JP-28

ISSN 1710-9442

Legislative Assembly of Ontario

Second Session, 38th Parliament

Assemblée législative de l'Ontario

Deuxième session, 38e législature

Official Report of Debates (Hansard)

Friday 22 September 2006

Journal des débats (Hansard)

Vendredi 22 septembre 2006

Standing committee on justice policy

Comité permanent de la justice

Access to Justice Act, 2006

Loi de 2006 sur l'accès à la justice

Chair: Vic Dhillon
Clerk: Anne Stokes

Président : Vic Dhillon
Greffière : Anne Stokes

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Copies of Hansard

Copies of Hansard can be purchased from Publications Ontario: 880 Bay Street, Toronto, Ontario, M7A 1N8. e-mail: webpubont@gov.on.ca

Exemplaires du Journal

Des exemplaires du Journal sont en vente à Publications Ontario : 880, rue Bay Toronto (Ontario), M7A 1N8 courriel : webpubont@gov.on.ca

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON JUSTICE POLICY

Friday 22 September 2006

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE LA JUSTICE

Vendredi 22 septembre 2006

The committee met at 1005 in committee room 1.

ACCESS TO JUSTICE ACT, 2006
LOI DE 2006 SUR L'ACCÈS À LA JUSTICE

Consideration of Bill 14, An Act to promote access to justice by amending or repealing various Acts and by enacting the Legislation Act, 2006 / 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 2006 sur la législation.

The Chair (Mr. Vic Dhillon): Good morning, everybody. The committee is called back to order. We're resuming our clause-by-clause consideration of Bill 14. We left off yesterday at schedule C, section 2. We'll begin this morning with government motion 47.

Mr. Peter Kormos (Niagara Centre): No, we won't. We'll begin with me because I have the floor.

The Chair: Mr. Kormos.

Mr. Kormos: Thank you. So here we are. We start this meeting this morning at 1007. I simply want to indicate this, very briefly, seeing as how I have the floor.

Once again, you've heard me indicate how anxious I was to see paralegal legislation introduced over a year and a half ago. I've been eager about it ever since I've been here at Queen's Park, I suppose, because the issue has certainly been around ever since I've been at Queen's Park, for 18 years or so now. The government was anxious to see this bill progress through committee hearings, and opposition caucuses, through their House leaders in meeting with the government, agreed to summer break, if you will, hearings that were held in September. I'll be quite candid: We also agreed to make the very best effort to complete the clause-by-clause in time for the House's resumption on September 25. I believe that that has been done and perhaps, in the course of doing that, some people have been shortchanged, people who wanted to make submissions, especially around that half-day issue. But of course I lost that argument I made yesterday—or Wednesday perhaps, didn't I, Chair?—that we should sit for at least another half-day, if not longer, to hear further submissions.

So I had a conversation with the government House leader's office this morning indicating that the bill may well not be finished clause-by-clause today. Nobody in the opposition caucuses anticipated 100-plus amendments, give or take, from the government, some of them five and six pages long.

We also didn't anticipate the committee inevitably starting late. I'm late from time to time for any number of reasons, but this committee has started late on every day that it sat. Then, yesterday, to have the Chair want to adjourn the committee at 3:50 when there was scarce time available—then again, I have the highest regard for Mr. Zimmer, but Mr. Zimmer then, at 4 o'clock, insisted upon drawing the Chair's attention to the clock so that the Chair had no choice but to adjourn the matter because it was 4 o'clock. I was, quite frankly, indifferent to the clock. It's behind me. I can't see it. I can't see it, least of all, while I'm addressing the committee, addressing the Chair.

So I just want to make it clear that opposition members have put themselves certainly not in a position where they can be charged with dilatory conduct. For the life of me, if you think we shouldn't be commenting on any number of these sections that are being put through this committee on a bill as important as this, then you're sadly mistaken. So I anticipate that we may well have to carry on with clause-by-clause. But, of course, this committee will sit on Wednesday of the coming week. As a matter of course, I believe that's the normal sitting day. If we don't complete clause-by-clause today, then we'll pick it up again on Wednesday and we'll proceed appropriately. But I've got to tell you, the scarce time available isn't aided by starting late or efforts to adjourn early.

1010

I was talking yesterday about the inclusion of "arbitrator," to wit, an arbitration; that is to say, people appearing in front of arbitration are practising law. I appreciate and understand the explanation given, and I agree that it would be inappropriate for any paralegal regulatory body—whether it was self-regulation by paralegals or the law society or the government through its ministry—to regulate who represents whom at bona fide private arbitrations. If you have arbitrations that are being conducted pursuant to statute, like labour relations law, then it could be a different story, although I'm not proposing that it be.

I'm wondering, then, why the government would insist on arbitration here when we haven't had any assurances from the law society, assuming the bill passes—that's a fairly safe assumption, I think. I haven't seen any

rebellions; Spartacus hasn't stridden to the front of the government caucus yet. So without any assurances from the law society, the proposed regulator, that people appearing in front of private arbitrations are none of the regulator's business, quite frankly, why is the government persisting in including arbitrations here when in fact the government, I would presume, has at least indirectly addressed the whole business of people like trade unionists appearing in front of labour arbitrations?

The one key factor, I think one of the distinguishing factors that should prevail in our reflection on this, is the distinction that was made between forums where there is a judge, an adjudicator, an arbitrator, who supervises the proceedings. Remember? There was a distinction made between that type of work and paralegals or non-lawyers appearing there and the fact that that adjudicator—arbitrator, judge, justice of the peace—performs a regulatory role in and of his or her position. But here, arbitration should be a private matter. The government dipped its toes into the attack on arbitration with its recent amendments, but we know the political motivation for that. What's going on here? Why do we have to have "arbitrator" here? It makes me nervous. A whole lot of things do, but this one makes me nervous this morning.

The Chair: Thank you, Mr. Kormos.

Government motion 47.

Mr. David Zimmer (Willowdale): I move that paragraph 2 of subsection 1(6) of the Law Society Act, as set out in subsection 2(10) of schedule C to the bill, be amended by striking out "Selects, drafts, completes or revises" at the beginning and substituting "Selects, drafts, completes or revises, on behalf of a person".

The Chair: Debate?

Mr. Kormos: I shouldn't presume, but I'm going to presume that this addresses, for instance, bank employees on behalf of a person as compared to not on behalf of a person. Can we get some explanation from somebody here? It could be a good amendment. It might be.

Mr. Zimmer: I'm going to ask Mr. Twohig, a lawyer from the ministry, to respond to that question.

Mr. John Twohig: I'm also here with Ms. Kwon, and she's volunteered to answer.

Mrs. Sunny Kwon: Yes, Mr. Kormos, it could. We were thinking that the committee heard that the definition of the provision of legal services is too broad, and this amendment narrows and clarifies the definition by requiring that the activity of selecting, drafting, completing or revising a document be on behalf of a person, and it could include, for example, a bank employee who was acting on behalf of a person. Without the amendment, it was very broad, and so it could have been a bank employee who was just filling out a document. So we wanted to make it clear that the person has to be representing somebody else.

Mr. Kormos: Thank you very much for coming today. I suppose the difficulty is, what if, then, a paralegal whom one hopes to regulate selects, drafts or completes a document on behalf of a small company, a small business? That isn't a person, is it? Am I missing the point here? Feel free to say, "Yes, Kormos, you're missing the point."

Mrs. Kwon: I guess that's a question of interpretation. Presumably, there is somebody working on behalf of the corporation, so the person would be providing the legal service for that person who's working on behalf of the corporation.

Mr. Kormos: If the interest here is to narrow it, to narrow it down in what regard? If you're narrowing it, that implies you're excluding something, right? If the chart is a circle, what's the peripheral group that you want to exclude by virtue of this?

Mrs. Kwon: We do want to include "on behalf of a person": acting as a representative on behalf of a person or a corporation or a small business or any other sort of entity. It's broad. And then we wanted to, in the next government motion, exclude from that definition certain individuals.

Mr. Kormos: But "on behalf of a person": if I'm arguing, then, that I didn't draft this document—I'm a paralegal. I hear what you're saying. I see your next motion, and fair enough, but I'm not preparing this statement of claim on behalf of a person; I'm preparing it on behalf of ABC Inc., a corporate entity. Is it—

Mr. Twohig: And that corporate entity would be a person.

Mr. Kormos: Then what's the difference? Why are we saying "on behalf of a person"? As compared to who else?

Mr. Twohig: On behalf of yourself.

Mr. Kormos: So you mean there was a fear that this legislation would include people who were acting for themselves?

Mrs. Kwon: We heard during the committee hearings, for example, from the used car salesmen. Used car salesmen, in filling out documents or filling out blanks, would be acting for the corporation and not for another person.

Mr. Kormos: But when I see your next amendment—take a look at the next amendment—you've listed a bunch of exclusions, and that's fair enough. That's responsive to the concerns that have been raised. It's not exhaustive, of course. Call me thick, Chair, but I don't see—I get the "on behalf of" as compared to "for oneself," but nobody ever said that preparing documents for oneself was ever contemplated as being regulating. That's what's happening here. We started with this broad thing, and we've got to narrow it down, instead of defining "legal services" or "paralegal services."

I'm not going to carry on the debate. All I'm saying is that this is a peculiar one. I don't know whether it's benign, because it appears benign, or if it's going to cause grief down the road. And if it causes grief down the road, I suppose schadenfreude will kick in on my part. We'll leave it at that. Right, Ms. Van Bommel?

Thank you kindly.

The Chair: Any other debate?

Mrs. Christine Elliott (Whitby–Ajax): I'd just like to make a comment on record that my preference when drafting is to be as specific as possible rather than to state

things in general terms and then opt out. But, subject to that comment, if we're going to proceed this way in trying to be more specific with respect to those classes of persons doing the kind of work that they are doing who are not included, then I don't have a particular concern with this.

1020

The Chair: Any further debate? Seeing none, shall government motion 47 carry? Carried.

Mr. Kormos: The first victory of the day, Mr. Zimmer.

The Chair: Government motion 48.

Mr. Zimmer I move that subsection 2(10) of schedule C to the bill be amended by adding the following subsection to section 1 of the Law Society Act:

"Not practising law or providing legal services

"(7.1) For the purposes of this act, the following persons shall be deemed not to be practising law or providing legal services:

"1. A person who is acting in the normal course of carrying on a profession or occupation governed by another act of the Legislature, or an act of Parliament, that regulates specifically the activities of persons engaged in that profession or occupation.

"2. An employee or officer of a corporation who selects, drafts, completes or revises a document for the use of the corporation or to which the corporation is a party.

"3. An individual who is acting on his or her own behalf, whether in relation to a document, a proceeding or otherwise.

"4. An employee or a volunteer representative of a trade union who is acting on behalf of the union or a member of the union in arbitration proceedings or proceedings before an administrative tribunal.

"5. A person or a member of a class of persons prescribed by the bylaws, in the circumstances prescribed by the bylaws."

The Chair: Debate?

Mr. Kormos: An interesting amendment. Let's start with paragraph 1. I appreciate the language, "normal course of carrying on a profession", which means that just because somebody is regulated as an architect, let's say, and that person is a professional, a member of a regulatory body, should he or she go outside of the normal business of architecture, which could include some legal documentation—but if he starts preparing divorce documents, he is no longer acting as an architect. I understand and appreciate that.

However, do you remember that on the very first day we talked about mediators? The law society said maybe mediators should be regulated in this regime. That's what the spokesperson said, unless Hansard is wrong. I don't know. I've been here a whole lot of years and I've heard a whole lot of people say they've been misquoted. I have never seen an error in Hansard other than an occasional—when people don't speak sufficiently clearly, like I have from time to time, and they get a word confused.

So mediators are not a regulated profession. Nobody is suggesting that they should be—nobody. It has not come from anywhere. Within the community of mediators there is no suggestion, there's no drive to be regulated. All I want to point out, with due respect, is that although paragraph 1 is fine, in my view, in and of itself and how it stands, and it achieves the goal of excluding any number of professionals who came forward, like car sales people, insurance sales people, mortgage brokers etc.—it appears to, and I believe that that's the intent, and that's a legitimate, bona fide intent—it doesn't deal with unregulated professionals, and there are some out there. We had Dr. Barbara Landau here, just a brilliant leader in the alternative dispute resolution community, with the spokesperson for St. Stephen's, both speaking on behalf of that mediation community. We still haven't protected them. I just want to point that out. Maybe it's coming, but I don't think so.

Number 2: I appreciate that.

Number 3: I don't know, this is a little bit of reductio ad absurdum, isn't it? How can you provide legal services to yourself? What do I do? I reach into my left pocket, I pull out $20, give myself legal advice, put the $20 into my right hand and put it in my right pocket, if I provided legal services to myself? Let's not be silly.

But fair enough, erring on the side of caution; I just wonder whether the inclusion of an individual who's acting on his or her own behalf, whether in relation to a document or a proceeding or otherwise—I wonder whether somebody is going to seize on that at some point and generate a loophole there. I don't know. There are some pretty clever people out there. They're out there because they didn't run for election; they're clever. They're out there just looking for loopholes in these sorts of things. I just wonder.

Seriously, I wave that little red flag: the inclusion of that paragraph when it should be virtually self-evident, right? Even I, in my most cynical moment during the review of Bill 14, never would have suggested, "You people are preventing people from preparing their own legal documents." So be it.

Number 4: the trade union. You missed the negotiation process, it seems to me. You talk about "arbitration proceedings"—fair enough—"or proceedings before an administrative tribunal"—fair enough—representing a member, let's say, in front of WCAT, representing somebody in front of the EI appeal, representing somebody in front of the CPP, but you missed the negotiations part: "An employee or a volunteer representative of a trade union who is acting on behalf of the union or a member of the union in arbitration proceedings"—

Mr. Zimmer: "Or"—

Mr. Kormos: —"or proceedings before an administrative tribunal." Negotiations and reporting back to your membership and signing minutes of agreement subject to ratification are not done before an administrative tribunal, nor are they done in the course of arbitration proceedings. I think the four trade unions that came here were very, very fair. They addressed the issue very

concisely and didn't come here full of bluster, beating up on the government. They very specifically talked about negotiations in the course of providing legal—because you're preparing documents; you are, just like the mediator.

This was the issue with the mediators. Mediators assist divorcing couples, separating couples, in preparing minutes of settlement. That's a legal document that affects rights. It affects the rights of the parties, it affects children's rights and so on. Union negotiators, in the course of negotiations, draft minutes of settlement that they sign with the management people sitting across from them at the table. They go back with these minutes of settlement, seeking ratification from their membership, and it's not before an administrative tribunal and it's not at an arbitration proceeding.

I think, with all due respect, the drafters of this particular paragraph hit the target, but in the course of hitting the target, I believe—once again, I don't think it's the government's intention or, at the end of the day, the regulator's intention to regulate union negotiating activity. The problem is that when the government excludes some union activities but not the others, is there an implication there? Is it implying that others are to be covered? Huh, Mrs. Elliott? Interesting.

Those are my comments on this amendment.

Mr. Zimmer: With the greatest respect to the way you've read paragraph 4, in my view, the first sentence there, "An employee or a volunteer representative of a trade union who is acting on behalf of the union"—that first part of the sentence would cover the negotiation piece—

Mr. Kormos: I'm going to draw a line right there.

Mr. Zimmer: —and the "or" then relates to another category of stuff that comes before arbitration panels and so on. I'm going to ask Mr. Twohig to also comment on that.

Mr. Kormos: Before you do that, because now you've engaged me and this is interesting, what you do then is you create an absurdity of the balance of the sentence. If that's what you're saying, "An employee or a volunteer representative of a trade union who is acting on behalf of the union"—a negotiator acts on behalf of membership, number one. See, the union is represented, for instance, in negotiations with its own employees. The staff at OPSEU are unionized. So the union is the employer. People acting on behalf of the union are negotiating with the employees of OPSEU.

However, let's then see what you're left with in the sentence: "a member of the union in arbitration proceedings or proceedings before an administrative tribunal." That excludes an employee who is not a member of the union. An employee of OPSEU is not a member of OPSEU. An employee of OPSEU is a member of the union that OPSEU members belong to. I've been on their picket line.

Mr. Zimmer: This sounds like that old rhyme: "How much wood could a woodchuck chuck if a woodchuck could chuck wood?"

Mr. Twohig has a comment here.

Mr. Kormos: No, no, no, Mr. Zimmer. You wanted to create an exegetical aura there, and look at the mess you've made. What's that with Laurel and Hardy? "Another nice mess you've gotten us into."

Mr. Zimmer: Mr. Twohig.

Mr. Twohig: Just very briefly, Mr. Kormos and members of the committee, those exact words were lifted from the Nova Scotia legal profession statute, which has a very extensive definition of "the practice of law." As far as we're aware, it's never caused a problem.

I would add, I was here when I heard some of the union representatives say very forcefully that their activities were regulated by statute. So it seems to me that there's a very good argument to say they would be covered in any event by paragraph 1.

Mr. Kormos: They would be covered in paragraph 1 if they were regulated. It seems to me, then, there's no need for paragraph 4.

I'll tell you what, Mr. Zimmer, and let's be fair. Would you consider—and, again, I'll make sure this is dealt with—deferring voting on this? I don't think there are any subsequent amendments that are dependent upon it. Seriously, I'm worried about the language. Number 1, as I say, clearly excludes unregulated professions. We know that. So be it. That's going to have to be dealt with, then, by the regulatory body down the road, but I think number 4—and I'm not quarrelling—that you say came from a Nova Scotia statute—God bless. Again, that's the difficulty in drafting stuff. You beg, borrow, steal. You use best efforts. Would you allow this to be deferred until this afternoon?

Mr. Zimmer: No.

Mr. Kormos: You wouldn't? Well, that's unfortunate. That's very unfortunate.

Chair, I want to move an amendment to the amendment, please. I move that government motion 48 be amended by deleting paragraph 3.

The Chair: Would members like copies of the amendment?

Mr. Zimmer: Yes.

The Chair: We'll just have a brief recess.

Mr. Kormos: No, we need numbers or else people could wander off and—

The Chair: A two-minute recess.

The committee recessed from 1034 to 1038.

The Chair: The committee is called back to order. Any further debate? Seeing none—

Mr. Kormos: Recorded vote, and a 20-minute recess, pursuant to the standing orders.

The Chair: We'll have a 20-minute recess.

The committee recessed from 1038 to 1058.

The Chair: The committee is called back to order. Mr. Kormos has asked for a recorded vote on the amendment to the amendment. All those in favour?

Mr. Zimmer: We're voting on yours.

Nays

Balkissoon, Flynn, Wong, Zimmer.

The Chair: That's defeated. Is there any further debate on government motion 48?

Mr. Zimmer: Mr. Chair, I have an amendment to make to motion 48.

The Chair: Do we have copies?

Mr. Kormos: On a point of order, Chair: Are we going to be provided with written copies of this amendment?

The Chair: We'll need a two-minute recess to get copies of the amendment. This committee is recessed for two minutes.

The committee recessed from 1058 to 1102.

Mr. Zimmer: I move that paragraph 4 of subsection 1(7.1) of the Law Society Act, as set out in government motion 48, be struck out and the following substituted:

"4. An employee or a volunteer representative of a trade union who is acting on behalf of the union or a member of the union in connection with a grievance, a labour negotiation, an arbitration proceeding or a proceeding before an administrative tribunal."

The Chair: Any debate?

Mr. Kormos: I appreciate this amendment to the government's amendment. It incorporates labour negotiation. In the interest of ensuring that the amendment doesn't omit any legitimate, bona fide labour union activity, because it seems to me—with respect, this is being done on the fly; the amendment is literally handwritten. I appreciate the policy people working as hard as they do, because they shouldn't have to be doing it here, sitting at the committee table and writing things out by hand. They should have the luxury of their desks, their computers and their reference material. So we have:

—"acting on behalf of the union or a member of the union in connection with a grievance": That, of course, then, would deal with the grievance stages that precede the arbitration itself, and that's good;

—"a labour negotiation": I hope that that language is sufficiently clear to embrace the broad range of negotiating that takes place, because there are not just every-two-year or every-three-year contract negotiations. There are negotiations ongoing all the time;

—"an arbitration proceeding or a proceeding before an administrative tribunal": Again, I'm sure it's everybody's intention that that includes all of those tribunals, like CPP, employment insurance, the Social Assistance Review Board, WSIB, WCAT and so on.

I was going to move an amendment to this, "including, but not limited to, the following," one of those types of amendments, that type of language, Mr. Zimmer. I would have preferred that; the government usually prefers that, because it uses the list of things that you're doing as a sort of framework within which to consider whether something that isn't specifically listed is akin to that list. Mrs. Elliott understands, I know, that concept probably far better than I do. I regret that the amendment doesn't have that language, but at the end of the day that is probably, hopefully, merely a matter of personal preference. Subject to anybody else wanting to speak to this, I am prepared to have this matter, this amendment, put to a vote.

The Chair: Any further debate? Seeing none, shall the amendment to the amendment carry? Carried.

Any further debate on government motion 48?

Mr. Kormos: This is going to go to a vote, I'm sure, very, very soon. But this is the problem: As you know, I'm not entirely happy—I'm not being critical of anybody—with the government's efforts to clean up paragraph 4. Again, here I am. I don't have the reference material, I don't have the resources, and we don't have the luxury of time in this context. That's the problem with pursuing legislation in this manner. Obviously, as soon as we're done, I'm going to get back to my office and I'm going to e-mail and fax this off to the parties and the trade unions, at least, who spoke here.

Just a simple observation—and again, there's nothing secretive about this; this isn't like a budget, where somebody is going to make money or not make money: For the life of me, why couldn't or wouldn't the government have contacted the counsel for the four trade unions that appeared here and talked about paragraph 4? Because everybody knows what everybody's trying to do; the government is trying to respond, in this instance, to the request by unions that they not be caught up in this huge net.

Would it have been so out of order to have called their counsel and said, "Look, have you got any ideas about the sort of amendment we have to make, the language we have to include, to ensure that trade unionists doing their daily activities aren't caught up in this?" There are no state secrets being given away or being revealed, and even then it just boggles the mind. The committee has made an effort to address it, but it's lost the committee 30 minutes of scarce time. Had OPSEU's counsel, who was here making the presentation, been called, he would have been pleased to have assisted the government in a very fair way in the drafting of this bill.

I'm not going to debate this matter any further. As I say, I continue to be concerned about it. I think it's problematic, but the government is going to have to decide whether or not they want to pass it. I'm talking about their amended amendment.

Mrs. Elliott: Although we do understand the intent of this paragraph and appreciate the efforts that have been made to be as comprehensive as possible, our view is that there is another important category or group that has not been excluded as not providing legal services, and that is the title insurers, who do provide documents and prepare documents routinely in the course of their business. That is included in a subsequent amendment that we are proposing. For that reason, I'm not able to support this amendment as it's presently drafted.

The Chair: Any further debate?

Mr. Kevin Daniel Flynn (Oakville): Just following up on that issue for the sake of clarity, I wonder if I can

ask a question of staff. Mr. Twohig, my understanding was that title insurers, including the preparation of documents, would be excluded by these exemptions that are being proposed. If we could hear from staff on that?

1110

Mr. Twohig: Thank you, Mr. Flynn and members of the committee. It's my view that title insurers are regulated by the superintendent of insurance when they're—

The Chair: Sorry. I'm not sure if Hansard has your name. Could you just state it?

Mr. Twohig: My name is Twohig. I'm from the Ministry of the Attorney General, policy division.

When title insurers are acting within the scope of their activities that are regulated by the superintendent of insurance, they would be covered by this exemption.

Mr. Flynn: That includes the preparation of documents?

Mr. Twohig: It would seem that, yes, it would.

Mr. Flynn: It would seem that way or it would?

Mr. Twohig: It would.

The Chair: Any other debate?

Shall government motion 48, as amended, carry? It's carried.

Next is PC motion number 49.

Mrs. Elliott: I move that subsection 2(10) of schedule C to the bill be amended by adding the following subsection to section 1 of the Law Society Act:

"Not practice of law or provision of legal services

"(7.1) For the purposes of this act, the following activities shall be deemed not to be the practice of law or the provision of legal services:

"1. Activities performed by an individual in relation to,

"i. a document that is solely for the individual's own use, or

"ii. a document or proceeding to which the individual is a party.

"2. Activities performed without charging a fee.

"3. Activities that are regulated under another act of the Legislature or an act of Parliament and that are performed by an individual who, or by an employee of a individual, corporation or organization that, is licensed or otherwise authorized to perform those activities by the government of Ontario or any of its agencies, boards or commissions.

"4. The preparation of documents by insurers of title to real property."

As previously stated, it's our submission that the previous amendments did not sufficiently address the position of title insurers. In our view, this needs to be clarified by the specific exclusion contained within this amendment.

The Chair: Any other debate on PC motion 49?

Mr. Flynn: Just looking at number 4 of the amendment that's on the floor, and to be clear once more, my understanding is that number 4 would be unnecessary and redundant because our staff have just told us that in the preparation of documents by insurers of title to real property, they're already excluded.

The Chair: Any other debate? Seeing none, shall PC motion number 49 carry? All those in favour? Opposed? Lost.

Any other debate on schedule C, section 2, as amended? Shall—

Mr. Kormos: One moment. I suppose I'm going to reserve most of my comments for schedule C in its entirety at the end.

Mr. Zimmer: That would save time.

Mr. Kormos: It all depends on how long—you see, if I wait for all of my comments to the end, I might have reached that tipping point where I'm just bubbling over, where we could end up involving more time, Mr. Zimmer.

Mr. Zimmer: Anything to save time so we can finish our work today.

Mr. Kormos: It's not my job to save time. It's my job to exhaustively scrutinize the government's work. Mr. Zimmer may well understand that in due course, in the course of his career, and it will be fascinating to watch him perform that role.

It's just incredibly regrettable that the government chose to draft legislation that, notwithstanding the amendment that was just passed—the government's amendment that was just passed—sends out that huge net and then says, "Well, but at the end of the day we'll let the law society decide who is and who isn't covered," because the amendment is as it stands, but certainly not exhaustive. I'm regretful that the government is ramming this bill through with such haste and without adequate contemplation and consideration.

The Chair: Any other debate? Seeing none, shall schedule C, section 2, as amended, carry? Carried.

Schedule C, section 3: PC motion number 50.

Mrs. Elliott: I move that section 1.1 of the Law Society Act, as set out in section 3 of schedule C to the bill, be amended by adding the following subsection:

"Providers deemed licensees

"(13) Every person who, immediately before the amendment day, is at least 60 years old and has been in the business of providing legal services in Ontario as a non-member for at least five years shall be deemed to become, on the amendment day, a person licensed to provide legal services in Ontario and to hold the class of licence determined under the regulations."

The purpose of this amendment is to provide grandfathering, as requested by the Ontario paralegal society, and to give them some degree of certainty, by inserting this into the legislation, that they will have at least some measure of grandfathering that they can depend upon.

The Chair: Any other debate? Seeing none, shall PC motion 50 carry? All those in favour? Opposed? It's lost.

Is there any other debate on schedule C, section 3? Seeing none, shall schedule C, section 3, carry? Carried.

Any debate on section 4?

Mr. Kormos: I wonder if the parliamentary assistant could explain this amendment to us.

The Chair: Mr. Zimmer?

Mr. Zimmer: Mr. Twohig?

Mr. Kormos: Please, don't put him to the trouble. It's adding the title "Part I" to the bill. I was being facetious, for Pete's sake.

Mr. Flynn: We can't tell with you.

Mr. Kormos: Thank you very much, Chair.

The Chair: Shall schedule C, section 4, carry? Carried.

Schedule C, section 5: government motion number 51.

Mr. Zimmer: I move that subsection 2(2) of the Law Society Act, as set out in section 5 of schedule C to the bill, be amended by striking out "and" at the end of clause (b), by adding "and" at the end of clause (c) and by adding the following clause:

"(d) the persons who are at that time licensed to provide legal services in Ontario, who shall be referred to as paralegal members."

The Chair: Debate?

Mr. Kormos: One moment; let's find this.

When the word "members" is used here, if the parallel—I'm looking at the section in the government bill: "the persons who are at that time licensed to practise law in Ontario as barristers and solicitors." That's 2(2): "The society is a corporation ... and its members at a point in time are.... " Am I on the right section here?

Interjection: Yes.

Mr. Kormos: It says, "the person who is the treasurer ... the persons who are benchers ... the persons who are at that time licensed to practise law in Ontario as barristers and solicitors," and now "(d) the persons who are at that time licensed to provide legal services in Ontario, who shall be referred to as paralegal members."

Is the government, by this amendment, making paralegals members of the law society?

Mr. Zimmer: Yes.

Mr. Kormos: But it's also incorporating the title "paralegal" or "paralegals," which has been something that was raised around the course of the hearings. What I'm worried about is the lack of parallel between clause (c) and this new clause (d). It seems to me that when you're building a section like that, its members at a point in time are "(c) the persons who are at that time licensed to practise law in Ontario as barristers and solicitors;" and then, "(d) the persons who are at that time licensed to provide legal services in Ontario."

1120

There are other references in your amendments to "paralegal" as a title. One of the interesting things of course is that "lawyer," it has been noted, especially by law society types, isn't used in legislation, existing or proposed. Even though the government is saying, "Paralegal members are members of the law society," there is nothing here that indicates the extent to which they are members, there is nothing here that indicates the extent or whether or not they have a vote, because that is not resolved by this section, is it? That's all unresolved. It's inoffensive, in and of itself, except that it could be a bit of a red herring. It could be a bit of a con, a sop, designed to create a comfort level amongst paralegals that they shouldn't quite have yet because we don't know what kinds of members. It's like being a fifth-degree Mason—I'm going to get in trouble because I don't know anything about Freemasonry—versus a neophyte Mason who is at his or her first meeting, like a person who is in the 11th step of a 12-step program as compared to just being present at their first meeting.

I'm going to support the amendment, but I remain suspicious because it doesn't talk genuinely about what membership for a paralegal in the law society means. I'm going to support it because at least it incorporates the term "paralegal," although the act doesn't incorporate the term "lawyer." Go figure.

The Chair: Thank you, Mr. Kormos. Any other debate? Seeing none, shall government motion 51 carry? Carried.

Any debate on schedule C, section 5, as amended? Seeing none, shall schedule C, section 5, as amended, carry? Carried.

Any debate on sections 6 to 15? Seeing none, shall sections 6 to 15 carry? Carried.

We're now at schedule C, section 16. Government motion 52.

Mr. Zimmer: I move that subsection 16(6) of the Law Society Act, as set out in section 16 of schedule C to the bill, be amended by striking out "Legal Services Provision Committee" and substituting "Paralegal Standing Committee".

The Chair: Any debate?

Mr. Kormos: Dare I say it, Mr. Zimmer? Whoop-dee-doo; big deal; so what? This should be a little embarrassing for the government, that this is the extent to which they're going to respond to concerns that have been raised. This is, as you well know, window dressing. This is designed to create an illusion of paralegals being more included in the law society regime. But it's not about changing the names of committees, for Pete's sake, because you amended section 16, for instance, but you don't deal with 16(1): "Two persons who are licensed to provide legal services in Ontario shall be elected as benchers in accordance with the bylaws"—two. You didn't even go to the trouble of saying, "Two paralegals who are licensed by the law society." That shows you how shallow these amendments are and how the government is going to try to market them, saying, "Look what we've done for the paralegals. Look how we've responded to their concerns." Because we know that the 40 benchers who are elected by lawyers are elected regionally. That means, for instance, down where I come from—and we're talking about Niagara; I can't remember if Hamilton is a part of that area for electing a bencher or not—people run for these positions and you tend to know the lawyers in your area, if you're a lawyer, and you use that to decide who you're going to vote for.

Two benchers shall be elected who will be paralegals. Is there an assurance here that it's only paralegals who will be voting for the paralegal benchers? No. Think about it: We're not assured that it won't be lawyers electing the paralegal benchers. That's number 1.

Number 2: Two benchers for all of Ontario. What are people going to be expected to do? To campaign across the province? Let's look at it from a practical point of view. Mrs. Elliott knows this as well. If you're running as a bencher in your region as a lawyer, you get a list of the lawyers in that region—there are publications that have them—and you campaign by, let's say, sending out a mailing or doing a phone call. Fair enough. Mind you, in the city of Toronto it's an expensive and onerous task in and of itself, but how does a paralegal campaign across the province, knowing full well that the incomes of paralegals are, by and large, a percentage of that of law officers? That's one of the reasons they're being welcomed into the legal communities, because they can provide lower-cost legal services. How does a paralegal, then, campaign across the province? We'll divide the province into two? Oh, great. So somebody has to campaign in Kenora, Rainy River, Timmins, James Bay, North Bay, and then somebody else has to campaign in the rest of Ontario.

I don't think it's fair to the paralegals who are going to have a regulatory regime established. It very much appears that the regulatory regime is going to be one operated by the law society. Okay, there you go. I don't think it's fair to paralegals to say, "Oh, well, we'll rename the legal services provision committee, but you can only elect two benchers," without even telling them how they're going to be elected. That's not fair, is it? I don't think that's fair at all.

The problem is, if the law society had laid out in fair terms—and I'm not just talking about their task force on paralegal regulation but for the purpose of debate so that it could be a part of the legislation, because you see, the task force report is nothing but that, the task force report. At the end of the day it's still up to the law society, with its two paralegal benchers, to determine things like scope of practice, to write and pass the bylaws that determine how paralegals will be elected. Who wouldn't vote for this amendment? But at the end of the day, it's pretty Mickey Mouse.

Mrs. Elliott: Inasmuch as we have proposed an identical amendment, we will be supporting this one. However, I do still have an overriding concern about the measures that should be taken to protect the interests and concerns of paralegals within the proposed operating structure. So subject to those comments, we will be prepared to support this amendment.

1130

The Chair: Any further debate? Seeing none, shall government motion 52 carry? Carried.

Next is a PC motion.

Mrs. Elliott: We won't be proceeding with this.

The Chair: Okay, that's withdrawn.

Next we're at government motion 54.

Mr. Zimmer: I move that subsection 16(7) of the Law Society Act, as set out in section 16 of schedule C to the bill, be amended by striking out "legal services provision committee" and substituting "paralegal standing committee."

The Chair: Any debate? Seeing none, shall government motion 54 carry? Carried.

Motion 55 is a PC motion.

Mrs. Elliott: Again, since it's the same as the amendment that was just passed, I won't be proceeding.

The Chair: That's withdrawn.

Shall schedule C, section 16, as amended, carry? Carried.

Any debate on section 16, as amended?

Mr. Kormos: I'm not sure that that's not moot now that the section is carried.

Point of order, Mr. Chair: Is the call for debate moot now that the section has passed, notwithstanding the failure of the Chair to call for debate on the section before you called the question?

The Chair: I just went back and asked for debate.

Mr. Kormos: No, but I'm addressing you on a point of order. Is it in order for the Chair to call for debate on a section that has already been passed, notwithstanding that the Chair failed to call for debate before calling the question?

The Chair: Mr. Kormos, as I'm sure the committee must appreciate, I assumed that whatever debate needed to take place did take place. I made an error and I've gone back and asked for any further debate. Any comments that you may have?

Mr. Kormos: I've made a point of order and I need a ruling on it.

The Chair: Would you like to make any comments after the fact that it has been carried?

Mr. Kormos: I made a point of order. I need a ruling on it, Chair. I'm entitled to a ruling. If it's not a point of order, the Chair should just say that it's not a point of order.

The Chair: It's not a point of order. The section, as amended, has carried.

Are there any comments further to that? Any more comments, Mr. Kormos?

Mr. Kormos: On the point of order, no. You've already ruled on the point of order.

The Chair: Before we move on, would you like to make any comments?

Mr. Kormos: Yes. In view of the fact that once a question has been called and a section has either carried or for that matter been defeated, it's not in order to call for debate on that section. You've ruled that. I accept that ruling, and quite frankly agree with it. It means that it's imperative that the Chair call for debate before calling the question, with respect. That wasn't a point of order; it was just a comment that you invited.

I expect we're going to move on to the next section now.

The Chair: Thank you, Mr. Kormos. We're at schedule C, sections 17 and 18. Is there any debate on sections 17 and 18?

Mr. Kormos: Yes, there is. One of the things that this deals with is the appointment of lay benchers. I don't think anybody quarrels with lay benchers. That's where the public inserts itself into the law society's affairs and

into the law society's operation. I would have liked to see this bill—because those are appointments made by the government; once again, political appointments. It would be downright naive on the part of a government to appoint people as lay benchers who are not going to at least be comfortable with the government agenda, if not downright advocate it. So I see this as a lost opportunity in terms of the eight political appointments. I see this as a lost opportunity in that the government didn't use this amendment, this bill, as a way of ensuring that those appointments are less than political appointments and therefore more truly representative of the population of Ontario and less likely to be people who are appointed because the government is confident that they will convey and comply with the government's line of the day.

The Chair: Any other debate?

Mr. Zimmer: I just think it's important to note that under sections 17 and 18, in fact any elected bencher is eligible to be elected treasurer. That's whether the person is licensed to practise law or the person is licensed to practise legal services. In effect, a paralegal could become the treasurer of the law society.

Mr. Kormos: Hansard should just show that Kormos is stifling laughter.

The Chair: Any further debate? Seeing none, shall sections 17 and 18 carry? Carried.

Section 19, government motion 56.

Mr. Zimmer: I move that subsection 25.1(1) of the Law Society Act, as set out in section 19 of schedule C to the bill, be struck out and the following substituted:

"Paralegal Standing Committee

"Paralegal standing committee

"Establishment

"25.1(1) Convocation shall establish a standing committee to be known as the paralegal standing committee in English and Comité permanent des parajuristes in French."

Mr. Kormos: This is just out of interest, because of course now that we're talking about paralegals—we never had a chance—I don't recall any input as to the proper Canadian French version of "paralegal." Just as much out of curiosity and self-edification as anything else, is this a term that's used in Quebec? Is this a literal translation? I really don't know what the source of "parajuriste" is. Do you know?

Mr. Zimmer: Mr. Twohig?

Mr. Twohig: I'm going to have to turn to legislative counsel, who so ably assists us.

Ms. Joanne Gottheil: I would have to go back and get the advice of our French team. I can't answer that. But if you'd like, we can go back and ask them.

Mr. Kormos: I suppose the only interest I have literally in terms of the bill is, is this a neologism or is it a word that is in use in a practical way, obviously in French-language Canada? I'm not going to oppose the motion, but if we could, at some point, hopefully today, get that—who knows; the government may have to come back and move amendments to amend all these French-language versions. I don't know; it would just be interesting to know. It's good to know these things. Down where I come from, we have a lot of francophones.

Ms. Gottheil: Okay. We'll get back to you.

The Chair: Any other debate? Seeing none, shall government motion 56 carry? Carried.

PC motion 57.

Mrs. Elliott: I move that subsection 27(1) of the Law Society Act, as set out in subsection 23(1) of schedule C to the bill, be amended by striking out "bylaws" at the end and substituting "regulations".

Mr. Zimmer: That's a duplicate.

Mrs. Elliott: Oh, I'm sorry. We won't be proceeding with this.

The Chair: PC motion 57 is withdrawn. It's a duplicate.

Mr. Kormos: Chair, Mrs. Elliott and I are here all on our own. We don't have huge entourages of hangers-on, high-priced staff and the well-trained bureaucracy here helping us and guiding us along; we're here all by ourselves. We're here in the trenches with our shirt sleeves rolled up, without any fancy tools and all the high-priced resources that we dearly would love to have.

1140

The Chair: Is that final debate? Any other debate on this?

Mr. Kormos: What are we dealing with now?

The Chair: We're dealing with any further debate on section 19, as amended.

Mrs. Elliott: I should have withdrawn motion 57 before proceeding to 58.

Mr. Kormos: Gotcha. That's right. Yes. Once again, folks, here we are. We're dealing with section 19. Once again, the Attorney General for Ontario shall make appointments of the five persons who will be paralegal members of this committee. Paralegals feel, by and large, that they've been at war with the Attorney General. They really do. They don't feel right now that the Attorney General has been their friend or that the Attorney General has been particularly accommodating in terms of listening to them. They feel that way. I don't purport to speak for every single one, but my impression is that paralegals don't get the sense right now that the Attorney General, Mr. Bryant, has been particularly attentive to their concerns, their fears and what they perceive as their interests.

So here you go. This seminal group, the paralegal membership of it, is going to be political appointments of the Attorney General. It just seems to me, once again—because there's going to have to be an effort now, whatever regulatory regime flows from this, to make it work. I'm confident that paralegals will do anything and everything they have to and can, however distasteful and fearful they may find the exercise, to make the regulatory regime work.

Surely to goodness, the government could start to send out some messages to them, and this is an opportunity to do it, rather than simply to say, "Five persons appointed by the Attorney General for Ontario." It seems to me the government could have amended this to ensure that there

would be some comfort level, some assurance, if only symbolic, to paralegals that there wasn't going to be cherry-picking on the part of the government to ensure that there wasn't going to be any intense or serious debate in this committee. I agree this committee's going to have potential to have great impact, and I suspect the debate should be a very strong one and heated—it should be—to resolve the conflicts, perceived or real. That would go a long way towards making the regulatory regime work. But when these people are going to be hand-picked, I suspect that the fear of many paralegals is that the paralegals who are going to be appointed by the Attorney General are going to think, speak, eat, sleep and breathe in sync with the view of the government around this matter. Again, Mr. Parliamentary Assistant, just a lost opportunity.

There's a huge schism out there between paralegals and the law society that this committee process could have helped bridge. But to the contrary, it simply made it wider, because paralegals don't feel that this committee has done much to respond to them and their concerns. Thank you, Chair.

The Chair: I believe leg counsel would like to make a comment.

Ms. Gottheil: We've been advised by the French team that "parajuristes" is the most commonly used term. It is used in Quebec and it is also used at the federal level.

Mr. Kormos: That's a good thing. Thank goodness the government has the skilled counsel of Ontario francophones and at least listens to them. Not to paralegals. Thank you very much, Madam Counsellor.

Ms. Gottheil: You're welcome.

The Chair: Thank you, Mr. Kormos.

Any further debate on section 19? Seeing none, shall section 19, as amended, carry? That's carried.

Sections 20 to 22: Is there any debate?

Mr. Kormos: I'm almost inclined to ask Mr. Zimmer to explain section 21, but I'll leave that alone. We're dealing with 21 through 22?

The Chair: 20 to 22.

Mr. Kormos: Yes. Under "Prohibitions and Offences" in section 22, particularly subsection (8): "This section applies to a person, even if the person is acting as agent under the authority of an act of the Legislature or an act of Parliament." That's 26.1 of the proposed act.

This brings up the CSIC issue. We had, as you know—and Mr. Zimmer was interested in this because of some of his own background and expertise—representations made to us by the brass from CSIC: John Ryan and Ross Eastley. The problem there—legislative research assisted us to a certain extent, although not all the questions were answered—is that CSIC says that because its members are regulated by CSIC, they can't be regulated by the paralegal regulatory regime in Ontario. The prohibition section incorporates paragraph 8 saying, "This section applies to a person, even if the person is acting as agent under the authority of an act of the Legislature or an act of Parliament." I appreciate that. That's not a bad section; that's a good section, because it says you're not going to sneak out of the regulatory regime by virtue of being a federally authorized entity.

I suppose this may well—I'd ask counsel to help us or the policy people to help us in this regard. I presume this also addresses, for instance, the Criminal Code provisions that allow an agent to appear. Because somebody's appearing in criminal court pursuant to the Criminal Code as an agent, that does not preclude the province from regulating that person as a paralegal.

We still have a problem. There's a real contradiction between what CSIC said, what the regulations appear to say and what the federal government says. CSIC says that everybody who does immigration counselling, including preparation of forms from the get-go, is covered by the regulation which compels them to be members of CSIC or a member of a law society. That then goes back to the membership amendment that the government made.

By virtue of making paralegals members of the law society, is the government intending to make the members of the law society for all purposes, including definitions of who can practise before the IRB, for instance? Remember, they excluded members. You didn't have to be a member of CSIC if you were a member of the law society, right? I think that's a fair interpretation of that.

1150

So let's understand: Is the government then saying paralegals in Ontario, as members of the law society—does it say "a member of the law society" or call it "a member of the bar"? I think it was "law society." Are they then going to be allowed to appear in front of the immigration review board because they're now members of the law society, even though we don't know the extent to which they will be members of the law society?

I'd never met the two gentlemen who were here on behalf of CSIC the other day, but I wasn't knocked back in my chair by their presentation. It was a pretty defensive one, somehow suggesting that—I checked the Humber College curriculum for the educational prerequisites for CSIC. It's not bad, but please, give me a break, it's not particularly demanding in terms of the curriculum, right? It's certainly no two-year paralegal course.

Can we get any help here in terms of subsection (8) of what will be this proposed 26.1, the federal issue, the CSIC issue? Are immigration consultants going to be regulated? Is it going to be possible for them to be regulated subject to the law society using its bylaws to exclude them with this legislation? I dearly, dearly want to know that—and I think folks want to know that too—because I think they should be.

Mr. Twohig: The section prohibits unlicensed paralegals unless they could establish that the provincial licensing scheme contained in this bill conflicted with paramount federal legislation. That being the case—and I'm not familiar with all the details of CSIC—it seems to me that they're regulated; immigration consultants are regulated by CSIC. So it would seem that the federal government has occupied the field and its legislation has paramountcy.

Mr. Kormos: Thank you very much. I'm certainly not going to debate that with you, because you know this stuff. But then subsection (8) "applies to a person, even if the person is acting as agent under the authority of an act of the Legislature or an act of Parliament." So I suppose the question is that the regulation that requires people to be members of the CSIC or members of a law society is what authorizes those people to act. It's not CSIC that authorizes those people to act. Do you understand what I'm saying? Do you think subsection (8) here is going to catch immigration consultants who are members of the CSIC? Because it says, "This section applies ... even if." Is that what it was intended to do?

Mr. Twohig: I'm sorry. Your question is, would this oust the authority of CSIC?

Mr. Kormos: No. What's the intention of subsection (8)? It's "This section applies ... even if the person is acting as agent."

Mr. Twohig: If a provincial statute or an act of Parliament purports to allow a person to appear before a court or a tribunal but goes no further to regulate the conduct of that person, then they're caught by this legislation. In the case of immigration consultants, it appears that the federal government has gone further and purports to regulate them. So to the extent that the province can't conflict with paramount federal legislation, it would appear that immigration consultants under CSIC wouldn't be covered by this.

Mr. Kormos: Again, paramountcy was the issue dealt with in that British Columbia decision that went to the Supreme Court of Canada, the paramountcy issue.

This is troubling. It's not a criticism; at this point, I'm not criticizing the legislation. But it seems clear from the regulations that the federal regulation only requires CSIC to regulate those people who "appear before," because it uses language like "before." It's only when the matter is before this tribunal, like the IRB, that a person has to be a CSIC member. CSIC says, "Oh, yeah, we regulate even those people who help people fill out immigration applications and visa applications." But that doesn't appear to be what the federal regulation says, nor does it appear to be what the federal government thinks, because they're certainly not pursuing any of those people and they're all over. That's where some of the most tragic scams are being performed on consumers who are being lured into these places and being charged outrageous fees for minimal work and not being served well.

This is really problematic. I want the province to be able to regulate those people. I suppose I'm calling upon the parliamentary assistant to ensure that the Ministry of the Attorney General—I don't know what more you can put into the legislation to guarantee it, but it's one of those intergovernmental matters that I submit to you should be addressed, and promptly. If the federal government purports to use CSIC—I'm not happy with the CSIC regulatory regime overriding the provincial regulatory regime, but the law, as has been told to us, is the law, and that's the state of affairs. But we had better get some clarity on whether the federal regulation extends to all immigration consultants. I mean, is Jimmy K going to be put out of business or is he going to be allowed to continue to do that stuff?

I really call upon the government. This is a matter that should be addressed. I expect to be following up with the AG on this matter over the course of the next couple of months. I think it's important. Why should paralegals be submitted to what I anticipate and hope will be a pretty onerous regulatory regime with some pretty high standards, yet people fleecing new Canadians or potential new Canadians can wander around scot-free because either they're not covered or because the federal government simply doesn't bother prosecuting them?

The Chair: Further debate?

Mr. Kormos: Yes, Chair. Of course, this section contains the notorious subsection (5), the oft-referred-to subsection (5), and that is "to the extent permitted by the bylaws" of the Law Society of Upper Canada. That has been a subject of concern, and that is to say that the failure of this committee, the failure of the government, to entertain any debate around scope of practice has left a huge gap in these proceedings. For that reason, I will not support section 19. Subsection (5), the delegation of the authority to the law society—

Mr. Zimmer: What section are you on?

Mr. Kormos: I'm at this section.

Mr. Zimmer: Section 19, did you say?

Mr. Kormos: I said section 22.

Mr. Zimmer: Okay.

Mr. Kormos: It comes right after section 21, which I didn't ask you to explain and will not be supporting.

The Chair: Any further debate? Seeing none, shall sections 20 to 22 carry? Those are carried.

It's now 12 o'clock. The committee will break for lunch. We'll be back at 1 p.m.

The committee recessed from 1159 to 1301.

The Chair: Sorry about the delay, folks. The committee is called back to order. I believe we're on schedule C, section 23. We're on PC motion 58. Mrs. Elliott is here. Just give her a second to take a seat.

Mrs. Elliott: I move that subsection 27(1) of the Law Society Act, as set out in subsection 23(1) of schedule C to the bill, be amended by striking out "bylaws" at the end and substituting "regulations".

The purpose of this proposed amendment is to highlight the importance of having the regulations set the rules here, as presented by the Attorney General, rather than having bylaws set by the Law Society of Upper Canada. It's important that the Attorney General be involved in setting these regulations.

The Chair: Any debate? Seeing none, shall PC motion 58 carry? All those in favour? Opposed? It's lost.

Moving on to PC motion 59.

Mrs. Elliott: I move that subsection 27(3) of the Law Society Act, as set out in subsection 23(1) of schedule C to the bill, be amended by striking out "bylaws" wherever it appears and substituting in each case "regulations".

Again, this has been proposed for the reasons set out in the previous amendment.

The Chair: Any debate? Seeing none, shall PC motion 59 carry? All those in favour? Opposed? Lost.

PC motion 60.

Mrs. Elliott: I move that section 23 of schedule C to the bill be amended by adding the following subsection:

"(2.1) Section 27 of the Act is amended by adding the following subsections:

"Appeal to peer review committee

"(5.1) Despite subsection (4), if a person whose application for a licence is refused by the hearing panel was in the business of providing legal services in Ontario as a non-member for a continuous period of at least two years immediately preceding the day subsection 2(6) of schedule C to the Access to Justice Act, 2005 came into force, the person may, within two years after the refusal by the hearing panel, appeal the refusal to a peer review committee established by the society.

"Establishment and rules

"(5.2) The society shall establish peer review committees for the purposes of subsection (5.1) and shall make rules governing the practice and procedure before those committees.

"Decision binding

"(5.3) A decision of a peer review committee is final and binding."

The purpose of this amendment is to allow some measure of comfort, I suppose, for paralegals to ensure that they will have the opportunity to have the matter heard by a peer committee and have the opportunity to be brought back into practice if they're so eligible as deemed by their peers.

The Chair: Any further debate? Seeing none, shall PC motion 60 carry? All those in favour? Opposed? That's lost.

Any debate on section 23? Seeing none, shall schedule C, section 23 carry? That's carried.

We'll move on to 24 and 25. Any debate?

Mr. Kormos: I appreciate, in 24, the repeal of 27.1 and the information provided that the court no longer relies upon the law society for information about membership. I just found that an intriguing point. Who do they rely upon, then? Again, this is not a criticism of the bill; it's just an intriguing point.

Mrs. Kwon: We've been advised that they rely on the individual lawyers themselves to notify the courts.

Mr. Kormos: Of?

Mrs. Kwon: Of their status.

Mr. Kormos: That's fascinating. It's the honour system. That prompts any number of punch lines, because of course we're talking about the world's second-oldest profession. That means there's no clearing house. Down where I come from in Welland, everybody knows everybody, right? But here in Toronto you've got a huge courtroom community with people coming in and out all the time as lawyers, or presenting themselves as lawyers. It's just an interesting sort of thing, because if that isn't going to happen with lawyers, I presume it's not going to happen with paralegals too, right? So how is an adjudicative body going to have quick access—if they know somebody, they know that person is a paralegal, licensed, etc. How are they going to know that Jane Doe or John Smith is, in fact, a licensed paralegal?

Mr. Zimmer: I think the practice now is that on pleadings, statements of claims, notices of application and so on, the lawyer has his name underneath it. Now they put their law society number.

Mr. Kormos: Like mug shots, where the number is underneath your portrait.

Mr. Zimmer: So to speak.

Mr. Kormos: Okay. It's just interesting, because again we're talking about introducing a whole new community of people into a newly regulated regime. We're going to have a huge community of paralegals; for instance, graduates and newly licensed paralegals who are strangers, if you will, to the judges, to the justices of the peace, to the tribunal chairs. I just find it strange that there isn't some way that a court clerk or a tribunal clerk can't discreetly—you don't want to go around challenging and embarrassing people or saying "Show me your license before you start making an argument." Let's say that if there's a suspicion—they don't know who the person is—they just get on a computer, hopefully, presumably to the regulator and say, "Is Peter Kormos from down in Welland, who is presenting himself as a paralegal up here in Toronto, in fact a licensed paralegal?" It just seems that it would be so much more secure to have the system able to do that. There's no secret. There shouldn't be any secret about who is a member of these organizations. It's not private information that I'm a member of the law society. It's just a comment.

1310

The Chair: Is there any further debate on section 24 or 25?

Mr. Zimmer: Carried.

Mr. Kormos: That's not what he said. The Chair is working very hard, Mr. Zimmer—he really is—trying to make sure this thing goes along properly, and here you go; you throw a wrench into the works. Ah, yeah.

The Chair: Shall schedule C, sections 24 and 25 carry? Carried.

Schedule C, section 26. PC motion 61.

Mrs. Elliott: I move that section 26 of schedule C to the bill be amended by adding the following section to the Law Society Act:

"Commissioners for taking affidavits

"29.1(1) In addition to the persons set out in subsection 1(1) of the Commissioners for taking Affidavits Act, every person who is authorized to provide legal services in Ontario is, by virtue of office, a commissioner for taking affidavits in Ontario.

"Repeal

"(2) This section is repealed on the day subsection 3(1) of schedule A to the Government Efficiency Act, 2002 comes into force."

If this is truly to be an access to justice bill, this is a really important amendment, because much of the work that paralegals do involves the swearing of affidavits, which then requires the person for whom they're working to go and see a lawyer at further expense. So if they're going to be regulated and if they're going to be licensed in order to provide legal services, this is a necessary additional power that they should be given in order to carry out their duties.

The Chair: Thank you, Mrs. Elliott. Any further debate? Seeing none, shall PC motion 61 carry? All those in favour? Opposed? Lost.

Any debate on section 26? Mr. Kormos.

Mr. Kormos: Yes, there is, very briefly, once again. This is where "an officer of every court of record" rears its head and is confirmed. It appears to be a case where the government is sticking with the original proposal, that the barrister and solicitor members of the law society are officers of the court, even though it appears to be paying at least lip service to paralegals by calling them members of the law society, because: When is a member not a member? Probably when it's a paralegal. We'll have to wait and see. I suspect that that's going to be the case.

Fair enough. That, then, begs the question: Why are barristers and solicitors, as members of the law society, officers of the court and paralegals aren't? I apologize if that was somewhere in the material we got, but I still haven't received the material on the officers of the court.

It's just very strange. Clearly there is an enhanced status and, I presume, a set of obligations. I've always understood that, as an officer of the court, you have enhanced obligations, but for the life of me—and there are two other lawyers on this committee who have been practising for some amount of time—I can't articulate what it means to be an officer of the court. Either of those two other lawyers could really show me up by giving a straightforward and concise explanation of that, and neither seem to be jumping at the opportunity.

Is there no advantage to making paralegals officers of the court? If they're going to be working in that court function—because it implies to me "obligations to the court," and that, when you're directed by the court, you will do certain things.

Silence. We're voting on something that none of us have any idea about whatsoever. This is a perfect example. We're voting on a section, and I'm not saying it's bad that we don't know about it, but—and again, legislative research has been busier than a one-armed paper hanger responding to various requests—we're voting on an issue we know nothing about whatsoever, and that, to me, is not the way we should be conducting ourselves. If there's a good reason why paralegals shouldn't be officers of the court, then somebody just say so and I'll join you in supporting the section that reinforces the role of barristers and solicitors as officers.

The public watches this and shakes their heads. They shake their heads. We're paid a great deal of money. We have some pretty significant budgets, each and every one of us as MPPs. We're here in this committee. I recall raising the issue about officers of the court vis-à-vis lawyers versus paralegals some time ago in this committee hearing. For whatever reason, we haven't had a research response. I find it incredible that the high-priced help—I'm talking about the MPPs here—are going to say, "Yeah, let's vote on something," and we have no idea what it means, by virtue of the exclusion of paralegals. I'll presume that there's a very good reason. Then just say so.

I'm embarrassed. I don't know if other members are embarrassed or not. I'm embarrassed. We're voting on a section that's going to exclude paralegals from the status of officers of the court and we don't know why. It's not a debate; it's not that some agree that they should and others say that they shouldn't. We simply don't know why. I don't know whether they should or shouldn't. If there was legitimate debate, I could even understand losing the argument when it comes to a vote. I understand that all right. But nobody knows, and we're voting on it. It's a hell of a way to develop policy in law.

I seek unanimous consent that this section, section 26 of the bill, which creates the new sections 29 and 30 of the act, be deferred until we can get some information about what it means.

Mr. Zimmer: No.

Mr. Kormos: He hasn't done it yet.

The Chair: Mr. Kormos is seeking unanimous consent to stand down section 26. Do we have unanimous consent? No, we don't have unanimous consent. Further debate?

Mr. Kormos: Yes. People are going to be voting on this without having the slightest idea what it means. I make that observation.

A recorded vote. Because I won't be voting on it without knowing what it means.

The Chair: Shall schedule C, section 26, carry? All those in favour?

Ayes

Balkissoon, Flynn, Van Bommel, Zimmer.

The Chair: Opposed?

It's carried.

I'm asking the committee—there are no amendments between sections 27 and 94—if we could block them together. Maybe we could take a small recess to look those over.

Mr. Kormos: An excellent proposition.

The Chair: We'll be breaking for a five-minute recess.

The committee recessed from 1319 to 1327.

The Chair: Sorry about the delay. I had a bit of a personal dilemma outside.

We have a request to deal with sections 27 to 70 as a block. Is the committee agreeable? Yes. Any debate on those sections, 27 to 70? Seeing none, shall schedule C, sections 27 to 70, carry? Carried.

We're going to section 71. Any debate?

Mr. Kormos: This is the compensation fund portion of the bill and the new act. We learned a little bit of the difference between monies paid out of the errors and omissions insurer, as compared to monies that are paid out of a compensation fund. Funding the compensation fund is one of the single largest financial burdens that legal practitioners have. Paralegals now are going to be drawn into funding a compensation fund, yet I don't know if it's going to be the same fund that lawyers fund and out of which compensation is paid when lawyers foul up.

There's already, insofar as I know, some dispute amongst lawyers as to who's paying or isn't paying their fair share, because there are certain types of practices of law wherein exposure is modest or minimal and other types of practices of law which higher numbers of claims are made against. Are paralegals going to be expected to contribute to this fund? Remember Orwell and the pigs and equality, "Some are more equal than others"? Paralegals are going to be members. Are they going to be members for all of the advantages and privileges of the law society or are they only going to be members for all the obligations and liabilities? Does the legislation make it clear that there are going to be two pools of money, one to be funded by members of the paralegal profession—I don't know—one to be funded by lawyers? I think paralegals would like to know. I think we have a responsibility, legislatively, to give some direction in that regard. Unfortunately, we didn't hear anything about the funding of the compensation fund. I heard some oblique references to it.

So here we are. We've got section 71 of the bill and we've got a section that talks about a lawyers' fund for client compensation, the various circumstances surrounding payout—I don't know. We don't have a whole lot about paralegals. We just don't. That's part of the problem here when this is being delegated. It's going to be addressed. What's the future for this fund and for payments? If we can get some help here in terms of reference to other sections, other parts of the bill, I'm pleased to hear them. Otherwise, this will go to a vote.

I asked what I thought was a reasonably fair question. I suspect that from time to time I ask unfair questions. I asked what I thought was a reasonably fair question, a reasonably relevant question. From time to time I ask irrelevant questions. I concede that. I asked what I thought was a reasonably serious question. From time to time I ask questions that are more hyperbole than legitimate queries. I concede that.

Mr. Zimmer: Give me a heads up when you're being serious.

Mr. Kormos: Yeah. I asked a question, but no answer. Let's put the matter to a vote.

The Chair: Any further debate?

Mr. Zimmer: On 71?

The Chair: Section 71, yes. Seeing none, shall schedule C, section 71, carry? Carried.

We're at consideration of sections 72 and 73. Is there any debate? Seeing none, shall sections 72 and 73 carry? Carried.

We're at section 74. Any debate?

Mr. Kormos: Yes. This is the section dealing with trust funds. This one I really can't recall. Are paralegals going to have trust funds or not going to have trust funds? Was that ever—

Interjection.

Mr. Kormos: Yes, help us with that.

Mrs. Kwon: Yes, they will have trust funds.

Mr. Kormos: Okay. Good. There. Whew. It's a red-letter day: The government offers up an answer. Thank you.

Of course, appreciating there was an answer, and I accept it, that isn't enough to provide me with an incredibly high comfort level with the bill. But I appreciate the answer.

The Chair: Any further debate? Seeing none, shall section 74 carry? Carried.

Now we're dealing with sections 75 to 84. Any debate on these sections? Seeing none, shall sections 75 to 84 carry? Carried.

Sections 85 and 86: Any debate?

Mr. Kormos: Let's do one at a time.

The Chair: Section 85: Mr. Kormos.

Mr. Kormos: As I understand it, this is the renaming of the bar admission course and, more broadly, simply talking about pre-licensing education and training. What we didn't discover—what we weren't told—was what the law society, as regulator, proposes to do in terms of pre-licensing education and training and/or programs of continuing legal education vis-à-vis paralegals.

There are two parts to this. One is the pre-licensing part. We weren't told that the law society is going to accept any responsibility whatsoever for performing that role. I'm not sure whether articling falls within the scope of this, because it says "training." I would argue that articling does fall within the scope of it, and the law society supervises articling, which I think is an excellent program in the legal profession for lawyers. I would be pleased to see or hear some discussion about the prospect of articling for paralegals.

I appreciate that, by virtue of its eliminating the bar admission course, this section creates the capacity for the law society to accommodate articling paralegals, but we haven't heard whether that's going to be among the things they are going to be doing as they undertake the role of regulating paralegals. We didn't even hear any strong comments about the need or desirability of articling for paralegals. Again, I'm going to make clear that I believe that if you're going to upgrade that profession and give it the status it deserves, then articling would be a very appropriate element of the pre-licensing requirement. But it wasn't discussed; it wasn't dealt with; it wasn't debated; we didn't hear input on it.

I have to tell you that I am very nervous about the possibility of there being a wide range of educational prerequisites. The public community colleges' two-year programs are going to be competing with private trainers—we heard from one of them—with a one-year program. They came here seeming to think that somehow

they were going to fall within the scope of accepted trainers. There's going to be a whole lot of pressure on the law society and the government from the private schools, with their expedited programs, which of course are attractive to people because they can get them done quickly and they're less expensive—one of the problems, of course, is the cost of schooling. I have great concerns about that. But of course we're not going to debate it here.

So there you go. The section is going to be put to a vote. It won't have been the subject matter of any inquiry by the committee; it won't have been the subject matter of any public discussion or of any contribution by persons with expertise. The government wants to forge ahead with it anyway. They're actually going to put section 85 to a vote.

1340

Mr. Twohig: I'll just indicate in a general way that the committee heard from Mr. Simpson, for one, and he talked about working with the colleges to develop programs. He didn't specifically refer to it, but in the report he did refer to, delivered September 23, 2004, recommendation seven provides that "Law society approved college programs must include an approved period of 'field placement' to provide students with workplace experience." They don't use the terminology "articling," but it sure sounds like articling.

Mr. Kormos: That's what is frightening about the task force on paralegal regulation document. You see, it's a recommendation. Is it a recommendation, or is it etched in stone, because this same document is going to preclude paralegals from acting on behalf of litigants in family matters. I hear what you're saying, sir, and thank you for your reference to the document. Maybe that speaks volumes, then. Maybe those paralegals who hoped to work with moms who are being beaten and driven out of the family home but can't afford a lawyer's counsel and who would like to be able to rely upon a well-trained and experienced paralegal for some basic level of service in the Family Court are not going to be given that opportunity. I read recommendation one the scope of practice, and it specifically excludes family law.

What's going on here? Is this above board, or is this all a wink-wink, nudge-nudge done deal? Well, is it? I don't think that's an unfair question, because here we're being told, "Rely upon the task force recommendation." Well okay, I will. But when I rely upon the task force recommendation, I see some prejudgment about the ability of paralegals to assist low-income women in the provincial court, family division, the one that's more easily, more readily accessible, the one where a woman who has been beaten and fears for her life can go and hopefully get a speedy peace bond, to use the colloquial term, and a speedy interim order for custody of her kids.

Surely there can be training programs for paralegals that could train paralegals to perform those levels of family law service. I don't know, and I'm not suggesting, that the current programs do. But surely a program could be developed with specialization that would permit paralegals to provide the basic, the first-instance stuff. If there's more complex stuff—if there's stuff around property, if there's stuff around getting children's welfare and so on—regulators may decide not to let paralegals perform those roles.

So that's exactly what I've done, Parliamentary Assistant: I've looked at the recommendations and looked at the subcommittee report. On the one hand, I say it's but recommendations; on the other hand, the suggestion from the government is that we should be able to rely on it as the design that's intended to be implemented. That's why people here are concerned about the fact that there wasn't any debate around scope of practice.

Again, I'm trying to be fair when I say that I don't know whether paralegals should be able to do family law stuff, and if they are permitted to do it, to what extent they should do it. But I'd surely love to entertain the prospect and hear the arguments for it, because I know there's a need for it. What we can't do is dispute the claims, clearly made, about the need for economical advocacy in the Family Court.

Let's go one further, if you want to talk about this report: provincial offences matters, not summary conviction matters in the provincial court, criminal division. Again, I'm not arguing for that. I don't know that current training programs—because I've made the comment that the complexities of a defence to a common assault can be as intricate as a defence to an armed robbery or a murder. The same level of skill could well be necessary. It gets back to peace bond applications. A neighbour dispute where there's an application for a peace bond: Does that require—where there's no criminal record or criminal conviction, as happens in provincial court, criminal division, and it's pursuant to the Criminal Code—a lawyer, if somebody can't afford to hire one or doesn't want to hire one, or could a paralegal be trained?

This government believes that justices of the peace don't need any legal training to be appointed justices of the peace, but it insists that paralegals have to have training, and I agree with that. I'm becoming drawn closer and closer to the argument that maybe what's sauce for the goose should be sauce for the gander in terms of justices of the peace too. So there you go.

Paralegals out there should be very, very concerned. You notice where, yesterday and today—here we are; we've been here three days now: Wednesday, Thursday and Friday. We aren't in the Amethyst Room, are we? This isn't being broadcast like the public hearings were. People who wanted to tune in to their legislative channel can't pick it up. I don't think this is being broadcast on legislative broadcast. If it is, the visuals are horrible. I apologize to people. We need better cameras in here. We've got to be able to do close-ups.

Here you go. That's the paralegal report. Maybe the writing's on the wall. Okay. Thank you, folks.

The Chair: Further debate? Seeing none, shall section 85 carry? Carried.

Section 86: Any debate?

Mr. Kormos: Yes, please. This is the insurance, as I understand it, the indemnity for professional liability. It's very important. Lawyers who have claims against them pay huger and huger premiums, depending, I presume, on the frequency of the number of claims and types of claims. The lawyer must purchase his or her insurance from errors and omissions through the law society.

I'm an advocate of public insurance. I'm not going to argue that competition between insurance companies necessarily makes insurance any cheaper for the consumer, but we didn't hear, because we didn't hear from the insurer, what's going to happen when paralegals, as members of the law society, become part of this community. Surely the regulatory regime is going to require insurance. Right now, paralegals are getting insurance in the private sector. Are they going to be pooled with lawyers? Are they going to be permitted to continue to obtain private sector insurance, as long as it's up to a minimum amount? Are they going to be required to join the errors and omissions insurance of barristers and solicitors? As I say, are the funds going to be pooled so that there's going to be cross-subsidization between a paralegal doing small claims work and a lawyer doing multi-million dollar real estate deals for Conrad Black, who won't give back the $2.9-million ring he gave Babs, but he probably stole the money to buy it?

Interjection.

Mr. Kormos: Well, think about it, Mrs. Van Bommel.

It's a matter of questions unanswered but also questions not asked, because we didn't have the opportunity. This is not a healthy way to develop legislation.

1350

I understand the sense of urgency. The law society is just like a little puppy, bouncing, ready to get this bill going, because it wants to get its ducks lined up in terms of doing what it has to do. But this is not a healthy way to pass legislation like this. It isn't, it isn't, it isn't. If somebody can persuade me otherwise, let's go out and have a vodka martini after supper tonight.

The Chair: Any further debate? Seeing none, shall schedule C, section 86, carry? It's carried

Sections 87 to 94, any debate? Seeing none, shall sections 87 to 94 carry? Carried.

Section 95, government motion 62. Mr. Zimmer.

Mr. Zimmer: I move that section 95 of schedule C to the bill be amended by adding the following subsection:

"(0.1) Subsection 62(0.1) of the act is amended by adding the following paragraph:

"3.1 For the purposes of paragraph 5 of subsection 1(7.1), prescribing persons or classes of persons who shall be deemed not to be practising law or providing legal services and the circumstances in which each such person or class of persons shall be deemed not to be practising law or providing legal services;"

The Chair: Any debate?

Mr. Kormos: That is a run-on sentence. It's remarkable. It's so pleasant to read legislation where the sentences are straightforward, clear, where everybody can read it once and understand what it says. I understand what this does, and I don't object to what it does, but it does it in a heck of an obtuse way.

The Chair: Any further debate? Seeing none, shall government motion 62 carry? Carried.

Mrs. Elliott: I move that subsection 95 (1) of schedule C to the bill be struck out and the following substituted:

"(1) Paragraph 4 of subsection 62(0.1) of the act is repealed."

The purpose of this amendment is that it's a technical amendment stemming from our previous motion to replace the term "licensee" with "paralegal".

The Chair: Any debate? Seeing none, shall PC motion 63 carry? All those in favour? Opposed? The motion is lost.

Government motion 64. Mr. Zimmer.

Mr. Zimmer: I move that paragraph 10.1 of subsection 62(1) of the Law Society Act, as set out in subsection 95(22) of schedule C to the bill, be amended by striking out "legal services provision committee" in the portion before subparagraph i and substituting "paralegal standing committee".

The Chair: Any debate? Seeing none, shall government motion 64 carry? Carried.

PC motion 65.

Mrs. Elliott: I won't be proceeding with this motion, Chair, given that the previous motion was identical.

The Chair: Withdrawn. Thank you.

Is there any further debate on section 95, as amended?

Mr. Kormos: One moment, please.

The Chair: Are we okay there, Mr. Kormos?

Mr. Kormos: Yes, thank you.

The Chair: Shall schedule C, section 95, as amended, carry? Carried.

We're on to section 96. PC motion 66.

Mrs. Elliott: I move that section 96 of schedule C to the bill be amended by adding the following subsection:

"(0.1) Subsection 63(1) of the act is amended by adding the following paragraphs:

"1. prescribing the classes of licence that may be issued under this act, the scope of activities authorized under each class of licence and the terms, conditions, limitations or restrictions imposed on each class of licence;

"2. governing the licensing of persons to practise law in Ontario as barristers and solicitors and the licensing of persons to provide legal services in Ontario, including prescribing the qualifications and other requirements for the various classes of licence and governing applications for a licence;"

The purpose of this is to lessen the public confusion here in the use of the various terms by retaining the term "barristers and solicitors" rather than "licensees."

The Chair: Any debate? Seeing none, shall PC motion 66 carry? All those in favour? Opposed? Lost.

PC motion 67. Ms. Elliott.

Mrs. Elliott: I move that section 96 of schedule C to the bill be amended by adding the following subsection:

"(0.2) Subsection 63(1) of the act is amended by adding the following paragraph:

"3. regulating the use of the title 'paralegal,' a variation of that title or an equivalent in another language in the course of providing or offering to provide legal services in Ontario;"

This is included in order to provide protection for the term "paralegal" and to explain its use.

The Chair: Any debate? Seeing none, shall PC motion 67 carry? All those in favour? Opposed? It's defeated.

Any further debate on section 96? Shall section 96 carry? Carried.

New section, government motion 68.

Mr. Zimmer: I move that schedule C to the bill be amended by adding the following section:

"96.1 The act is amended by adding the following section:

"Reports Regarding Regulation of Persons Licensed to Provide Legal Services

"Report after two years

"Definition

"63.0.1(1) In this section,

"'review period' means the period beginning on the day on which the Access to Justice Act, 2005, receives royal assent and ending on the second anniversary of that day.

"Report by society

"(2) The society shall,

"(a) assess the extent to which the bylaws made by convocation during the review period in relation to persons who provide legal services in Ontario are consistent with the principles set out in the document titled 'Task Force on Paralegal Regulation Report to Convocation' dated September 23, 2004, available from the society;

"(b) prepare a report of the assessment; and

"(c) give the report to the Attorney General for Ontario within three months after the end of the review period.

"Tabling in assembly

"(3) The Attorney General shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the assembly if it is in session or, if not, at the next session."

The Chair: Any debate?

Mr. Kormos: I want to question the language, because it says, "The society shall assess the extent" of compliance with the principles set out in the task force on paralegal regulation. That's the one we were talking about just a few minutes ago. I want to be very clear, because this is a report to convocation. It's a series of recommendations that preceded the legislation, and here, by suggestion—if this isn't the case, say so—the government is endorsing the report, because it's saying, "The society shall assess the extent to which the bylaws made by convocation ... are consistent with the principles set out in the document." Hmm. That's strange. Again, this gives it the done deal sort of impression. We assume that the committee of paralegals and lawyers is going to make recommendations to the benchers of the law society. This makes that exercise moot, academic.

1400

I could care less whether there's been any compliance with the recommendations made in the September 23, 2004, report. What I care more about is the effectiveness of that subcommittee of paralegals and lawyers in the context of the regime you're proposing. Once again, I find this very troubling, because it suggests that the test at the end of the day is going to be whether the scope of practice adopted by convocation is the scope of practice contained in the 2004 paralegal task force report. What it suggests is that those five paralegals on the subcommittee might as well stay home and not waste their time, effort or energy.

Good grief. Can't we at least feign sincerity? Do we have to be so crude in how we betray the whole exercise? Quite frankly, this committee exercise was moot, then. "Report back to the Attorney General." Then the Attorney General will lay it on the Clerk's table so it'll be a public document.

I don't know. I can't read this in any other way than to suggest that the purpose is to see the extent to which there has been compliance with the recommendations, not non-compliance. This in no way permits somebody to draw the inference that the paralegal subcommittee is going to have any independent influence, independent of the report, whatsoever. I'd be far more interested in a report back that said, "To what extent did convocation comply with the recommendation of the paralegal subcommittee that's struck after the bill passes?" That's supposed to be the operative committee. That's supposed to be the source of direction. "Oh, they're going to make a paralegal the chair of that committee." What condescending crap. "They're going to make a paralegal the chair." What a cheap buyoff. This is remarkable. This is really remarkable and outrageous stuff, and it speaks volumes.

Don't forget we've got another review period coming up, which I'm going to have something to say about too. In two years, the AG wants to know whether or not the 2004 recommendations have been met. Boy, talk about woodshedding. Talk about predetermining a matter. Joe Stalin had nothing on you guys when it comes to show trials.

It's striking a committee of paralegals and lawyers, and a paralegal is going to be the chair, and they're going to sit down and discuss what the bylaws and what the scope of practice ought to be and how this whole regulatory system is supposed to develop and report back to convocation and, presumably, convocation is going to be guided by their direction, yet this amendment today says that nothing that committee prepares will be worth the paper it's written on.

Honest, you guys could foul up a drunk-up in a brewery. This is a horrible, horrible way to create public policy. There should be outrage across the province. Keyboards should just be being hammered. E-mails should just be shutting down whole service providers.

Earthlink, or whoever the Internet provider is—their computers should be crashing with the e-mails that should be being sent out across the province by paralegals, their families and their supporters. You haven't betrayed them as much as you've betrayed a whole bunch of the community out there who accept paralegals, who want them to be able to practise professionally in the province of Ontario. This exercise wasn't about paralegals; it was about the people of Ontario.

Look, we could have abolished the paralegal profession. It was an option the government had. They could have said, "Nope—no more paralegals; nobody can do it." But no, there's too much legitimacy for the profession, too much acceptance of it, too much bona fide need.

You got this? If somebody did this to you in your caucus, the paint would be peeling on the caucus room wall. If somebody blindsided you, bushwhacked you like this, you would be tearing strips off the author of that. They wouldn't know what hit 'em.

That's all I have to say about this.

The Chair: Thank you, Mr. Kormos. Any further debate? Seeing none, shall—

Mr. Kormos: Recorded vote, and a five-minute recess, please.

The Chair: Mr. Kormos has asked for a recorded vote and a five-minute recess.

The committee recessed from 1407 to 1412.

The Chair: The committee is called back to order. We're at the voting for government motion 68.

Ayes

Balkissoon, Flynn, Van Bommel, Zimmer.

Nays

Kormos.

The Chair: The motion is carried.

We're at schedule C, section 97, government motion 69.

Mr. Zimmer: I move that the heading preceding section 63.1 of the Law Society Act and subsection 63.1(1) of the Law Society Act, as set out in section 97 of schedule C to the bill, be struck out and the following substituted:

"Reports after five years

"Definition

"63.1(1) In this section,

"'review period' means the period beginning on the day on which all of the amendments to this act made by schedule C to the Access to Justice Act, 2005 have come into force and ending on the fifth anniversary of that day."

The Chair: Debate?

Mr. Kormos: I need to understand that the change is to create consistency with the amendment that was just made creating section 96.1, that is, to change it from "Review and report" to "Reports."

Mr. Zimmer: The amendment corresponds to the amendment to section 69 of the bill. The heading would be changed from "Reviews and reports" to "Reports after five years."

Mr. Kormos: You're saying all that's changed is the heading?

Mr. Zimmer: Again, the amendment corresponds to the amendment to section 96 of the bill. The heading would be changed from "Reviews and reports" to "Reports after five years."

Mr. Kormos: Okay, all that changes is the heading? There's nothing in the section. I suppose it's the easiest way to do it, right?

The Chair: Further debate? Seeing none, shall government motion 69 carry? Carried.

Government motion number 70.

Mr. Zimmer: I move that clause 63.1(2)(b) of the Law Society Act, as set out in section 97 of schedule C to the bill, be amended by striking out "Legal services provision committee" and substituting "Paralegal standing committee".

The Chair: Debate? Seeing none, shall government motion number 70 carry? Carried.

PC motion number 71?

Mrs. Elliott: Since this is an identical motion to the previous motion, number 70, we won't be proceeding with this.

The Chair: Withdrawn.

Is there any further debate on section 97?

Mr. Kormos: Please, Chair. I don't know why the government wanted to change the heading from "Reviews and reports" to "Reports," because the sections talk about reviewing and reporting. Go figure. Maybe it was a make-work project, as if the people who write this stuff for us need any more work.

I want to support this proposition and I want to distinguish it from the previous section 96.1 that the government created by virtue of its amendment. Let's take a look at this: The society shall review and report, and an independent person shall review and report. I suppose the proof will be in the pudding five years down the road, because the report is to the effect of the regulation and the regulatory regime versus regulated and not members of the public.

It is regrettable that the government chose to create section 96.1, which seems designed to ensure that everybody's followed their marching orders. That's after a two-year time frame, and it's only going to be three years later that the Legislature and the public get a chance to see whether the regulatory regime has achieved that broad range of goals, including serving the public and giving public access to advocates that are less costly than lawyers.

The Chair: Any further debate? Shall section 97, as amended, carry? Carried.

Next we're dealing with sections 98 to 137. Mr. Kormos.

Mr. Kormos: Thank you. I want to question—go ahead, sir.

Mr. Zimmer: To 137 or 136?

The Chair: Section 137. Would the committee like a small break? Agreed? Take a two-minute recess.

The committee recessed from 1420 to 1422.

The Chair: Any debate on sections 98 to 137?

Mr. Kormos: Folks, we're getting close to the end of schedule C. The finalization of the clause-by-clause discussion of schedule C is coming near. I know people are waiting with some high levels of anticipation about that.

I want to make it clear: The revocation of a Queen's Counsel—there hasn't been a Queen's Counsel appointed in this province since the late 1980s. Ian Scott abolished the Queen's Counsel, as I recall. It had never meant much. All it meant is that, by and large, you were a political hack, because they weren't given out for excellence in the courtroom. There were some people with rather tame and unimpressive legal careers who became Queen's Counsel. It was political patronage. As I understand it, the federal government still does Queen's Counsel. I think it should be abolished across the country, because it creates a totally false impression. The people who have them know it. They use it to market their services.

I resent Queen's Counsel just about as much as I resent people who use honorary degrees—not the honours degrees, but the honorary ones. You phony person. It's an insult to people who earn PhDs, for instance. I don't have a PhD, trust me. People work really hard working for a PhD, and then somebody picks one up and then throws it after their name. If there's an invite from the Lieutenant Governor to attend some soiree over here at Queen's Park with the military types, the brass and all that stuff, go ahead, but honest, I see that, and it drives me crazy. It curls my hair when I see people using honorary degrees after their name. There are some political leaders who do that too. It just demonstrates how they probably can't be trusted at all if they can't be trusted to accurately identify their academic credentials.

I wish Queen's Counsel would be abolished entirely, but obviously, the revocation only applies to Ontario Queen's Counsels.

Why hasn't the law society been a little more assertive about controlling lawyers and their uses of "QC" in view of the fact that it no longer is, and hasn't for a long time been, a mark of excellence in the profession as much as coarse, crude political patronage and pork-barrelling and political favourites.

We had a little bit of discussion, and I hope this is going to be addressed, because there was a fellow here who was—he wasn't an LLP, he was an LPP—no, PLL. That's right; he was a PLL. Again, I don't begrudge him the use of the PLL after his name. The problem is, nobody knows what the heck it means anyway, but it's a fact that there are some letters after your name. Heck, when I sign letters out of Queen's Park, I don't even put "MPP" after my name because I figure, heck, your name is typed "Peter Kormos." That's it, that's the end of the story. It sits up on the letterhead somewhere.

Just as a message to the law society, if we're going to develop consistency in how people present themselves to the public, paralegals and lawyers, let's then develop some consistency. There are some lawyers whom I actually know who have initials after their name that are some of these obscure knighthoods where you can buy your way in. It's true. If you go on the website, you can find them and you can call yourself a Knight of the Order of the Third Garter or something or whatever the case is. So people buy—well, they do. They buy these titles and then they put these initials after their name. It's deceptive, because there are folks out there, rightly or wrongly, who think that the more initials there are after your name, the better off they are in your hands, but it could be—we get insurance types in here, you know, the insurance broker and salesman types. Boy, they can develop some long lists of initials after their name, and it's gobbledegook. When they have their letters and they sign their signature lines, they put all these down but all they are are some courses they went to. They may be entitled to use them in terms of their profession, but please, let's put an end to this and get some uniformity and put everybody on a level playing field. If we're licensing lawyers and licensing paralegals and, presumably, if we're going to create categories of paralegals entitled to practise A, B or C, let's have some pretty clear standards about how people promote themselves.

That also raises the concern around—because paralegal firms now call themselves all sorts of things. XCOPPER is an example. I'm not criticizing them because they can, but is that going to be an acceptable style to the regulator? Can you call yourself "Get Out of Jail Free Legal Services"? Seriously.

I'm hoping that the regulator addresses this, which is why Queen's Counsels, if they're no longer a member of the law society—

Interjection.

Mr. Kormos: Yeah, that's right, because if people live long enough and they retire, then they get dues-free status in the law society, don't they, Ms. Elliott, when they're 90 years old or something? I don't mind if those people want to keep calling themselves QCs when they're not in practice.

That's just an opportunity for me to express that. Spokespeople for the law society may or may not have been listening to me when I said it, but who knows? I may have the opportunity over a small meal to remind them of it.

It's amazing how much more congenial people are getting as we're getting closer to the end of schedule C. The tension seems to have evaporated a little bit. But we're not quite there yet, are we?

The Chair: Further debate? Seeing none—

Mr. Kormos: Wait. No, they're my notes with respect to schedule D.

The Chair: Shall sections 98 to 137 carry? That's carried.

Any debate on schedule C, as amended?

1430

Mr. Kormos: Chair, obviously I have some things to say about schedule C, but this is what I propose to try to do. I'm not going to say them now. I propose to try to deal with the balance of this bill this afternoon and, unless the bill is completed in its entirety, I'll reserve my comments until this committee next meets, on Wednesday morning, at which time, I suspect—I don't know how long other people are going to be—the bill will probably wrap up. I'll be encouraging government members to join me in not sending the bill back to the House, because I don't think the bill is ready to be sent back to the House.

That's why I'm not speaking to schedule C now. It's not that I don't have concerns about it in its entirety, but because of some of the delays we encountered, I don't think we're going to get the finalization of the bill. But I do expect that Wednesday morning we'll have the bill finalized. We may get it done today.

The Chair: Further debate?

Mr. Zimmer: I submit, Mr. Chair, that we speak to schedule C now and, when we've completed that, vote on it and move on to D.

The Chair: Any further debate?

Mr. Kormos: You see, I can speak to schedule C any time I want. I can speak to schedule C when we're talking about reporting the bill back to the House. I'm not suggesting deferring the vote. Mr. Zimmer reinforces my sense that I'm not going to have time today to speak to schedule C when I speak to the bill in its entirety. I appreciate his assistance in that matter, because he's helped me now focus on where it should—

Mr. Zimmer: I want to vote on C.

Mr. Kormos: Of course we're going to vote on it. I wasn't going to use a substantial amount of time addressing schedule C. I'm going to do that at the completion of the bill when we get to the stage of, "Shall the bill be reported to the House?" That's why I wanted to give people a sense that, because of the delays today, I don't think that was going to happen today. It could have happened, but we had some delays today. You'd like to get some work done, and so be it, and it turned out for the better. But I'm just trying to give people fairly a sense of when they can expect to see this bill next and when they can expect to see the vote called on whether or not the bill will be sent back to the House for third reading. I appreciate Mr. Zimmer's help in focusing me in that regard and reinforcing my sense that I need that time to speak to C at the point where we talk about returning the bill back to the House.

Mr. Zimmer: As long as we vote on C today.

Mr. Kormos: Mr. Zimmer, you're anxious. Please don't be. There's no need for people to be anxious in this room; we're colleagues.

The Chair: Mrs. Elliott?

Mrs. Elliott: I'm also not asking for a deferral of the vote, but I would also like to reserve my final comments with respect to schedule C until the committee next meets.

Mr. Kormos: With respect to schedule C, have you called schedule C yet?

The Chair: No.

Mr. Kormos: No, you haven't. I'll then wait for you to call schedule C, as amended.

The Chair: If there is no further debate, shall schedule C, as amended, carry?

Mr. Kormos: No, no, Chair. We're going to talk about schedule C, as amended, right?

The Chair: Yes, schedule C.

Mr. Kormos: Yes. I'm voting against schedule C, and I'm going to speak to this further when we talk about the whole bill, because the bill isn't just about paralegals; it's about some other very serious matters as well. I want to make it clear that New Democrats support the proposition of paralegal regulation. I want to make that very clear. I want to make it clearer, even, that we wish that schedule C had been a stand-alone piece of legislation. I believe it could have received an even more thorough—no, I won't even say "even more thorough," because I'm not sure it received a sufficiently thorough consideration.

I also understand the government's frustration, and perhaps paralegals' frustration, at the inability—I don't think there's any dispute about this—of the paralegal community to come together sufficiently to present their own proposal with a single voice to the government when it comes to regulation. I understand the frustration that the Attorney General must have felt when he was one in a succession of many who made—Mr. Flaherty did make some significant effort around the issue of paralegal regulation; Mr. Sterling did; other Attorneys General have, going back to the days of Ian Scott, very, very conscious of the Ianni and Cory reports. There's no sense asking Ianni to come before the committee—he's dead—but Judge Cory is alive and well and very active, the chancellor up at York University. I don't know whether he would come to the committee, but when I requested the committee to support the proposition that we defer clause-by-clause to hear from others, I obviously contemplated the prospect of the committee inviting people, because the committee has that power, including Judge Cory.

The underlying concern expressed by both Ianni and Cory was the conflict-of-interest argument. As you know, Chair, conflict of interest is conflict of interest whether it's real or perceived. A perceived conflict of interest is conflict of interest.

As I say, I understand the frustration of Mr. Bryant when he went to the law society or felt compelled to go to the law society and ask them to undertake the task of regulating paralegals. But in the course of that, that fundamental issue of conflict—again, you can be critical, and many are, of what Judge Cory said about scope of practice, for instance. Fine; that's an aside. But I'm hard-pressed and haven't heard a single person contradict the Cory observation that there's a fundamental conflict of interest. I haven't heard a single person contradict that. I haven't heard a single intellectual dismantling of that argument.

Is the Law Society of Upper Canada incapable of regulating paralegals? Of course not. Of course they're not incapable of regulating them. Is the paralegal community capable of self-regulation in a structured way now? I suspect not. That's just the way it is. Then how do you become ready to self-regulate?

Understand that I am a critic; I have critiqued many times this move to self-regulation, this dismantling of the Ministry of Consumer and Commercial Relations. I believe that it is the state's role to regulate. As you know, there were debates around this trend towards self-regulation, whether it was real estate people, any number—I was on the side that said no, that the state should retain the regulatory role. Lawyers are very much an anomaly in terms of a regulated profession, because the source of their regulation—it's an old structure, but the motivation for their regulation was any number of things, including the very closed nature of that society of professionals. Again, I understand that. That's not critical when I say that; I'm not being critical.

1440

It seems to me that one of the options available to the government, if they believe in self-regulation, to address the concerns of the conflict—well, the options were either to address the conflict issue and be candid about it and acknowledge that it was a problem out there and work with it, or to look at different models. It seems to me that the one model that has never been looked at is the proposition that the state should assume a traditional role for the state: the regulation of paralegals. It wouldn't take very long, in my view, for that profession, then, once it's regulated, to develop to the point where it could, if one was politically inclined to approve this, self-regulate. It's just an observation.

Dental hygienists: We all know them. We know them because we use them as professionals. We also know them because they have been a very potent lobby group here at Queen's Park, obviously lobbying for the statutory ability to practise independent of dentists. See, dental hygienists can't practise independently of dentists—for that matter, even billing through a dentist. They've got to be under the direct supervision of a dentist. Yet even dental hygienists, under the direct supervision of a dentist, have their own regulatory regime that's independent of dentists and their regulatory body. That's interesting, because here we're talking about a world in which paralegals are going to be permitted—and I don't say that in any sort of condescending way. The law will acknowledge that paralegals work independently of law offices—we don't know that, because we don't know what the law society has in mind, except I think the general understanding is that that's going to be the case. So here, unlike dental hygienists, who have to work in a dentist's office and under the—if a dentist is not there, the dental hygienist doesn't work. They have their own regulatory body. Here we're talking about paralegals, as a profession, operating on a stand-alone basis—sole practitioners in as many cases as not—yet they don't have their own regulatory regime.

I am not suggesting that the law society is incapable of regulating paralegals. I'm not suggesting the law society is incapable of developing a scope of practice. They will demonstrate themselves to be very capable at defining a scope of practice and setting standards—most significantly, in my view, educational standards. I endorse the proposition that the same character standards that apply to lawyers for admission should be applicable to paralegals. Lord knows they're not that high.

My concern is that once we started travelling down this path, we, as legislators, should have—you didn't have to agree with Cory, you didn't have to agree with Ianni, but as legislators, we had a responsibility and we continue to have a responsibility, in my view, to address the issue head-on. It's one thing to go to the law society and say, "If I ask you to the prom, will you come?" It's another thing to insist that they dance every dance with you. There's nothing inherently wrong with the government having gone to the law society, saying, "If we ask you to regulate, will you?" I think the gap, the problem, the failure—it's not the law society's failure, and I want to make that very clear; it's the government's failure—is the failure to ensure that in the course of developing the legislation, debating it and submitting it to committee process, there was discussion and debate around fundamental things like minimum standards and scope of practice. We are paid reasonably good money, and we don't do a whole lot of heavy lifting in this job. I'll say what I've said before: None of us has to get up at 5 a.m. to pour concrete foundations or work on the apartment towers downtown up on the 30th floor, bolting together iron, out in the bitter cold, come January and February. We have a responsibility to protect the public interest as legislators. I believe that. We have a responsibility to protect scrupulous paralegals from unscrupulous paralegals, to protect trained and skilled paralegals from untrained and uneducated paralegals, to protect professional paralegals from very unprofessionals out there who purport to be paralegals. You don't pass the buck off to somebody else.

I believe that we could have investigated the option of state regulation, because I predict paralegals will never have their own self-regulatory body—not with what we see now. I'm not saying that's necessarily a bad thing. If paralegals can, in the context of the law society, enhance their status within the law society so that they are players, if you will, in terms of the structure and the governance, there may well be a point, perhaps five years down the road, where paralegals can say, "It was a rough start, but things are starting to come together." But self-regulation? Don't kid yourselves, because there's always been this little response of, "Oh, well, who knows what might happen down the road? Let the law society"—very paternalistic—"take care of you now. But you know, if you're good boys and girls, if you're really good and you clean up your rooms and you wash your hands and brush your teeth, we might take you bowling this afternoon. You might get to go to the petting farm." That's a pretty condescending and paternalistic attitude, isn't it, Mr. Zimmer?

Let me know when it's 3, okay?

That's a pretty paternalistic and condescending attitude. I then find us passing legislation, section by section, since it is clause-by-clause, from time to time having no idea what the legislation means—none whatsoever—and more regrettably, not being prepared to set a matter down, to set it aside for a day or two until we do find out what it means.

Did I say this yet? I'll be voting against schedule C, Chair. I'll be voting against it. I have concerns about other parts of the legislation. I want it to be very clear that anybody who thinks for a minute that any member who would vote against schedule C somehow doesn't believe paralegals should be regulated is being totally, thoroughly dishonest to themselves and to the people who they might say that to.

Those are my comments at this point in time, because I wanted to make it clear that I was voting against schedule C. I wanted to provide some outline as to why I will be voting against schedule C, should it go to a vote this afternoon. I believe we could have gone through this process in a far more effective way, a far fairer way, a far more productive way. We could well, during the course of this process, have addressed the numerous concerns raised, and indeed enhanced the inevitable regulatory regime.

1450

The reason people don't T-bone you in their cars at intersections where there are stop signs isn't because they're afraid of getting caught by the cops; there aren't enough police in the world to watch every intersection everywhere. People accept, by and large, the rules of the road. That's how highways work. They don't work because there are penalties for violating the rules; most people obey the rules of the road because they accept them as legitimate and as reasonable and as fair and in everybody's interest.

Similarly, in regulatory regimes, there aren't enough inspectors out there in any number of professions that are regulated professions or occupations—everything from mortgage brokers to doctors and lawyers and dentists—to be looking over the shoulder of every one of these practitioners. The regulatory regimes work because the people being regulated buy into them. They understand how the regulation is good for them. It's good for the public. It has legitimacy.

My concern about this proposal, and more importantly, about the government's failure to address concerns that have been raised both explicitly and implicitly, is that the regime won't have the legitimacy that it should amongst paralegals, those people who are being regulated. That's not a healthy state of affairs.

So thank you kindly, Chair. I will be asking for a recorded vote, please.

The Chair: Any further debate? Seeing none, shall schedule C, as amended, carry?

Ayes

Balkissoon, Flynn, Van Bommel, Zimmer.

Nays

Elliott, Kormos.

The Chair: That's carried.

Now we have an NDP motion, 71.1. Mr. Kormos?

Mr. Kormos: Yes. Everybody's got a copy of that, Chair. During the course of committee hearings and in response to submissions by CARP and the Ontario association of senior citizens, concerns were expressed—

The Chair: Mr. Kormos, can you move the motion, please, 71.1?

Mr. Kormos: Just one minute. I've got the floor.

The Chair: Go ahead.

Mr. Kormos: Thank you. Concerns were raised on behalf of primarily senior citizens about the failure of the new Limitations Act, with its two-year limitation period, to provide access to litigation for plaintiffs who are the victims of misconduct and bad advice on the part of investment advisers, amongst others. Everybody knows the issue. James Daw has written about it in the Toronto Star. It's been the subject matter of commentary even at the federal level. I was surprised, in some of the material I got, that a former chair of the Ontario Securities Commission had addressed the issue of the inadequacy of the limitation period.

Therefore, I seek unanimous consent to move the following motion—you see, the reason is because if I moved the motion and somebody on a point of order asked the Chair whether or not it's in order, it'll be out of order and then the issue is gone, right? So I seek unanimous consent to move the following motion, which is not in order because it amends a section of the Limitations Act which is not addressed by the amendments to the Limitations Act in Bill 14, and this motion is:

I move that schedule D to the bill be amended by adding the following section:

"0.1 Section 4 of the Limitations Act, 2002 is repealed and the following substituted:

"Basic limitation period

"4(1) Unless this act"—after repealing existing section 4.

"(1) Unless this act provides otherwise, a proceeding shall not be commenced in respect of a claim,

"(a) after the sixth anniversary of the day on which the claim was discovered, in the case of a claim described in subsection (2);

"(b) after the second anniversary of the day on which the claim was discovered, in every other case.

"Breach of fiduciary duty to consumer re investments

"(2) Clause (1)(a) applies to a claim based on a breach of a fiduciary duty that is owed, in relation to investments, to a consumer as defined in the Consumer Protection Act, 2002."

The Chair: Mr. Kormos has sought unanimous consent. We have unanimous consent. Please move your motion.

Mr. Kormos: I move that schedule D to the bill be amended by adding the following section:

"0.1 Section 4 of the Limitations Act, 2002 is repealed and the following substituted:

"Basic limitation period

"4(1) Unless this act provides otherwise, a proceeding shall not be commenced in respect of a claim,

"(a) after the sixth anniversary of the day on which the claim was discovered, in the case of a claim described in subsection (2);

"(b) after the second anniversary of the day on which the claim was discovered, in every other case.

"Breach of fiduciary duty to consumer re investments

"(2) Clause (1)(a) applies to a claim based on a breach of a fiduciary duty that is owed, in relation to investments, to a consumer as defined in the Consumer Protection Act, 2002."

Very briefly: We know the issue. It was addressed to the committee by CARP and by yet a second seniors' organization in association with the United Senior Citizens of Ontario. The crisis is one around our folks and our grandfolks being ripped off by bad financial planners, bad brokers, bad mutual fund dealers who are investing—these are the people who sold Nortel at 50 bucks on the way down, telling you that there was still lots of money to be made. Nortel was a senior citizens' stock because of the way it was spun off from the telephone industry. Nortel was part of that blue-chip family of stocks that seniors bought because they wanted the 1%, 1.5%, 2% dividends. Everybody knows the story. It skyrocketed. It went to well over $100. There was a class action, which apparently has been successful or at least has been resolved, where Nortel is paying back—I don't know the quantum—some of the purchasers of Nortel during a couple of very specific windows, periods of time, when Nortel was being purchased, because Nortel was not being forthcoming about the value of the stock. But it's incredible that experienced brokers were still recommending Nortel. Nortel had topped $100, and experienced brokers—how many times have they seen this?—were telling people to buy at 50 bucks on the way down, saying, "Oh, it'll rebound." Well, other analysts call that sort of rebound—not really, but they use this phrase—the dead cat bounce. It was incredible that people were being encouraged, and people did buy it.

As well, the mutual fund industry: Again, without an exhaustive analysis of it, everybody here—it has become so much a part of our daily lives, if either not for ourselves for other family members, the exploitation of naive and trusting investors and selling mutual funds that they have no business investing in but that have huge expense ratios. Of course, the interest for the dealer selling them is the trailer fees, because the investment adviser, the dealer, continues to get paid regardless of whether the fund goes up or down. So you've seen it again, seniors being called upon to invest in very risky stuff—stupid, stupid stuff.

The stockbrokers who churn accounts: I said this before and I want the chance to say it again, because every one of these guys who do this should be shot and strung up and quartered. When you get a constituent in your office who's 75, 80 years old and who's of modest means—if they're super rich, they can do whatever they want—and they show you their broker's monthly report showing trading every month in significant volumes, that's just totally inappropriate. That account is being churned, and the broker is buying and selling so that the broker can make commissions without any interest whatsoever in the welfare of that investor.

1500

Indeed, there have been some brokers who have been dealt with through the securities regulatory regime for doing precisely that, and there has been, from time to time, some money paid back. The difficulty for these folks is that they don't discover the matter until after the two-year limitation period. They are appealing for an expansion in the case of investments—oh, and by the way, "consumer" as defined in the Consumer Protection Act means an individual, not a corporate investor.

I think Cornelia Schuh did this drafting. She did a brilliant job, especially when she was required to work with my instructions, of making the proposal concise.

So I encourage support for this. It is a means of addressing those seniors' concerns, and I look forward to the vote on it.

The Chair: Further debate?

Mr. Zimmer: One of the major reasons that Ontario's former limitations legislation was so heavily criticized was that it established different limitation periods for different types of claims. Some of these limitation periods were much longer, and others were much shorter, than two years. One of the goals of the Limitations Act, 2002, was to replace these limitation periods with a two-year basic limitation period that would apply to the vast majority of claims, similar to what was done recently in Saskatchewan and Alberta. This much-streamlined regime benefits from being clear and certain.

The point here is that it's very important to note that the two-year period runs from the discovery of the claim, not from the breach of the duty—that is, whoever did the bad stuff when the victim realized bad things had been done. So if the victims do not know that they've been cheated, the time won't run out for them until they realize they've been cheated.

The government, however, does recognize that the two-year period may be inappropriate in certain cases. As a result, the government has proposed in Bill 14 to allow for anyone to extend the two-year period by agreement. In addition, the time does not run while the parties are attempting to mediate their dispute with a neutral third party. The bill expands the class of people who qualify, such as a neutral.

Mr. Kormos: That response—and I understand it—is regrettable, and it's most regrettable for this reason: It signals very clearly that the government is loath to deal with this concern, and I'm not speaking about necessarily just here at the committee. I understand why the government may not want to pass this type of amendment in this context, but the language used by the parliamentary assistant, which I have every reason to believe is

the language of the ministry at this point in time—I know the parliamentary assistant to be too fair, too compassionate, too considerate and too rational a person for those to be his words.

The language signals that these folks and their advocates were seeking a change, an amendment to the Limitations Act to extend the period for investment scams and wrongs done in the course of investment deals. I think it's sad because what it signals is that the government not only isn't going to have its members support the amendment today, but that the government is not going to be addressing this in the Legislature. I appreciate the response, and as I say, I understand Mr. Zimmer's pain in having to deliver the message. I do. But there's the response.

What that does for us is signal to us that we had better start mobilizing people. Mr. Anderson in our NDP research is going to be getting hold of legislative counsel to help draft up an amendment that we can then table as a private member's bill. I don't know; the Conservatives may well do the same thing. That will heighten the pressure and start getting some of these folks in the members' galleries at Queen's Park.

We're at election day minus 365, give or take a few days—E minus 365. It seems to me that the government wants to take on grey power at E minus 365. Far be it from me to give anybody political advice. What do I know about politics? But it strikes me as strange that the government would want to take on grey power at this point in the game, doesn't it, Ms. Elliott?

This is good. We've been warned, we've been told, and the message has been clearly telegraphed that those folks—our folks and our grandfolks—who are being scammed and ripped off by unprofessional, unscrupulous and untrained investment dealers, stockbrokers and mutual fund dealers are on their own.

Thank you very much for the chance. I thank the government very much for giving unanimous consent to introduce the motion, which is not irregular but out of order and couldn't have been entertained or discussed. I do thank them for that; I appreciate that. I also appreciate the direct, clear message coming from the government, through the parliamentary assistant, although I disagree with it.

The Chair: Thank you. Any further debate? Seeing none, all those in favour?

Mr. Kormos: A recorded vote, please.

Ayes

Kormos.

Nays

Balkissoon, Van Bommel, Zimmer.

The Chair: That is defeated.

Schedule D, section 1: Any debate?

Mr. Kormos: This section has ended up being problematic. Subsection (2) everybody agrees with, it seems to me. That was that in the course of utilizing a third party in an effort to resolve a dispute, the limitation period is suspended, it doesn't run during that period of time. So you're not punished for trying to resolve something without accessing the courts.

But then we've got that whole issue around tolling agreements. There are mixed reviews out there about the tolling agreements; you know that. On the one hand, the Wild West free enterprisers, the shoot-'em-up cowboy entrepreneurs, came to us and said, "Let us contract out of the Limitations Act any which way we want." Part of me wanted to say to these entrepreneurs, "You want it that way? By all means, go ahead. Have it that way." But then we heard from architects, didn't we? Architects were one of the professional communities that was most eager to see the Limitations Act amendments introduced. We also heard from people in the construction industry here in this committee. The first argument is that there has to be some certainty, some reasonable amount of time after which a claim can't be made, because you have to know how long you've got to keep your records. It's as simple as that. I think there's some law about how long you've got to keep your income tax stuff. By virtue of me having to ask people what it is, it clearly indicates that I have no idea what it is. Lord knows, it's a good thing an accountant does my income tax, because they keep all the stuff. That was the first argument.

1510

The second argument seemed to be that not only did they need certainty but there was a point after which it really was unfair and impractical, not only to the parties but to the courts. I think there's some strength to that argument. You're going to be calling up judges in courts, already with lengthy dockets, to then have to deal with cases where there's a little bit of evidence here, a little bit of evidence there, and Witness A, B or C has died, and judges then are going to be expected to make decisions. Some could say, "It's all part of the business of judging. If they don't think there's enough evidence to substantiate a claim, then they could simply deny the claim."

I think there is some public interest, from the point of view of the administration of justice, in having reasonable limitation periods like the 15-year one. That's the one we're talking about, the 15-year one, by and large. The Wild West cowboy entrepreneurs, the free enterprisers, the hard-line capitalists said, "It's up to us what we want to contract. If we want to, in the course of contracting, agree to a 20-year limitation period, a 30-year limitation period, let us."

The tolling agreement appears to be an American phenomenon. Its only source in terms of the phrase "tolling agreement" comes from American legal references. With respect to the tolling agreements, I've got a hard time with the way banks—especially banks; I'm a credit union fan myself—impose, in effect, agreements upon their customers that are reductions of the limitation period.

Remember David Agnew was here, the ombudsman for the banking industry. Mr. Agnew, in his report, had the one case—I remember the number still, $4,900, the cheque that was written on the person's account and it wasn't his signature. The bank said to the customer, "No, you're out 4,900 bucks," and he's saying, "Are you nuts? I didn't sign the cheque. It wasn't my cheque. It's your responsibility not to be giving money out of my account unless you check the signature."

From a practical point of view, let's face it, nobody checks signatures on cheques any more, do they? Not at all. The stuff is all processed electronically. It zips through some kind of machine that just scans it. The fact is, the signature has become irrelevant to the cheque as it's passed from one financial institution to the other, as compared to somebody who goes to a bank and says, "Here's a cheque I received from Vic Dhillon. It's on his personal account. Will you cash it?" And it's only if I go to Vic Dhillon's bank and only if I happen to hit a teller who knows Vic Dhillon as a customer and who says, "That's not Vic Dhillon's signature." So the signature means nothing.

The interesting thing was that the ombudsman—because the bank said you have to demonstrate secure control over your cheques. Yikes. I've been banking with credit unions, among others, for a whole pile of years, like everybody else. Nobody ever said that to me at any point in time. I just never thought about it. When I've opened any number of bank accounts, I do know that—oh, the Toronto-Dominion Bank once ripped me off for a pile of money because it was one of those dormant accounts. I actually went there, and it was a negative balance. They said I owed them money, I said, "Are you guys nuts?" I'd opened an account while I was articling here in Toronto and then, around 12 years later, I thought there's at least 1,000 bucks in that account. There was not only nothing left, it was negative. That frosted my glasses. But that's the Toronto-Dominion Bank: They rob you blind the first chance they get.

So here's a customer case. The ombudsman basically settled it for 50 cents on the dollar. But the other observation that was made to us was, for instance, about the credit card account, where you have to indicate or notify them of any discrepancies within 30 days or else you're, as we say down in Welland, SOL.

I would like to see businesses like the banks and so on denied the opportunity to reduce limitation periods, because that's going to affect the 30-day rule. It's a reduction of a limitation period. It's a 30-day limitation period. If you haven't reported the discrepancy in 30 days, you're, as I say, SOL.

I support subsection (2) very much. I think it's a smart part of the Limitations Act. But on the tolling agreements, we do not have sufficient debate before us on the impact of creating tolling agreements. We don't have sufficient information about its impact on other facets of the commercial world out there and, more importantly, the little people. Look what it does. The big bidder gets to agree to an extended limitation period, but what does that do to the little guy? Does it put him or her at a disadvantage? The small, single-person operator in the building trades—the plumber, the electrician, who operates out of his or her garage and an Econoline van—are they put at a disadvantage? Yes. I don't think they're in a position to go out there negotiating tolling agreements as part of an offer or a bid on an RFP from a developer that's building 100 townhouses in a subdivision.

So notwithstanding my strong support for subsection (2), I want to indicate that section 1 of the act with subsection (2) has support. Then we have subsection (2)—I want to be very clear about this—which deals with tolling agreements among other things. That's where the bill is divided along those lines. Subsection (3) of course is the royal assent portion. So I support subsection (2) of section 1. We'll be voting on behalf of that. Subsection (2) I cannot support and, quite frankly, encourage others not to support it too. Why are we rushing into this? Again, this is a strange little thing. Subsection (2) of section 1—good amendment. But subsection (2) with its repeal of subsection 22(2)—I don't understand how people feel comfortable voting on that at this point. Please don't support it.

The Chair: Further debate? Shall schedule D, section 1, carry? All those in favour? Opposed? Carried.

Section 2: government motion 72.

1520

Mr. Zimmer: I move that section 2 of schedule D to the bill be struck out and the following substituted:

"2. Section 22 of the act is repealed and the following substituted:

"Limitation periods apply despite agreements

"22(1) A limitation period under this act applies despite any agreement to vary or exclude it, subject only to the exceptions in subsections (2) to (6).

"Exception

"(2) A limitation period under this act may be varied or excluded by an agreement made before January 1, 2004.

"Same

"(3) A limitation period under this act, other than one established by section 15, may be suspended or extended by an agreement made on or after the effective date.

"Same

"(4) A limitation period established by section 15 may be suspended or extended by an agreement made on or after the effective date, but only if the relevant claim has been discovered.

"Same

"(5) The following exceptions apply only in respect of business agreements:

"1. A limitation period under this act, other than one established by section 15, may be varied or excluded by an agreement made on or after the effective date.

"2. A limitation period established by section 15 may be varied by an agreement made on or after the effective date, except that it may be suspended or extended only in accordance with subsection (4).

"Definitions

"(6) In this section,

"'business agreement' means an agreement made by parties none of whom is a consumer as defined in the Consumer Protection Act, 2002; ('accord commercial')

"'effective date' means the day the Access to Justice Act, 2005 receives royal assent; ('date d'entrée en vigueur')

"'vary' includes extend, shorten and suspend ('modifier')."

The Chair: Any debate?

Mr. Kormos: Mr. Zimmer, help us. Again, I appreciate the explanation in your modest compendium. Can we very quickly talk about what this does and doesn't do?

Mr. Zimmer: Counsel with the Ministry of the Attorney General, please introduce yourself for the record.

Mr. John Lee: My name is John Lee. I am counsel with the Ministry of the Attorney General, policy division.

There are only two significant differences between the motion and section 2 of schedule D in the bill. The term "business agreement" in the motion replaces the term "business purposes" in the bill, so a "business agreement" would be defined as an agreement made by parties, none of whom is a consumer.

Mr. Kormos: Businesses. Generally that means commercial entities as compared to regular folks.

Mr. Lee: Well, anyone who's not a consumer.

Mr. Kormos: You mean a consumer as defined in the Consumer Protection Act.

Mr. Lee: That's right. So if anyone is a consumer as defined in the Consumer Protection Act, then they cannot agree to varying—

Mr. Kormos: You wouldn't know this, but in the bill Ms. Schuh drafted for me, she talked about a consumer as defined by the Consumer Protection Act, to make it clear that this was regular folks and not commercial enterprises. How does the Consumer Protection Act, for your purposes, define "consumer"?

Mr. Lee: It's the same definition.

Mr. Kormos: Which is?

Mr. Lee: I can't recall what the definition of "consumer" is.

Mr. Kormos: Just paraphrase.

Mr. Lee: I believe it's anyone acting for household purposes and not for business purposes.

Mr. Kormos: Okay. That's what I understood it to be: Plain folks instead of somebody acting in a commercial or trade capacity.

Mr. Lee: That's essentially right.

Mr. Kormos: Okay, that's good.

Mr. Lee: The second difference between the motion and the bill is simply that the motion proposes to disallow agreements that would suspend or extend the 15-year ultimate limitation period unless the claim has been discovered.

Mr. Kormos: Those are the agreements that—remember, we talked about two types of tolling agreements: the front-end tolling agreements that were made in the course of the initial contract, and what I think we can just call the back-end ones, where you discover the claim but you agree to extend the limitation period, hoping that you don't have to sue, right?

Mr. Lee: That's correct.

Mr. Kormos: So you're not permitting tolling agreements as advocated by the Wild West entrepreneurs who want to be able to use them to compete, for instance? That's what we heard, that if people are bidding on a construction project, a bidder might say, "Well, as a matter of fact, to make my bid more attractive, I'll agree to a limitation period of 30 years. You'll have 30 years within which to sue me for negligent work or improperly done work."

Mr. Lee: That's correct. There are really two limitation periods in the Limitations Act, 2002: There's the two-year basic limitation period and the 15-year ultimate limitation period. This motion says that you cannot extend that 15-year ultimate limitation period unless you have a claim.

Mr. Kormos: So the people who wanted to contract out a limitation period for the purpose of creating their initial contract are not being served by this amendment.

Mr. Lee: Well, yes. You can agree to a longer limitation period. There's a two-year limitation period that you can agree to extend, but you cannot extend the 15-year period before the claim has been discovered.

Mr. Kormos: And the only people who can agree to extend the two-year limitation period are non-consumers?

Mr. Lee: Anyone can extend the two-year period.

Mr. Kormos: Can you vary it in any way? Can you reduce it?

Mr. Lee: Only those who are contracting with other businesses would be able to. Non-consumers would be able to reduce the two-year period, but otherwise, no one else can. So a consumer would not be able to enter into an agreement that would effectively reduce that limitation period.

Mr. Kormos: That's why you've got "vary" here, because "vary" is the broadest: It's extend, shorten and suspend. And variations of an agreement—help me, because—

Mr. Lee: That's correct.

Mr. Kormos: For most of us, this is complicated stuff. But you know this stuff, right? You dream about this stuff.

I'm looking at 22(1): "A limitation period under this act applies despite any agreement to vary or exclude it, subject" to the following exceptions.

That takes us into subsection (2): "A limitation period ... may be varied ... by an agreement made before January 1...." So that deals with historic agreements, right?

Mr. Lee: That's correct.

Mr. Kormos: Okay, we can put that one aside now.

"A limitation period ... other than one established by section 15, may be suspended or extended"—not varied—"by an agreement made on or after the effective date."

Mr. Lee: That's the 15-year period.

Mr. Kormos: So you can extend it but you can't shorten it, because it doesn't use the word "vary."

Mr. Lee: That's right.

Mr. Kormos: "Section 15"—which is the 15-year limitation period—

Mr. Lee: That's correct.

Mr. Kormos: —"may be ... extended ... only if the relevant claim has been discovered." That's the parallel of subsection 1(2), or the addition of subsection (2), the suspension of the running of a limitation period in the event that you're making efforts to settle. That's the logic there. The relevant claim has been discovered—

Mr. Lee: I'm sorry, I've lost you there.

Mr. Kormos: I'm talking about section 1 of the bill, which we just voted on.

Mr. Lee: That they're not related?

Mr. Kormos: That's the parallel of it. The scenario where that would seem to be applicable would be when you've got a claim, but you're going to sit down with the other party and say, "Whoa. Let's see if we can work this out."

Mr. Lee: You're right; that's right.

Mr. Kormos: "Let's not spend money on lawyers or paralegals. Let's not hire paralegals yet, " because, let's face it, once this becomes law, paralegals will be regulated, right?

Mr. Lee: I can't comment.

Mr. Kormos: Maybe. We don't know that: "So let's not go spending money on paralegals yet, because we can agree to basically suspend the limitation period." Thank you very much.

It was very important that you walk us through that. I know, of course, the other members knew exactly what these sections meant and they didn't need that, but I did. Mr. Balkissoon, Mr. Flynn, Mrs. Van Bommel, Mr. Zimmer, they know this stuff upside down, but I don't. I needed your help.

1530

Mr. Flynn: We didn't want to brag.

Mr. Kormos: But you notice I didn't ask Mr. Flynn for help walking me through the amendment; it was you who I asked for help.

Mr. Flynn: You would have got a different answer.

Mr. Kormos: Thank you very much.

The Chair: Any further debate? Shall government motion 72, carry? Carried.

Any further debate on section 2? Shall section 2, as amended, carry? Carried.

Any debate on section 3? Seeing none, shall section 3 carry? Carried.

Any debate on schedule D, as amended? Shall schedule D, as amended, carry? Carried.

We're on schedule E, section 1, PC motion number 73.

Mrs. Elliott: I move that schedule E to the bill be amended by adding the following section:

"1.1 Part V of the act is amended by adding the following sections:

"Duties of chief administrator

"76.1 The chief administrator of the court service appointed under section 74 of the Courts of Justice Act shall establish and maintain,

"(a) a system to ensure that detailed information about the schedules and availability of potential police witnesses is provided, in a timely manner, to persons who set trial dates, in order to maximize the productivity of police resources that are devoted to giving evidence;

"(b) a prisoner escort and court security detail with a police service funding option;

"(c) a video remand program involving the deployment of justices of the peace as required outside regular court hours and at places other than courthouses; and

"(d) an early case resolution facilitation fund to help support expedited disclosure to accused persons.

"Trial dates and police witnesses

"76.2 A person who sets a trial date under this act shall take the information provided under clause 76.1(a) into consideration before setting the date."

The purpose of this proposed amendment is to allow for maximizing police resources and to ensure that their productivity is enhanced.

The Chair: Any further debate? Seeing none, shall PC motion 73 carry? All those in favour? Opposed? It's lost.

Next is a government notice, we'll skip—Mr. Zimmer? Any debate on section—

Mr. Zimmer: Just a second.

The Chair: Any debate? Mr. Kormos?

Mr. Kormos: This is interesting. We were talking about section 1, which is the new section 75.1 proposed by the government. This is the conflict with municipal provisions and, for the life of me, I don't understand. Again, I appreciate the notes that have been prepared with respect to this section, but it seems to me to be a sound section—here you go—one that I like.

Mr. Flynn: That's why we're getting rid of it.

Mr. Kormos: What are you going to do—

Mr. Zimmer: We just can't get on the same page.

Mr. Kormos: —deny me the opportunity to support one of the government's sections?

The Chair: Further debate? Shall section 1 carry?

Mr. Kormos: Recorded vote.

Ayes

Kormos.

Nays

Flynn, Van Bommel, Zimmer.

The Chair: That section is lost.

Section 2: PC motion number 75.

Mrs. Elliott: I move that section 83.1 of the Provincial Offences Act, as set out in section 2 of schedule E to the bill, be amended by adding the following subsection:

"Defendant's rights

"(4.1) Despite anything else in this section, the use of electronic means for providing evidence is not permitted if it infringes on the defendant's right to challenge and cross-examine witnesses."

This is pretty much self-explanatory. It maintains the principles of fair trial and the right of cross-examination, which should be paramount.

The Chair: Any further debate? Seeing none, shall PC motion 75 carry? All those in favour? Opposed? That is lost.

Any debate on section 2?

Mr. Kormos: I'm going to be very brief on this. This is scary stuff. It's going to be done by regulation. It contemplates telephone conferences or other electronic means. What could that possibly mean? Well, I thought about it for a couple of seconds, and then I thought about it more for a couple of minutes: evidence by video conference, audioconference. I don't know what the difference is between an audio conference and a telephone conference. I suppose you could be using a computer to do an audio conference. They're talking about where you can either see the person testifying as well as hear him or her or they're talking about merely hearing the voice of the person testifying. "Or other electronic means": That means, literally, e-mail—well, it does. It means fax, facsimile. That's what it means. This is scary stuff.

This happened with the sections dealing with JPs, where one of the leading government members said, "Oh, well, there's certain stuff that's too complex for JPs to hear, even if it is provincial offences, so you've got to have real judges hear it," as if the rest of the charges were not important enough to have real judges hear them; to wit, highly qualified JPs.

I don't care what the charge is; in our society, in our culture, in our legal system, in our democracy, (1) the presumption of innocence is such a profound and important element of our history, (2) a right to full answer and defence is not only an important element of our history, it's a part of our Constitution. It's a constitutional right.

I know that courts have permitted absentee evidence, and increasingly so, as technology allows it, in any number of circumstances. We permit, for instance, the victims of crimes, especially child victims, to testify behind a screen so that the accused can't glare at him or her or intimidate. The courts have ruled that acceptable, and I think the public sees that as reasonable.

1540

You've got the use of evidence taken at a preliminary hearing where, if the witness disappears or dies, that evidence, under certain circumstances, can be read into the record and forms part of the evidence at trial. That was evidence that was tested by cross-examination the first time around. There are clearly—and the courts have embraced technology, but have used it with discretion and judiciously.

I, for the life of me—you see, the argument here is, "Well, these are only going to be highway traffic matters, stop sign charges, etc." I don't care. If you believe in the presumption of innocence and if you believe in the right of full answer in defence, you believe in it for everybody and for all offences. End of story. Because if there's anything more objectionable than a guilty person being found innocent, it is an innocent person being found guilty. You know how people are outraged when somebody who, at least from their perspective, is just so patently, obviously guilty yet is found not guilty, perhaps because of a technicality? People are outraged when that happens. Do you know what's more outrageous than that? An innocent person who's found guilty. It really is. The fact that a guilty person gets acquitted is as often as not a test of the system and a demonstration that the system works because reasonable doubt prevails. Again, nobody advocates guilty people being found not guilty, but it means that the system works if it's applied fairly and universally. Yes, I believe that from time to time, people who did the crime get found not guilty. I'm not talking about a danger to society, because obviously, if somebody's a danger to society and doesn't get convicted and they were guilty, then the potential risk out there is huge. It's just that the injustice of an innocent person being found guilty is profound.

For this to be done by regulation, in my books, doesn't cut it. What would be acceptable would be provisions that create extraordinary circumstances or, at the very least, special circumstances and allow for the judge, justices of the peace, the judicial authority to exercise discretion and to have to exercise it judiciously. That's where I can start to live with the proposition of using technology to give evidence, but this is tying a judge's hands. The prospect here is to say that the judge shall receive evidence that is transmitted by telephone or by e-mail.

You've already heard from at least one participant that in determinations of, let's say, credibility—and that's one of the hardest, most challenging things that judges do; I think it is. They can read the law. Here on University Avenue, you've got clerks and you've got people getting case law for you, and lawyers will help you get the law. The judge has got to sit there, and if you've got two people telling two very different stories, the judge has to decide if they're conflicting, and if the conflict goes to the guilt or innocence, the judge has to decide which one is telling the truth. We don't like doing that in our daily lives with people we know. It's just a horrible thing to have to—if you say, "You're telling the truth," to the other person, without saying "You're a liar," you're telling the other person, "You're a liar." It's not a pleasant thing to have to do.

So a judge, a judicial authority, needs to look at all the circumstances. They hear the person and they watch the person. They watch the demeanour of the person. They watch how the person responds physically. They watch the body language of the person. So much of it is simply inside their head. It's automatic. They don't have a checklist there saying how you determine, but it's experience, and it's applying some science, it's applying some law and it's applying a whole lot of human life experience.

So for the life of me, I don't know how we can trust the Lieutenant Governor in Council. If Mr. Bartleman were making the decision I'd trust him implicitly, with no hesitation, but it's not Mr. Bartleman who is going to make the decision. He's just going to sign the regulation or the order or have somebody seal it or stamp it. So I will be voting against this.

Here I am. I voted for section 1 of the—well, Jeez, I support the Liberals on section 1 and what happens? They vote down their own amendment. So let's see if they can exercise the same wisdom when it comes to section 2. I will be voting against section 2. Look at this: evidence to be given under oath, electronic means; you can do the oath by electronic means as well. Where does this take us? How much more grief do we need in terms of the land titles system and forged and fraudulent documents? Now we're going to start administering oaths over the telephone? Wow. It just boggles the mind, where that could take us. It's not healthy stuff. It's not good. This is efficiency-driven. There's nothing wrong with efficiencies, but when efficiencies override some very fundamental things, then you've got to take a step back. Thank you, Chair.

The Chair: Any further debate?

Mr. Zimmer: What this PC motion 75 would do is provide that electronic means would not be allowed if they compromised the defendant's right to cross-examination. The provisions don't do that. That right is absolutely guaranteed under the Charter of Rights. In any event, when the judge hearing the matter feels that there's an issue there about the electronic evidence, it's up to the judge to deal with it and decide whether to permit it to be heard electronically or to listen to counsel's arguments on behalf of the party and decide that it should be vive voce evidence. So I urge my colleagues to vote against this.

The Chair: Mr. Kormos?

Mr. Kormos: Mr. Zimmer, with his provocative comments—once again, 83.1, "A witness may give evidence by video conference." It doesn't say a judge "may allow" a witness to give evidence based on the following considerations; it's "A witness may give evidence." Quite frankly, the statute seems to make it the witness's election. So I disagree with you when you suggest that somehow the statute—your provision here—incorporates a high level of legal supervision or, rather, judicial supervision. "A witness may give evidence." It seems to me that's the witness's election, or the party calling them.

The Chair: Any further debate? Seeing none—

Mr. Kormos: A recorded vote, please, sir.

The Chair: Shall section 2 carry?

Ayes

Balkissoon, Flynn, Van Bommel, Zimmer.

Nays

Elliott, Kormos.

The Chair: That's carried.

We're on to PC motion 76.

Mrs. Elliott: I move that schedule E to the bill be amended by adding the following section:

"2.1 The act is amended by adding the following section:

"Access to information

"165.1 Despite any other act or regulation, when a transfer agreement under section 165 is in force the municipality is entitled, for the purpose of collecting fines, to have access to any information about holders of drivers' licences that is in the possession of the Ministry of Transportation."

The purpose of this amendment is to allow the municipalities to gain information they require to be able to collect fines, which previously the courts had access to, prior to the transfer of this responsibility to the municipalities.

The Chair: Any further debate? Seeing none, shall PC motion 76 carry? All those in favour? Opposed? Lost.

1550

Section 3: government motion 77.

Mr. Zimmer: I move that subsection 3(2) of schedule E to the bill be amended by striking out "Sections 1 and 2 come into force" and substituting "Section 2 comes into force".

Mr. Kormos: On a point of order, Chair: Section 1 doesn't exist anymore. It is the process automatically that section 1 simply isn't referred to. I'm saying the motion is out of order. Doesn't the correction occur automatically without the need for an amendment? Would the bill actually be printed and then the subsequent statute, with the reference to section 1—because, in fact, it's not section 1 anymore once it comes into—

Ms. Tamara Kuzyk: The amendment would have to be made to the coming into force provision. Then the schedule gets renumbered on the third printing and the reference to it within the commencement provision would be updated. It's actually something you have to take step by step.

Mr. Kormos: What would happen if you didn't amend it? It wouldn't impede anything, would it?

Ms. Kuzyk: You'd have an erroneous reference in the legislation. It would be unclear, perhaps, what section you might referring to. You would have two section references in the commencement. It's just not something that our office would permit to happen, quite frankly. It's not a situation I've been faced with.

Mr. Kormos: I appreciate that it wouldn't be very attractive.

Ms. Kuzyk: And potentially confusing. We'd just want to make sure the number references remain clear. So we only have one provision going forward, we only make a reference to that one provision, and we renumber on third reading printing.

Mr. Kormos: Thank you. Really fast: When this bill now gets printed for third reading, there will be a schedule E and there won't be a section 1. Section 2: "This act is amended by adding the following section:

Video" will become section 1 without having to amend it. Is that correct? There won't be a section 2, right?

Ms. Kuzyk: Section 3 would be renumbered as a section 2, and then the reference within what is currently in the first reading version 3(2), as amended to section 2, would then become a reference to section 1.

Mr. Kormos: But clearly you're suggesting that the royal assent section that refers to itself would be a contradiction.

I'm not trying to give you a hard time here, honestly. I just want to be able to use this, maybe, at some point, somewhere down the road; to put it in my back pocket and pull it out late in the day during committee sittings.

Just as section 3 becomes section 2, is it not possible for the references to 1 and 2, clearly referring to sections that need proclamation, to be adjusted in the same manner? Do they not fall into the same rule, in terms of automatic adjustments?

Ms. Kuzyk: Once you get rid of what would now be the extra section reference, which is the reference to section 1, then yes—that reference to what would now just be section 2 in 3(2) would then just be renumbered to section 1. So you would have section 1 coming into force on proc, and the commencement section coming into force on royal assent.

Mr. Kormos: Okay. This is going to require some renumbering anyway.

Ms. Kuzyk: Are you referring to the entirety of Bill 14?

Mr. Kormos: Yes.

Ms. Kuzyk: I would have to agree with that.

Mr. Kormos: Somebody's got to have to sit down and do some real renumbering here, even though there were no amendments made changing numbers, because these guys have really screwed things up. In the course of three days they've created a whole lot of work. People are going to have to sit down and renumber sections. Thank you very much.

The Chair: Any further debate? Seeing none, shall government motion 77 carry? Carried.

Any debate on section 3, as amended? No? Shall section 3, as amended, carry? Carried.

Schedule E: Any debate on schedule E?

Mr. Kormos: Yes, if I may. We should be very uncomfortable passing this and delegating so much of the drafting of it to regulation. We're going to make substantial changes to evidentiary rules at the provincial offences level. They should be upfront, in the open, and up there and publicly debated. New Democrats oppose schedule E.

The Chair: Any further debate? Shall schedule E, as amended, carry? Carried.

Schedule F, section 1: government motion 78.

Mr. Zimmer: I move that the French version of subsection 1(1) of the Legislation Act, 2005, as set out in schedule F to the bill, be amended by adding the following definition:

"'modification autorisée' Modification autorisée par la partie V. (French version only)"

The Chair: Any debate? Seeing none, shall government motion 78 carry? Carried.

Government motion 79.

Mr. Zimmer: I move that the definition of "consolidated law" in subsection 1(1) of the Legislation Act, 2005, as set out in schedule F to the bill, be struck out and the following substituted:

"'consolidated law' means a source law into which are incorporated,

"(a) amendments, if any, that are enacted by the Legislature or filed with the registrar of regulations under part III or under a predecessor of that part, and

"(b) changes, if any, that are made under part V; ('texte législatif codifié')"

The Chair: Any debate? Seeing none, shall government motion 79 carry? Carried.

Government motion 80.

Mr. Zimmer: I move that clause (b) of the definition of "source law" in subsection 1(1) of the Legislation Act, 2005, as set out in schedule F to the bill, be amended by striking out "under part III" and substituting "under part III or under a predecessor of that part".

The Chair: Any debate? Seeing none, shall government motion 80 carry? Carried.

Government motion 81.

Mr. Zimmer: I move that section 1 of the Legislation Act, 2005, as set out in schedule F to the bill, be amended by adding the following subsection:

"Reference to amendment includes reference to repeal, revocation

"(1.1) A reference in this act to amendment in relation to legislation is also a reference to repeal or revocation, unless a contrary intention appears."

The Chair: Any debate? Seeing none, shall government motion 81 carry? Carried.

Any debate on section 1? Shall section 1, as amended, carry? Carried.

Any debate on section 2? Shall section 2 carry? All those in favour? Opposed? That's carried.

Government motion number 82.

1600

Mr. Zimmer: I move that part I of the Legislation Act, 2005, as set out in schedule F to the bill, be amended by adding the following section:

"Designation by chief legislative counsel

"2.1 The chief legislative counsel may designate one or more lawyers employed in the office of legislative counsel to exercise the powers and perform the duties of the chief legislative counsel in his or her place."

Mr. Kormos: After the exercise we just went through, I'm surprised that the parliamentary assistant uses the word "lawyers." Well, think about it in this amendment. Is he talking about people who are members of the Law Society of Upper Canada? We learned—it was drilled into us—that the legislation doesn't define "lawyer." It says "barrister and solicitor." "Practice of law," I think, is referred to at some point. Is the government—and if it is, just say so—prepared to allow lawyers who aren't licensed to practise law in the province of Ontario? They

could well be lawyers. A lawyer's a lawyer. It's like riding a bicycle. A lawyer from British Columbia, a lawyer from South Africa, a lawyer from the Carpatho-Rusyn region of eastern Europe—or did you mean to say people who are licensed by the law society, such that paralegals could be employed in this role? It seems to me that if the government, zealous as it is about paralegal regulation—surely paralegals should be considered for this job. Is the use of the word "lawyer" here precise enough?

Mr. Zimmer: Mr. Gregory.

Mr. John Gregory: I'm John Gregory from the Ministry of the Attorney General. The section refers to one or more lawyers employed by the office of legislative counsel, so really the reference goes to how the employees of the office of legislative counsel are classified. They're classified as lawyers under government employment regulations, so the question of their licensing or otherwise by the law society doesn't arise. The question is, who in the office of legislative counsel can receive the delegation from the chief when the chief is on vacation? The answer is that she, at this point, or he, in the future possibly, will look to people who are classified as lawyers in that office.

Mr. Kormos: That is good. I appreciate the explanation.

The Chair: Any further debate? Seeing none, shall government motion 82 carry? Carried.

Government motion number 83.

Mr. Zimmer: I move that part I of the Legislation Act, 2005, as set out in schedule F to the bill, be amended by adding the following section:

"Duty, obsolete acts

"2.2 The chief legislative counsel shall, from time to time, provide to the Attorney General a list of acts, or any parts, portions or sections of acts, that have been rendered obsolete by events or the passage of time."

The Chair: Any debate? Mr. Kormos.

Mr. Kormos: There was a practice—and you've got to help us with this—whereby the Legislature had a bill presented to it that was a cleanup bill. Was it related to the creation of the RSOs on a decade-by-decade basis? People out there go, "Holy moly. Do you mean that whole acts or parts, portions or sections of acts can simply disappear from the statutes of Ontario?" Give us some help, in terms of an example. Mr. Zimmer, because people should know. What's a "for example"? Mr. Zimmer?

Mr. Gregory: The question of what happens to an act when the facts to which it applies don't really exist anymore is a fairly complex one. This particular section, the proposed section 2.2 in motion 83, simply tells the chief legislative counsel to report from time to time, as it comes to his or her attention, things that seem to be obsolete, you know, whether you're regulating something that didn't exist anymore: the manufacture of buggy whips, what have you.

But the question of what happened with the decennial revisions, the RSO 1990s and previously, is dealt with extensively in the Legislation Act in this schedule, because it's not happening anymore. There is a whole part of schedule F on change powers by which legislative counsel make little corrections and updates without changing the legal effect.

But what happened in the consolidations is that obsolete statutes weren't repealed; they were just left out of the consolidation. You have over 1,000 statutes at present that are unrepealed, unconsolidated statutes, and they go back to about 1870, if not right to 1867. What is their legal status? Their legal status is that they are in force, but they may have no effect. One of the things done by this bill later on, in section 92, is to repeal all of them except the ones that are mentioned specifically. It was quite a battle composing that, because there's the Ontario-Manitoba border act, 1879. It turns out that that's very active, particularly in that area of the province, but there are reasons why, legally, we had to leave that in force. A lot of them are cleared out, but statutes don't repeal themselves and the decennial consolidation did not repeal them.

Basically, the purpose of 2.2 is to put things in front of the Attorney General from time to time so that he, having verified the opinion of the chief legislative counsel, can bring a bill into the Legislature, put it to the Legislature and say, "Could you please clean up the following five, 10 acts?" and just keep us from getting back into the situation of having 1,000 unrepealed, unconsolidated and—probably, but we're not quite sure—obsolete statutes.

Mr. Kormos: Thank you. Interesting stuff.

Mr. Gregory: It bears on certain of the other sections we'll come to—to save time when we come to them. Thank you.

The Chair: Any further debate? Seeing none, shall government motion 83 carry? That's carried.

We're going to be dealing with sections 3 to 5. Any debate? Shall sections 3 to 5 carry? Carried.

Section 6: We're going to government motion number 84.

Mr. Zimmer: I move that section 6 of the Legislation Act, 2005, as set out in schedule F to the bill, be struck out and the following substituted:

"Commencement of acts

"6.(1) Unless otherwise provided, an act comes into force on the day it receives royal assent.

"Same

"(2) Commencement and short title provisions in an act and the long title of the act are deemed to come into force on the day the act receives royal assent, regardless of when the act is specified to come into force.

"Selective proclamation

"(3) If an act provides that it is to come into force on a day to be named by proclamation, proclamations may be issued at different times for different parts, portions or sections of the act.

"Time of commencement and repeal

"Commencement

"6.1(1) Unless otherwise provided, an act comes into force at the first instant of the day on which it comes into force.

"Limitation

"(2) Unless otherwise provided, an act that comes into force on royal assent is not effective against a person before the earlier of the following times:

"1. When the person has actual notice of it.

"2. The last instant of the day on which it comes into force.

"Repeal

"(3) Unless otherwise provided, the repeal of an act takes effect at the first instant of the day of repeal."

The Chair: Any debate? Seeing none, shall government motion number 84 carry? Carried.

Any debate on section 6, as amended? Shall section 6, as amended, carry? Carried.

Section 7: Any debate? Shall section 7 carry? Carried.

We're on section 8: government motion 85.

1610

Mr. Zimmer: I move that section 8 of the Legislation Act, 2005, as set out in schedule F to the bill, be struck out and the following substituted:

"Endorsements on acts

"8(1) The Clerk of the Assembly shall indicate on every act, after the title, the date on which it receives royal assent.

"Same

"(2) The date of assent forms part of the act.

"Reserved bills

"8.1(1) In this part, a reference to the day or date on which an act receives royal assent is, in the case of a bill reserved by the Lieutenant Governor, a reference to the day on which the Lieutenant Governor signifies, by speech or message to the assembly or by proclamation, that the bill was laid before the Governor General in Council and that the Governor General was pleased to assent to it.

"Endorsement, date of reservation

"(2) The Clerk of the Assembly shall indicate, on every bill that is reserved, the date of reservation."

The Chair: Any debate?

Mr. Kormos: Help us with the reservation of a bill, just very quickly.

Mr. Gregory: Constitutionally, the Lieutenant Governor is asked, when a bill is passed by the Legislature, to give royal assent to it. The Lieutenant Governor has the option not to give assent but simply to reserve it for the opinion of the Governor General, I believe, and Her Majesty, no doubt, in constitutional theory. This has not happened, I think, in this century in Ontario. It happened in the 1930s for Alberta statutes. It exists; we can't constitutionally ignore it. The purpose of the motion is to move it out into its own section so that you don't think, "Oh, this must happen frequently. It's right in there in the coming-into-force provision." As I say, it has not happened in my lifetime—I'm probably the oldest person in this room—or possibly in my father's lifetime in Ontario. So we can't ignore the fact that it could happen, but we can shuffle it to its own section.

Mr. Kormos: This is a constitutional convention?

Interjections.

Mr. Gregory: I don't have the Constitution Act in front of me. It's written into the Constitution that this happens. The reason it refers to "Governor General in Council" is because the Lieutenant Governor sends it to Ottawa to say, "What do you think of this provincial legislation?" The Governor General says, "Sure, let them do it," or no at that point, at which point it's conveyed back, which is what gets written on the copy of the bill.

Mr. Kormos: Some people were concerned there was a typo, and that's fair enough. I appreciate it. This is fascinating stuff, isn't it?

Mr. Zimmer: That's where I got troubled myself for a second. Thank you, Mr. Gregory.

The Chair: Any further debate? Seeing none, shall government motion 85 carry? Carried.

Any debate on section 8, as amended? Shall section 8, as amended, carry? Carried.

Any debate on sections 9 to 13? Seeing none, shall sections 9 to 13 carry? Carried.

Section 14: government motion 86.

Mr. Zimmer: I move that subsection 14(6) of the Legislation Act, 2005, as set out in schedule F to the bill, be struck out and the following substituted:

"Proof of office not required

"(6) A regulation signed by an officer or agent under subsection (5) may be filed without proof of the authority, office or signature of the person signing on behalf of the corporation or entity, but the signed regulation shall show his or her office or title."

The Chair: Any debate? Seeing none, shall government motion 86 carry? Carried.

Government motion 87.

Mr. Zimmer: I move that section 14 of the Legislation Act, 2005, as set out in schedule F to the bill, be amended by adding the following subsection:

"Public inspection

"(8) A filed regulation shall be made available for public inspection."

The Chair: Any debate? Shall government motion 87 carry? Carried.

Any debate on section 14, as amended? Shall section 14, as amended, carry?

Section 15: government amendment 88.

Mr. Zimmer: I move that section 15 of the Legislation Act, 2005, as set out in schedule F to the bill, be struck out and the following substituted:

"Filing date

"15(1) A regulation shall not be filed on a date that is later than four months after the date on which it was made or, if approval of the regulation is required, the date it is approved.

"Consent to extend filing date

"(2) Despite subsection (1), a regulation may be filed on a date that is later than that described in subsection (1) if consent to do so has been obtained from the person or entity authorized to make the regulation and, if the regulation requires approval, from the person or entity authorized to approve the regulation.

"Date to be specified

"(3) The consent shall specify a date after the four-month period described in subsection (1) by which the regulation shall be filed.

"Timing of consent

"(4) A consent to extend the filing date and any subsequent consents may be given at any time,

"(a) whether before or after the four-month period described in subsection (1) has expired; and

"(b) whether or not a date set out in an earlier consent has expired.

"Filing restriction

"(5) The regulation shall not be filed after the date specified in the consent.

"Consent to be filed

"(6) The consent extending the filing date shall be filed with the registrar at the same time as the regulation is filed, and the rules for signing and certifying the regulation set out in section 14 apply to the consent, with necessary modifications.

"Same

"(7) A consent filed under this section need not be published.

"Transition

"(8) This section does not apply to a regulation made on or before the coming into force of this section, even if approval, if required, was given after the coming into force of this section."

The Chair: Any debate? Seeing none, shall government motion 88 carry? Carried.

Any debate on section 15, as amended? Shall section 15, as amended, carry? Carried.

Section 16: Any debate on section 16? Shall section 16 carry? Carried.

Section 17: government motion 89.

Mr. Zimmer: I move that section 17 of the Legislation Act, 2005, as set out in schedule F to the bill, be amended by adding the following subsections:

"Deemed validity of filing

"(3) If a regulation that fails to meet the requirements of this section is inadvertently accepted for filing, the regulation is deemed to be validly filed despite that failure.

"Same

"(4) Subsection (3) shall be interpreted only as validating a procedural irregularity."

The Chair: Any debate? Seeing none, shall government motion 89 carry? Carried.

Section 17: Any debate? Shall section 17, as amended, carry? Carried.

Section 18: government motion 90.

Mr. Zimmer: I move that section 18 of the Legislation Act, 2005, as set out in schedule F to the bill, be struck out and the following substituted:

"When regulation effective

"18(1) A regulation that is not filed has no effect.

"Same

"(2) Unless otherwise provided in a regulation or in the act under which the regulation is made, a regulation comes into force on the day on which it is filed.

"No retroactivity authorized

"(3) Nothing in this section authorizes the making of a regulation that is effective with respect to a period before its filing.

"Time of commencement and revocation

"Commencement

"18.1(1) Unless otherwise provided in a regulation or in the act under which the regulation is made, a regulation comes into force at the first instant of the day on which it comes into force.

"Limitation

"(2) Unless otherwise provided in a regulation or in the act under which the regulation is made, a regulation is not effective against a person before the earliest of the following times:

"1. When the person has actual notice of it.

"2. The last instant of the day on which it is published on the e-Laws website.

"3. The last instant of the day on which it is published in the print version of the Ontario Gazette.

"Revocation

"(3) Unless a regulation or an act provides otherwise, the revocation of a regulation takes effect at the first instant of the day of revocation.

"Proof of making, approval, filing and publication

"When made

"18.2(1) Unless the contrary is proved, the date indicated on the e-Laws website or in the print version of the Ontario Gazette as the date on which a regulation was made is proof that the regulation was made on that date.

"When approved

"(2) Unless the contrary is proved, if approval is required for the making of a regulation, the date indicated on the e-Laws website or in the print version of the Ontario Gazette as the date on which approval was given is proof that the regulation was approved on that date.

"When filed

"(3) Unless the contrary is proved, the date indicated on the e-Laws website or in the print version of the Ontario Gazette as the date on which a regulation was filed is proof that the regulation was filed on that date.

"When published on e-Laws

"(4) Unless the contrary is proved, the date of publication indicated for a regulation on the e-Laws website is proof that the regulation was published on the e-Laws website on that date.

"When published in the Ontario Gazette

"(5) Unless the contrary is proved, the date of publication indicated for a regulation in the print version of the Ontario Gazette is proof that the regulation was published in the print version of the Ontario Gazette on that date."

The Chair: Any debate? Seeing none, shall government motion 90 carry? Carried.

Section 18: Is there any further debate? Shall section 18, as amended, carry? Carried.

Seeing that it's well past 4 o'clock, I'd like to thank everybody. This committee is adjourned.

The committee adjourned at 1622.

CONTENTS

Friday 22 September 2006

STANDING COMMITTEE ON JUSTICE POLICY

Chair / Président
Mr. Vic Dhillon (Brampton West–Mississauga / Brampton-Ouest–Mississauga L)

Vice-Chair / Vice-Présidente
Mrs. Maria Van Bommel (Lambton–Kent–Middlesex L)

Mr. Bas Balkissoon (Scarborough–Rouge River L)
Mr. Lorenzo Berardinetti (Scarborough Southwest / Scarborough-Sud-Ouest L)
Mr. Vic Dhillon (Brampton West–Mississauga / Brampton-Ouest–Mississauga L)
Mrs. Christine Elliott (Whitby–Ajax PC)
Mr. Frank Klees (Oak Ridges PC)
Mr. Peter Kormos (Niagara Centre / Niagara-Centre ND)
Mr. Ted McMeekin (Ancaster–Dundas–Flamborough–Aldershot L)
Mr. David Orazietti (Sault Ste. Marie L)
Mrs. Maria Van Bommel (Lambton–Kent–Middlesex L)

Substitutions / Membres remplaçants
Mr. Kevin Daniel Flynn (Oakville L)
Mr. Robert W. Runciman (Leeds–Grenville PC)
Mr. Tony C. Wong (Markham L)
Mr. David Zimmer (Willowdale L)

Also taking part / Autres participants et participantes
Mr. John Twohig, senior counsel,
Mr. John Gregory, general counsel,
Mrs. Sunny Kwon, counsel,
Mr. John Lee, counsel,
policy division, Ministry of the Attorney General

Clerk pro tem / Greffier par intérim
Mr. Trevor Day

Staff / Personnel
Ms. Tamara Kuzyk,
Ms. Joanne Gottheil,
legislative counsel, Ministry of the Attorney General