by breaching the regulations of the Occupational Health and Safety Act.

Bill 14 erodes the ability of people to confront the various people, whether it be employers, whether it be in a traffic situation, for example, whether it be police—everybody makes mistakes, so maybe police inappropriately charge somebody under the Highway Traffic Act. But what this bill does is creates a situation through procedures where people do not have a basic opportunity to confront the person who has caused them wrong.

There are a number of other issues that I wanted to talk about, particularly the issue around justices of the

peace. I have to tell you that the Attorney General has been very long on talk around access to justice in this bill and otherwise. In my community we had—and people will remember this—a number of tenants who were extremely wrongly done by by their landlord, who had their heat and their hydro turned off, notwithstanding the fact that they had been paying for those utilities in their rents. After a couple of years of the same kind of problems, they eventually brought charges against their landlord under the Tenant Protection Act for withdrawal of vital services. Unfortunately, these events took place over the last year and the year before that, and one of the things that became very clear to them was that they weren't even going to see any justice. Why weren't they going to see any justice? Well, they might; I shouldn't say they weren't going to see "any" justice. Their case, apparently, will eventually be heard in February 2007, when the landlord will be appearing on the provincial charges in court.

And why is that the case? That is the case because the Attorney General's office has not staffed up the provincial courts at appropriate levels with justices of the peace and with the requirements that need to be there for people to have timely access to justice. Unfortunately, these particular tenants have gone through a nightmare to try to get their issues addressed through a horrible Tenant Protection Act. And don't get me started on that, this government's promise to overhaul the so-called Tenant Protection Act and bring in new tenant legislation. We haven't seen that either. Notwithstanding that, the justices of the peace are still not being addressed, and they could have been addressed. In fact, they could be addressed right now. The understaffing of the provincial courts could be addressed right now, just like it could have been addressed six months ago and just like, when this bill eventually passes, it can be addressed. The bottom line is that the Attorney General really doesn't have an interest in access to justice unless he's prepared to deal with the fact that we have severe backlogs in our courts.

One last thing is the issue of the paralegals. I know there are lots of people who are concerned about that. We want to make sure that through the public hearings process we further define issues of things like scope of practice, definitions of practice of law. We have to worry about people like workers' advocates. All of those things will be addressed, I hope, in the hearings process.

The Deputy Speaker: Questions and comments?

Mr. O'Toole: The member for Hamilton East, as an advocate, certainly brought up a couple of specific access-to-justice issues, whether it's in the tribunal system or the courts themselves, and the old saying of "Justice delayed is justice denied."

Really, if you look at this bill, its intent and purpose— if you read this omnibus bill, it's a tragedy in that much of it is acceptable, I think, certainly to our leader, John Tory. Once again it's the obsequious nature, if that's permitted, in the way they've wrapped this into bills that we know we would probably embrace and endorse to improve access through JPs and other disclosure mechan-

isms, but it does anything but improve access to justice. There's nothing in here to eliminate any red tape or filing for such things as court time and other administrative matters. The administration of justice part of the bill is rather weak.

But I had seriously listened to the debate by our critic, Bob Runciman. He felt, and I'm going to read here from Hansard: "Finally, I want to mention the inclusion of paralegal legislation in this omnibus bill. It's truly regrettable." In fact, he was really talking about the whole democratic renewal debate here, the Dalton promise that we're all going to be much more compatible with one another and try to get the right things done expeditiously and spend more time on the things that are driving other policies where we may disagree. But he said, "The minister made a commitment to our leader that he would share that legislation before tabling it in this House," and if this was a true commitment to democratic renewal, then we would have seen it here in the bill. So it's one more case of promises made and not kept. It's justice delayed in the concept of this bill. There's some controversy with the way it's been wrapped together with a number of issues. In fact, as the member for Hamilton East said, it's rather a complex bill. It amends a number of portions of the statutes of Ontario today that are going to be problematic.

So I hope it's going to have public hearings, but I'm just wondering what the government is prepared to do in terms of listening.

1920

Mr. Kormos: I find it remarkable that Liberal members here this evening, perhaps in their eagerness to get home, don't even want to participate in questions and comments, never mind in the debate. It's truly amazing that they would squeal at 1:40 in the afternoon about evening sittings, yet by 7:30 they're nowhere to be seen. They've skeddaddled; they've vamoosed; they've abandoned the joint. It's just truly remarkable that on a bill the Liberals insist is so important, and we regard it as such, they wouldn't be more enthusiastic about participating in the debate.

I had occasion the other day—we were doing Bill 56, the Solicitor General's bill—to commend the Minister of Community Safety and Correctional Services, Mr. Kwinter, for being in the chamber to hear the debate around his bill. That's what being a minister involves. That's your job. You're the steward of that bill through the course of second reading debate, through committee and through third reading. I understand that ministers, and they truly do have busy jobs, can't always be there. That's why the parliamentary assistant is there.

I was fortunate enough to be here a sufficient number of years ago when it was considered the norm for the minister or, in his or her stead, the parliamentary assistant—that's why you got well-paid parliamentary assistants—to sit with the bill, to monitor and steward the bill through the Legislature. It demonstrates a real disregard, on the part of this government, its Premier and, quite frankly, its Attorney General, for all of the big talk

about transparency and democratic reform, not to see that stewardship with respect to Bill 14.

Mr. Bob Delaney (Mississauga West): It's always a pleasure to follow the member for Niagara Centre and to pass some comments on—

Mr. Kormos: Bob, I've got 20 minutes coming.

Mr. Delaney: The member for Niagara Centre reminds me that he's got 20 minutes coming.

It's a pleasure to join in the debate on behalf of the government on a bill that does a lot of very important things. This is the Access to Justice Act. One of the things this bill does, and does very well, is something that Ontario really needs: some sort of framework to regulate the practice of paralegal work. We all use paralegals in business. There are a lot of people who may be retired lawyers or non-practising lawyers who have a narrow specialty in drafting specific types of contracts, any number of other such things that amount to legal work that isn't done by lawyers per se. This is what this bill does, and does very effectively, to provide some level of consumer protection and a regulatory framework for people who practise what's called paralegal work.

I was talking about paralegal work earlier with my colleague from Parry Sound–Muskoka. We both agree that paralegals really don't represent lawyers who jump out of planes with parachutes on. But for paralegal work, the Attorney General and the ministry have consulted extensively on this bill with the number of people they've met with and the discussions they've had with the bar, the business community and the consumer protection groups. If nothing else, the benefits that the public gains, that consumers gain and that people who practise paralegal work gain all make this particular bill, Bill 14, worthy of being passed expeditiously and dealt with by this Legislature.

The Deputy Speaker: Questions and comments. The member for—no, the member for Durham has spoken.

Interjection.

The Deputy Speaker: No, you cannot do it twice. Questions and comments?

The member for Hamilton East has two minutes to respond.

Ms. Horwath: I want to thank the member from Durham and the member from Mississauga West for their comments.

The issue that I think is really important when you're talking about access to justice is the extent to which people actually have access to justice. It seems like a pretty basic issue. But I thought it was important to read into the record a reality check from the city of Hamilton. This is from an article from the Hamilton Spectator, October 27, 2005, and it says this:

"A shortage of justices of the peace in Hamilton has backed up provincial offences courts for months. One of three courts assigned to handle provincial charges won't use its allotted 60 days because of a shortage of staff." It also indicates in the article that our mayor of the city of Hamilton, Larry Di Ianni, was seeking the Attorney General's help to try to get more JPs in Hamilton because

“The city is losing money in uncollected fines.” We know that cities are already hard-pressed, particularly Hamilton, in regard to the pressures of downloading and social services costs particularly. Anything that prevents them from making sure that the fines are paid is problematic.

Another issue that has come up: Salter Hayden, who is one of our clerks at the city of Hamilton, and myself are both quoted in this article as being concerned that “courts will end up dismissing cases in Charter of Rights and Freedoms challenges due to unreasonable delays”—Askov-type issues.

The bottom line is that although these problems exist in the city of Hamilton, there’s nothing that prevents the Attorney General from solving these problems right now. We don’t have to wait for Bill 14. That’s the bottom line. He’s got the power to clear up this backlog now. He’s not doing it. Yes, I look forward to the second reading committee process, which will get to the nub of some of the issues around the regulation of paralegals, but the bottom line is that justices of the peace need to be dealt with and they need to be dealt with now.

The Deputy Speaker: Further debate? Does any other member wish to speak?

Mr. O’Toole: This is one case where the Liberals seem to be reluctant to address this Bill 14. The opposition and the third party have tried to bring some concerns to the debate, with very little response—reluctance, actually. It might be said that they’re unwilling.

I should put some context around Bill 14. It has been said many times that this bill—a very large, complex bill—deals with things that, if you’re not a lawyer, are probably a foreign language to start with. It is couched in those kinds of terms, and it makes it difficult for ordinary members of this Legislature to respond to—without full debate, and that’s what the people of Ontario expect from us here.

If I go through my own particular background on this thing, this bill has schedule A basically dealing with the amendments to the Courts of Justice Act; schedule B is dealing with—what the heck is it dealing with here? Section C is the amendments to the Law Society Act. In my two minutes I briefly spoke on that. Schedule D amends the Limitations Act. That’s the statute of limitations and is not often referred to in the general public, but it does affect liability and insurance issues. Schedule E, amendments to the Provincial Offences Act: I have some comments on that.

Actually, what they’re doing in the Provincial Offences Act: The alternative mechanisms allow municipalities to address disputes arising from bylaw infractions such as parking tickets. In many cases there’s just no court time. It goes back to the JP issue of enough court time. Court witnesses would be—this is something the police and others have commented on: being able to testify by video conference or telephone conference or other electronic means. These are the questions that the public need to have that right—face to face, the victim and the perpetrator. These are the kinds of things that, the way the court

systems work, they may be slow, but what’s missing here, why they’re slow, it’s that there are just not enough resources.

If I look to some of the independent comments in some of the media, some would say the media precipitated this bill being introduced. In fact, it was introduced on October 27, 2005. We’re rapidly moving forward to this thing sitting in the cooker for a year. But there was an article here which I felt was quite good. The member from Hamilton East spoke, and this came from the Hamilton Spectator, so she may be familiar with it. The headline is quite funny; it’s quite catchy. It says, “Minister Guilty of Speeding?” What they’re saying here is, “But what happens when the courts get jammed up”—filled—“by people fighting minor traffic violations such as speeding tickets?”

“As it turns out,” many “walk away without” ever receiving a single “fine or demerit points. Not because they are innocent, nor because they had skilful legal representation.

“Regrettably, in thousands of cases across the province charges are withdrawn simply because the police officers didn’t show up.

“Toronto police say an incredible 63% of its officers scheduled for traffic court never make it.” In other words, all those tickets you get on the windshield: Make a court date, don’t pay the fine, and chances are it will be thrown out and there will be no penalties of any sort.

“Toronto appears to have a particularly serious problem with officers being busy with other things....” It could have to do with the 1,000 police officers that were promised and the onerous duties that Minister Kwinter is putting on them and not providing front-line services. There are diminishing supply and diminishing resources.

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We hear it over and over again: We’re paying more and getting less. But it’s evident in this bill, even as I’ve described some of the third-party testimony from the newspapers. In fact, one is left questioning, “What is the plan here?” They could solve all the problems—anybody could—by simply raising the taxes and then saying, “We’re working at it.” Most of these reports find themselves basically on the bookshelves; they’re not introduced too often.

In fact, this article that said the minister was guilty of speeding suggests that the minister only introduced this bill after a comment from Robert Benzie and John Duncanson in the Toronto Star in October. It wasn’t long after that they pulled it in, introduced it on the 27th and here we are almost a year later still talking about it.

Why are we still talking about it? It’s the rather obsequious—the word I’d use—trying to wrap all these things around, sticking in a few of their nice-to-have items, but not dealing with the appointment of JPs, indeed slowing down access to the justice system. Why aren’t they doing that? Why are York region and other areas, probably including Durham, having these violations thrown out of court? Since the Askov decision of justice delayed, eventually they—

Mr. Kormos: Askov and Melo.

Mr. O'Toole: And Melo; those are the two decisions.

Mr. Kormos is a former criminal lawyer. In fact, he probably has done work in the courts and is very familiar with it, and it has drawn him to Queen's Park, perhaps to keep a closer eye on this very bill.

Interjections.

Mr. O'Toole: I'm being engaged here. Actually—through the Chair—you have spoken on this.

This article that I'm referring to is from the Toronto Star, Monday, October 17, 2005. It's by Robert Benzie and John Duncanson: "Sweeping Justice Reforms; Police May Give Video, Audio Testimony to Help Ease Crunch; Star Probe into JP System Sparks Action by Attorney General." So he reacts by introducing this bill. We need this to go to committee, because there are a lot of very serious drafting issues, as well as a lack of the public's embracing what they intend to do here. The evidence on the ground is that there are fewer police officers, fewer JPs, all of which is putting our community at risk.

We've talked about the issue that happened in south-western Ontario with the biker gangs. We had the past summer of guns and violence. John Tory has tried his best. He issued a report trying to deal with issues of youth violence. And we have this bill. Again, it's all legal-spegal. I've had many people who are frustrated, not just with the court system but by the inaction of the government.

When you talk about the other part, the paralegals, I fully agree with our critic, Bob Runciman. He said it in his speech, and I've looked at it today just to make sure I have it right. Our leader John Tory agreed with him. If they had put this before us and worked with the various stakeholders, whether it's the law society or the paralegal groups that need to be regulated—no one here disagrees with that; in fact, they want to. I have an article here from the head of the paralegal association that says they'd be happy to move, as a professional group, into an organization that is self-regulated. But they've got this little kicker: It's the law society. They're not lawyers; they're going to be the surrogates or, if you will, the servants of the law society.

It gets into a comment I was making earlier on the whole section dealing with the reorganization of the law section—Peter would probably know that section; he's more familiar with it than I am. It will require the legitimization, which is the role of the self-regulating law society—it's like a college that licenses or legitimizes their professional standards or scope of practice, and also deals with issues of complaints and potential penalties. What you need to find out there—it's even in the law society itself. Look to the history. How is it doing in terms of bad lawyers and all these various things? I'm not disparaging lawyers. As a generalization, I'm saying there are even politicians, certainly in Ottawa recently, who needed to be brought to account. There was Justice Gomery, who looked into various inappropriate behaviours or practices, and I guess some people will serve time. We should all be subject to the stiff hand of justice,

the fair and reasonable hand of justice. You need a system there that's at arm's length of government. I commend the most recent appointee to the Supreme Court of Canada going to committee and disclosing what practical experience and perspectives he will bring to the justice system, the interpretations of the laws, the statutes that we all live by.

Yet some people are victims, primarily in civil matters. I've found in my riding that there are probably about three serious cases. They are serious cases that have gone to the courts and failed for lack of representation, I suppose, at the end of the day. But, again, many of them are at the end of their financial ability to pay for all those things.

In the few minutes I have left here, this is a petition I have read, and I mentioned it earlier:

"Whereas the Ministry of the Attorney General may not be aware of the serious and important issues facing individuals involved in areas of the justice system, even though the Attorney General's ministry is continually monitoring;

"We, the undersigned, petition the Legislative Assembly of Ontario as follows:

"That the Honourable Michael Bryant, Attorney General, be requested to do an in-depth investigation of the Ontario judicial system and make the public aware of his findings" immediately.

That's what this bill is and that's what the public hearings will do. We need more debate on this bill.

The Deputy Speaker: Questions and comments.

Mr. Kormos: I wasn't sure I was going to be able to address this matter yet another time, and I'm grateful to the member from Durham, John O'Toole, for doing what he is paid to do. I have regard for this member who comes to this chamber to debate the issues of the day, to speak out on behalf of his constituents.

I find it remarkable that it's Conservatives and New Democrats who have had to carry this bill. If it weren't for the Conservatives and New Democrats, there would have been no debate at all. We certainly haven't heard from the Liberals this evening, have we? We're scheduled to sit—what?—another hour and a half, and I await Liberal participation in the debate in this rotation. Let's hear one, two or three of these Liberals speak on behalf of their constituents the way John O'Toole spoke on behalf is his. Let's see one, two or three of these Liberals show an interest in working something other than bankers' hours and standing up, notwithstanding that, oh, my, it's 20 to 8 and you want to go home, huh? Let's see one, two or three of these Liberals get up and participate in this debate. The time allotted you at this point is but 10 minutes. Surely you can spare 10 minutes from your busy evening schedules to participate in a debate around Bill 14.

I suppose at the end of the day it's disappointing for the Liberal backbenchers to see the absence of stewardship by the Attorney General and/or his parliamentary assistant as this bill proceeds through the Legislature. I suppose that's what may well frustrate them and cause

them to be disinclined to participate. But I say, stand up and liberate yourselves by participating in the debate, notwithstanding the lack of stewardship from the minister.

Ms. Horwath: I too want to commend the member from Durham for making a number of very insightful comments about Bill 14. I think it's an important piece of legislation, and I'm actually surprised that there isn't a more fulsome debate on second reading of this bill.

I have to tell you, when you talk about provincial offences court, which is the issue that I've been concerned about, you're talking about offences under the Occupational Health and Safety Act, the Highway Traffic Act, things like drunk driving, injuries in the workplace, exposure to life-threatening situations in the workplace, offences under the Tenant Protection Act. I almost had a slip; I almost said the Landlord and Tenant Act. Of course, that would have been the previous legislation. Hopefully, if the Liberal government ever gets around to changing the current tenant protection regime that the Harris government put in place, maybe they will call it something else or maybe they'll make it a tenant protection piece.

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Nonetheless, the bottom line is, this debate is about Bill 14. There are a lot of serious issues in this bill. It certainly does require the scrutiny of all of the members of this Legislature. I'm very pleased to see the fulsome participation by opposition parties, because the government has some thinnin' to do about where this bill goes.

This debate is going to give them some suggestions, and I only wish that some of the Liberal members had taken an opportunity—I mean, they're sitting here—to bring some of the insights from their own personal experiences, from their own ridings and from the experiences of the people they represent, because unless we are instructed by the experiences of the people we represent, we really can't purport to be bringing their issues forward to this Legislature.

So I was certainly happy to have that opportunity tonight; I know the member from Durham was happy to have that opportunity tonight; I only wish some of the Liberals members would have been, also.

The Deputy Speaker: Questions and comments? The member for—

Mr. Lorenzo Berardinetti (Scarborough Southwest): Scarborough Southwest.

The Deputy Speaker: Scarborough Southwest. Yes, thank you.

Mr. Berardinetti: I just wanted to comment briefly on the comments made earlier on today by the member from Durham regarding Bill 14. The bill before us today, the Access to Justice Act, provides a number of amendments and changes that need to happen in the justice system. I think what Mr. O'Toole, the member from Durham, said earlier makes a lot of sense. We need to look at this bill carefully.

The way to do it is, we take this to committee—that's my understanding—and we debate it at committee. Then we bring it back here and we debate it again, hopefully

with some amendments—we'll see—and debate it here again for third reading.

Mr. Kormos: How many days of third reading?

Mr. Berardinetti: I'm unable to predict how many days of third reading or how many days of committee hearings, but I can say that it's going to be a lot more than when the Tories were in power, because I understand that they didn't have a lot of third reading debates. We at least are having third reading debates, and I'm happy to participate in those.

There's a lot in here. The regulation of paralegals alone is an issue that was touched upon and has been touched upon here and is quite important. Lawyers are regulated; paralegals presently are not. One of the big recourses available to the public in general when they are unhappy with their lawyer is that they can go to the Law Society of Upper Canada. The same is not true of the paralegals. I think we need to look at that, and this bill allows for that to happen.

Amending the justice of the peace system: Everyone knows that we need more JPs, or justices of the peace, out there. Let's take this to committee, let's discuss it at committee, and then let's bring it forward for third reading.

I want to see this go to committee; I want to see this debated at committee. Let's invite members of the public, if they want to come. I know that the Attorney General has had consultation on this before. Let's have some more consultation on this. Let's provide more transparency; let's open up the system to allow more transparency and accountability in the justice system, including publication of information on court operations, which is a mystery to many people. So I look forward—

The Deputy Speaker: Thank you. Questions and comments?

Member for Durham, you have two minutes to respond.

Mr. O'Toole: I do appreciate the input and the continual attempt to further the debate from Hamilton East, obviously, Niagara Centre and Scarborough Southwest. It's refreshing to have a Liberal member stand up. I think they are being whipped not to say anything, but I'm sure it will be well discussed and disclosed in the public hearings, with the committee hearings pending on Bill 14.

I want to bring to the table's attention, to that of the Chair and those viewing, that the Parry Sound–Muskoka member spoke earlier, the member from Haldimand–Norfolk–Brant spoke earlier, and the member from Hamilton East spoke earlier. The opposition and third parties have tried their best to have a full and wholesome debate.

But let's just deal with one thing in the very brief time that I've been limited to. I'm looking at another newspaper column that says that “both [Chief] Blair and York region police chief Armand LaBarge say that the shortage of justices of the peace is contributing to the problem” of a lack of JPs. It's causing backlogs. That means that trials take up to a year to get to court. There you have it. They are two completely impartial, independ-

ent—that’s one part of this omnibus bill. They are saying that your failure to put the proper resources in place is causing a delay in justice.

I look forward to stakeholder input on this bill; I look forward to it on third reading. I think it needs further debate. The government is not—

Mr. Kormos: The Liberals just don’t want to work.

Mr. O’Toole: Yes. They seem to do that standing order 9(c)(i) every day, but they don’t show up to actually participate. They don’t use the closure motion or time allocation motion. What they actually do is they just don’t say anything. It’s discouraging, and I don’t mean that disparagingly. There are some members here—and I won’t name them, because there aren’t that many. When we were government, we certainly brought in some very straightforward legislation, some of which needed to be debated further, and I would agree that this bill needs further debate.

The Deputy Speaker: Further debate? Does any other member wish to speak?

Mr. Bryant has moved second reading of Bill 14, An Act to promote access to justice by amending or repeal-

ing various Acts and by enacting the Legislation Act, 2005. Is it the pleasure of the House that the motion carry?

All those in favour, please say “aye.”

All those opposed, say “nay.”

In my opinion, the ayes have it. Carried.

Shall the bill be ordered for third reading?

Hon. Christopher Bentley (Minister of Training, Colleges and Universities): I would ask that the bill be referred to the standing committee on justice policy.

The Deputy Speaker: The bill is accordingly referred to the standing committee on justice policy.

Adjournment of the House?

Hon. Mr. Bentley: Adjourn, please.

The Deputy Speaker: It’s been moved that the House adjourn.

All those in favour, say “aye.”

This House is adjourned until 1:30 of the clock tomorrow.

The House adjourned at 1947.

LEGISLATIVE ASSEMBLY OF ONTARIO
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Une liste alphabétique des noms des députés, comprenant toutes les responsabilités de chaque député, figure dans les premier et dernier numéros de chaque session et le premier lundi de chaque mois.

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