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# Official Report of Debates (Hansard)

**Thursday 26 April 2007**

# Journal des débats (Hansard)

**Jeudi 26 avril 2007**

**Standing committee on finance and economic affairs**

Budget Measures and Interim Appropriation Act, 2007

**Comité permanent des finances et des affaires économiques**

Loi de 2007 sur les mesures budgétaires et l'affectation anticipée de crédits

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

# STANDING COMMITTEE ON FINANCE AND ECONOMIC AFFAIRS

# COMITÉ PERMANENT DES FINANCES ET DES AFFAIRES ÉCONOMIQUES

Thursday 26 April 2007

Jeudi 26 avril 2007

*The committee met at 1002 in room 151.*

## BUDGET MEASURES AND INTERIM APPROPRIATION ACT, 2007

## LOI DE 2007 SUR LES MESURES BUDGÉTAIRES ET L'AFFECTATION ANTICIPÉE DE CRÉDITS

Consideration of Bill 187, An Act respecting Budget measures, interim appropriations and other matters / Projet de loi 187, Loi concernant les mesures budgétaires, l'affectation anticipée de crédits et d'autres questions.

**The Chair (Mr. Pat Hoy):** The standing committee on finance and economic affairs will now come to order. We were just waiting for the bells to end.

## INJURED WORKERS' CONSULTANTS

**The Chair:** Our first presentation this morning is from Injured Workers' Consultants. If you would identify yourself for Hansard, that would be appreciated. You have 10 minutes for your presentation, and there may be up to five minutes of questioning following that. You may begin.

**Ms. Marion Endicott:** Good morning. My name is Marion Endicott. I'm here from Injured Workers' Consultants community legal clinic. I'm here to speak to you today with my colleagues on Bill 187, schedule 41, concerning the Workplace Safety and Insurance Act. I have with me here today John McKinnon, Rebecca Lok and Mr. Ha Ly, who was injured in the course of his employment.

We're very pleased to be here to speak with you today. I would just like to note that there are a number of people who have been injured at work in the crowd. They belong to various injured workers' groups and asked also for standing to this committee but unfortunately were not able to make it in on time. However, they have submitted their thoughts to Mr. Day, and I'm sure you will have a opportunity to read them.

I'm going to go very fast. Injured Workers' Consultants is a community legal aid clinic funded by Legal Aid Ontario which has assisted injured workers in their claims, free of charge, since 1969. They also address systemic issues of law and policy. We have a long historical memory of the difficulties faced by injured workers. We are familiar not only with the legislation but how that legislation works in terms of policy and practice; in other words, the actual impact on those who have had the misfortune of injury or illness sustained from work.

Bill 187 is a budget bill to address poverty in Ontario, and within that context, some measures have been put in place to address the poverty of injured workers. We are very pleased that the government has signalled its desire to prevent the link between injury and poverty and to take action on the restoration of dignity and respect for injured workers. We all know that much more must be done to address justice for those injured on the job who gave up their right to sue their employers back in 1915 in what has become known as the "historic compromise." The elimination of time limits for workers, the elimination of incentives based on claims experience and the coverage of all workplaces are some critical areas that will need to be covered in order to address the issues of poverty and the board's financial profile, which is so regularly raised as a barrier to improvements.

Today, we wish to focus on two amendment subjects contained in schedule 41 of the bill: deeming and cost of living. Specifically, the bill introduces the concept of available work to prevent the current deeming of injured workers to have phantom jobs with phantom wages. Additionally, it provides a 7.5% increase over three years as a cost-of-living adjustment. I am going to speak about the cost-of-living adjustment.

After all-party agreement in 1985, automatic full cost-of-living increases were added to the act so that, according to Hansard, injured workers would never again need to suffer the "indignity of coming cap in hand to the steps of the Legislature." This security was taken away, however, and starting in January 1996 and up to the most recent adjustment in January 2007, permanently disabled injured workers have lost more than 22% of the value of their compensation. The 7.5% increase over three years is a help, but it does not sufficiently address what has been lost.

As you know, this Legislature passed a 25% increase for MPPs and recently another 2% to bring their salaries up to date. This can be done for injured workers as well within the scope of Bill 187. This can be done by further amending subsection 52(1.4), and the details are contained in our written submission, which we have provided copies of to Mr. Day.

We would like to note that we are aware of the financial concerns and would like you to note that the present assets of the board are $14.5 billion. We ask you to read the document appended to our submission entitled, Restoring Full Cost-of-Living Adjustments: Who Says We Can't Afford It?

We would also like to note that there are some concerns that the intent of this government to ensure that all injured workers receive the benefit of the 7.5% increase may not be captured in the amendments as they are presently written. This is also addressed in our appendices, and we ask that you look at that to ensure that all people will be covered.

With that hasty presentation, I'll now pass the mike on to Mr. John McKinnon to present on deeming.

**Mr. John McKinnon:** Mr. Ly and I are going to take a few minutes to discuss the issue of deeming, but first off, we're very pleased that the government has chosen to tackle the problem of deeming in this bill. Since the legislative changes in 1990, compensation has been determined through the deeming process. Unfortunately, that has produced many unfair decisions that have left injured workers in poverty and engendered some lack of respect for the workers' compensation system, so eliminating deeming is one of the most important objectives in order to restore fairness and respect to the workers' compensation system.

It was 1990 when we left behind the permanent disability pension system. Compensation for lost earnings from long-term injuries has been based on the difference between an injured worker's pre-injury wages and what the worker is considered able to earn in a suitable job after the injury. As we mentioned, Mr. Ly is a worker who was injured under the current system. His case is a real example of how that can work for people. I'd like to ask Mr. Ly to give the statement that he has prepared to the committee. There are some notes in the brief of Mr. Ly's statement.

Mr. Ly, would you like to speak to the committee?

**Mr. Ha Ly:** Good morning. Thank you for an opportunity to speak.

I came to Canada from Vietnam in 1988. In Vietnam, I worked as a machine operator. Within a couple of months, I found a job in Canada as a machine operator. My lack of English was not a problem.

I was injured in the year 2000 after seven years with the same company. My permanent right-arm injury was rated at 25% by the Workplace Safety and Insurance Board. I cannot do physical work anymore.

The Workplace Safety and Insurance Board gave me 13 months of ESL training and eight weeks' training on the job as a parking lot attendant. The company did not keep me in the parking lot because my English was not good enough. I have applied for many jobs in parking lots and stores since then, but no one has offered me a job.

I will receive about $100 per week in compensation benefits until I am 65 years old. That is the difference between my old job at $10.75 per hour and the minimum wage.

Under deeming, the WSIB is a loser because they pay for training that does not help to get a job. The injured worker is a loser because I have no job and very little compensation for my lost wages. I have used up my RSP and depend on the income of my wife.

Thank you for the opportunity to explain my problem. I hope you will change the law to make sure this does not happen to any more injured workers. Thank you.

**1010**

**Mr. McKinnon:** Mr. Ly's situation is that he has been deemed to be working full-time at the minimum wage but he is unable to return to employment.

We appreciate the government's intention to prevent this kind of situation by reintroducing the word "available" into the legislation so that workers are not going to be deemed to have earnings from a job that there's no realistic prospect of obtaining. However, our concern is that the amendment may not do what the government has set out to achieve, and that's why we've included some proposals for amendments to the bill that hopefully will do this.

In Mr. Ly's case, there are lots of parking lot jobs and store clerk jobs available in the area, but every time he applies for a job, there are going to be a dozen better-qualified individuals in the lineup with him. Although his language was not a barrier to employment before his injury, after more than six years of looking for work it's clear that no employer is going to offer him a job in those fields. He's still deemed to be a parking lot attendant and to have a minimum wage income, and he's stuck at $100 a week until he turns 65.

As long as there's wording in the legislation referring to what the worker is likely able to earn, there will be deeming. The wording in the legislation from 1990 to 1997 was very similar to what's proposed in the bill, yet there still was deeming and there still were many examples like Mr. Ly's. Most injured workers end up being deemed, at the minimum, to be working full-time at a minimum-wage job.

It's particularly harsh in the case of those who are injured when they're working at very low-wage jobs. In this regard, we welcome the government's proposal to raise the minimum wage to $10, but ironically, in the workers' compensation context, as long as the system is based on deeming, an increase in the minimum wage will have the effect of increasing the poverty of injured workers. In Mr. Ly's case, for example, had he not been past the final review, the board would be calling him and readjusting his benefits based on deemed earnings now of $10 an hour. If he earned $10.75 before the injury, he'd be getting less than $20 a week until age 65, despite not having an actual job.

Our brief includes some proposals aimed at addressing these concerns: to focus the compensation based on the worker's actual earnings, and in the rare case of an injured worker who's not co-operating, to focus on earnings that are available to the worker in terms of a job that has been offered to the worker. We believe that these amendments will achieve what the government is trying

to accomplish in this regard and will go a long way to restoring fairness and public respect for our workers' compensation system.

I'd like to thank you very much for giving us the opportunity to share these thoughts with you today.

**The Chair:** Thank you. This round of questioning will go to the government.

**Mr. Wayne Arthurs (Pickering–Ajax–Uxbridge):** I appreciate the opportunity to speak. Thank you for the presentation this morning.

I was certainly pleased to hear the level of satisfaction with the moves that have been made in the bill to address the plight of injured workers, and we are aware that it really is a first step. By implementing the increases in three stages over the next 18 months, although it spans a slightly longer time frame—it's indicative of how we need to do something quickly this year, by July 1, and then on the following January 1 of each of the next two years at least to try to keep pace, if not close the gap in its entirety.

I understand that there has been some ongoing discussion with ministry staff over some of the provisions that you were just advising us of, particularly with respect to elements of the deeming provisions. It's an important issue and one that we want to get right. If we can't get it right right now, we certainly want to get it right, and I think some of that discussion may be ongoing.

There are other matters that I think may be beyond the scope of what we can do right now.

Are there other issues still outstanding that you're addressing with the ministry that you would like us to ensure that we address and ones which you'd want to have on the record here this morning for future consideration?

**Ms. Endicott:** For future consideration? Not within this bill.

**Mr. Arthurs:** I know there are some other ongoing discussions that may not be captured in the bill. Are there matters that we should be seeing addressed on a go-forward basis which you would like to have on the record this morning as part of our discussion?

**Ms. Endicott:** I can mention a few, and John or Rebecca may add others.

Most certainly we want to have the government address the whole issue of experience rating, which is a big problem in terms of the negative effect on injured workers in the name of health and safety without an impact on health and safety; full coverage for all workers in Ontario; getting rid of time limits for injured workers; restoring the concept of temporary total disability so that people have time to actually recover from their injuries. Right now people are pushed back to work much too fast. And in general—I don't know how that's captured in legislation—a review of the understanding of the whole business of the unfunded liability and what that really means within our workers' compensation system would all be very important. And, of course, ultimately getting rid of the freedom formula and reinstituting the entire full cost of living so that injured workers don't have to address that issue anymore in the future.

**Mr. Arthurs:** I know Ms. Matthews has some questions. Just before going to that, do you want to—

**Ms. Endicott:** I think John has something to add.

**Mr. Arthurs:** I just want to recognize as well upfront that a number of folks are here today, and particularly with April 28 fast approaching, the day of mourning, I think we would all want to acknowledge the important contribution made by workers generally, but also the great loss that many of them suffered in the workplace. A day of mourning is an appropriate thing to do, and this is an opportune time for you to be before this committee.

**Mr. McKinnon:** I'd just like to say, without adding to the list, that we recognize that workers' compensation legislation has unfortunately become one of the most complex areas of law and policy. It's difficult to understand, and our office and the injured workers' groups would be pleased to meet with any member of the Legislature to talk at more length to explain the way things work and the areas that need improvement. That's a standing offer that's always open.

**The Chair:** We have about a minute.

**Ms. Deborah Matthews (London North Centre):** Okay. I'll make this very quick. I just wanted to say thank you for the advocacy work you do. I worked for Injured Workers' Consultants back in the early 1970s. It was a summer job for me. I worked above a laundromat on Hamilton Road in London. It was a marvellous experience for me and sure did open my eyes to the issues faced by injured workers. I just wanted to comment on how much your advocacy work and the work you do with injured workers every day is appreciated. Thank you.

**Ms. Endicott:** It's great to have it appreciated. Could I add one more comment in terms of issues? That is the whole issue of doctors, medical confidentiality and the problem, generally speaking, of the privacy of injured workers. It would be very nice to have addressed the problem that injured workers are being videotaped and that that's considered to be evidence that can be brought to appeals and undermines many claims. Injured workers' whole medical documents are ordered by the board and then become available to employers full of information that has nothing to do with their compensation claim. There are quite a few issues around confidentiality and privacy that would be really nice to see addressed in the legislation to protect workers.

**The Chair:** Thank you, and thank you for your submission.

## De BEERS CANADA

**The Chair:** I call on De Beers Canada to come forward, please. Good morning. You have 10 minutes for your presentation. There may be up to five minutes of questioning following that. I would ask you to identify yourself for the purposes of our recording Hansard. You may begin.

**Mr. Jim Gowans:** Thank you, Mr. Chairman, members of the provincial Parliament. My name is Jim Gowans. I'm president and CEO of De Beers Canada. I thought I'd give you a little bit of background on where I come from. I am a Canadian and I've been working in the mining industry about 30-odd years. I've been involved in building mines and projects all over Canada, from the high Arctic in northern Ontario and across. Up until about a year ago, I was operating Inco's operations in Indonesia. I have been involved in developing and operating mines in Ontario for a long time, including having been involved in the last two mines built in remote Ontario, the Musselwhite mine up north of Pickle Lake and North American Palladium. I was consulting with them when they were involved in it about four or five years ago.

I wanted to talk today about the diamond royalty that was put into the budget act, Bill 187. I think you have the presentation, but I want to just focus in on the first couple of pages rather than get into all the details because we don't have a lot of time.

**1020**

Our concern is that the diamond royalty that was proposed in Bill 187 breaches several principles, in our eyes. One is the certainty of the climate of investment. We are seeing almost a tripling of taxes, the royalties, after spending a $1-billion investment in this province. We thought we had a commitment from the Ontario government as late as when Premier McGuinty and three cabinet ministers reiterated their commitment to the royalties from the Ontario Mining Tax Act, and in fact the remote royalty when they were involved in the groundbreaking ceremonies at the end of June last year.

For us, it also breaches the principles of what we consider to be fair. There was no consultation—this was quite a surprise to us—and it singles out the diamond mining sector in the whole mining sector, a very large resources sector in Ontario. The Victor mine, which is our project that will be starting up next year, is the only diamond mine, and we are the only operating company in this commodity. So it's very much a royalty and a tax base that's focused in on one operation and one company. The concern on that is the consistency of tax rules within Ontario and mining, why we have to have a special diamond royalty when in fact there are quite a few commodities mined in Ontario and diamonds are not the first gem that is mined in Ontario. This room, although it's room 151, is called the Amethyst Room. We are the second gem being mined here, so why are we being singled out? I've worked around the world building mines, and one of the things I always prided myself on as a Canadian is that you could always count on Canadian tax laws and rules with respect to the resource industry being fair and non-discriminatory and predictable, as opposed to some of the other jurisdictions I worked in.

One of the issues for us, not specific to our company but obviously for the impact it has, is that we are the only mining project starting up in northern Ontario. I've been involved in mining in northern Ontario for a long time, and I know that getting projects up there is very difficult. There's not a lot of infrastructure. Having what I call an increased penalty of a tax against the mining sector I think is discriminatory and has a negative impact in terms of future projects with aboriginal opportunities and participation in some of these remote mining projects and obviously with northern businesses. I think that has a significant impact.

In terms of what I think is the way forward, I really believe that we have the legislation in this province: There is an existing Mining Tax Ac,t and I see no reason why diamonds have to be singled out to be removed from that act. I think the way forward is that the royalties for the diamond sector as well as lead, zinc, nickel and all the other commodities that are in the Mining Tax Act—we should put diamond mining back into the Mining Tax Act. If in fact the Legislature believes that we should have a diamond royalty, then if you're going to go with the proposed graduated royalty formula which was in the budget, Bill 187, then put it into the Mining Tax Act to specifically leave it. You have all the existing regulations in that act that could be applied to it. You don't have to change anything, change any of the regulations and put a lot of work in it. You have the existing regulations and legislation there.

The other issue, consistent with the commitment that we heard from Premier McGuinty last June, is to apply the remote mining tax incentive for remote mines. That is existing legislation. We are a very remote mine. We're a lot further from existing infrastructure, 30 kilometres from an all-weather road and railhead. We're about 300 to 400 kilometres from the middle of nowhere. We've probably spent about $150 million just trying to get to service that mine and we'll continue to spend the additional costs because of the lack of infrastructure.

That's what we think should happen with this. I'd like to ask if you have any questions or have a conversation regarding this.

**The Chair:** Thank you for your presentation. For the committee, I have a suggested list of questioning, beginning with this presentation: NDP, official opposition, government, official opposition, NDP, government, NDP. Is that agreed? Agreed.

We will start with the NDP with this presentation.

**Mr. Gilles Bisson (Timmins–James Bay):** Thank you very much. The co-operation on this committee is just groundbreaking, I must say.

A couple of questions in regard to this particular thing, and I want to go back to the issue of infrastructure. I don't think people appreciate what type of infrastructure has actually been built, which is not only going to benefit De Beers Victor mining camp but is also going to benefit the communities of Attawapiskat down to Moosonee, and has basically been done on the dime of De Beers. Maybe you can talk a bit about that, because that's one of the offsets. The company is spending a lot of money to bring infrastructure into the mine site, which is going to be utilized by the communities, and that normally would be infrastructure that would be paid for by the province. Maybe you can quantify that a bit.

**Mr. Gowans:** We've been involved in the investment of everything from the upgrading of transportation systems to get materials and supplies into our mine. We move stuff by rail up to Moosonee and then it goes by winter road. We've been involved in upgrading the winter road, which services not just the mine but services the James Bay northern communities.

We've also invested very heavily—we haven't taken a dollar out of this mine yet and we've been involved in investing over $150 million in infrastructure in terms of training at the James Bay educational centre. We've been involved in putting money into all sorts of education and training programs that would help the northern communities. We've been involved in adding facilities to Attawapiskat and some of the other communities as well.

In terms of that, the primary focus has been on helping and working with the Native communities, the aboriginal communities, but we've also been heavily involved in making our centre of operations out of Timmins. We feel that the infrastructure is required to be able to operate out of the north.

**Mr. Bisson:** The bottom line here is that basically the company has had to do everything from training to hydro infrastructure to road infrastructure—you name it—on their dime, something that would normally be done by the province or the federal government. I see this particular royalty as being somewhat punitive in comparison to what's been done.

About a year ago there was the groundbreaking at the Victor camp. The minister of mines and the Premier were there. I remember specifically that one of the things that was said by the Premier was that one of the reasons this mine was developed was because of the remote mining royalty tax, where you pay 10% if you're near infrastructure and, if you're 30 miles from any permanent road or permanent infrastructure, you pay 5%. Maybe just comment on that a bit.

**Mr. Gowans:** Premier McGuinty headed up the groundbreaking ceremonies, as well as Mr. Bartolucci, Mr. Ramsay and—my mind has gone blank on the education. He was very committed to developing northern projects and in fact put out a press release the same day committing to the northern mining royalty.

**Mr. Bisson:** Having worked in gold mining and other types of mines, developing mines in Ontario and across the world, what kind of message does this send to the investment community when it comes to exploration, not only in diamond money and gold money in Ontario, when you have a royalty changed in midstream on a project such as Victor? What does this mean for investment in Ontario?

**1030**

**Mr. Gowans:** I know what impact it had on us. It gave us some pretty strong second thoughts about whether or not we'd continue on. We've been primarily focusing a lot of our exploration in northern Ontario. Practically all of our budget for this year for greenfield exploration has been in northern Ontario, and we're now thinking about whether or not we want to continue to do that or start to spread everything.

From the industry standpoint, the lifeblood of the mining industry in Canada is the junior mining companies. We are very much a single-commodity company, focused in on diamond mining and exploration, but the juniors tend to move from commodity to commodity, taking their expertise to work wherever they see the opportunities. If they see something that they consider to be more punitive than some other commodity in the mining business, they'll just switch. We already know that some of the juniors that have been involved in diamond mining have already started to move into other commodities.

Diamond mining is very difficult exploration and development. It's much more expensive than others because we have to go through quite an extensive bulk testing system before we even get into an investment decision.

**The Chair:** Thank you, and thank you for your presentation.

## CANADIAN RETAIL VENTURE CAPITAL ASSOCIATION

**The Chair:** Now I call on the Canadian Retail Venture Capital Association to come forward, please. Good morning, gentlemen. You have 10 minutes for your presentation. There may be up to five minutes of questioning following that. I would ask you to identify yourselves for the purposes of our recording Hansard.

**Mr. Les Lyall:** Thank you very much, and good morning. We have a fair amount of material to cover this morning, so I am going to speak quickly and look forward to the questions.

My name is Les Lyall, and I am here on behalf of the Canadian Retail Venture Capital Association. Thank you for the opportunity to speak to you today.

Our members raise money from over 400,000 individual Ontario investors under the labour-sponsored investment funds program, commonly referred to as LSIFs. We provide start-up capital and expansion capital for Canadian companies primarily in the life sciences and technology sectors by leveraging the 30% combined federal and provincial tax credits to generate 70% of our capital from private sources. There are about 24 Ontario funds, and together we have $2.3 billion under management.

We as a group are extremely concerned about the grave oversight in the recent budget announcement and the unintended consequences of the 2005 Ontario government decision to end the LSIF program. I'm here to tell you that funding for Ontario's early stage companies is in crisis, and we need to fix the situation fast, before innovation moves out of Ontario.

Let me give you a bit of background. To begin with, the role of venture capital is to provide the necessary equity capital to new companies commercializing technology. The objective of our role is to increase the number of high-paying jobs and help shift the economic base of the province to the new economy, and let me tell you how bad it is in Ontario.

Total venture capital available for first-time financings decreased 92.3% between 2000 and 2006. In 2000, 187 companies received first-time financing for early stage activities. In 2006, that number was only 41—the lowest number of financings in at least 10 years.

Total venture capital investment in Ontario fell to $686 million in 2006, down from $755 million in 2005—its lowest level since 1998. Conversely, it grew by 9% in the rest of Canada and 13% in the United States.

Ontario's annual rate of growth in venture capital investment has been worse than the rest of Canada in three of the past four years and has performed worse than the US in each of the past four years. In 2002, Ontario had 88% more venture capital than Quebec, but by 2006 this gap was down to 13%.

What does that mean? It means that new companies looking for funding in Ontario are unlikely to find it here, and that means our pipeline of tomorrow's innovative companies is drying up. It also means that the Premier's innovation strategy has come to a grinding halt. Without venture capital, the commercialization of technology will not occur, the jobs will not be created and the economic base of the province will stagnate.

Retail venture capital funds have been embraced by both the federal and provincial governments across Canada as a market solution to support innovative companies and help grow local and national economies. Most recently, the federal standing committee on finance recommended a doubling of the amount that can be raised from individual investors. This recommendation had the support of all four federal parties.

At this time, only Ontario is out of step in Canada, making it likely that innovative companies will move to Quebec, British Columbia and the United States to seek the funding that they need.

I would like to point out that Ontario LSIFs have exceeded their original policy objectives. Investee companies contribute $2.3 billion annually to Ontario's economy. They've added 30,000 jobs for the period of 1997 to 2002. LSIF investing generates a 16-month payback for the Ontario government portion of the program.

I would also like to point out that investee companies exceed the national norms when compared to traditional companies. They double the amount of expected exports from $612 million to $1.8 billion. They have tripled employment, from 32,700 jobs versus 10,800 for the national norm. They quadruple research and development spending from $178 million before LSIF investment to $703 million after.

In 2005, the government justified its decision to wind down the retail venture capital program on the basis that the province's venture capital market was healthy and it wanted to reallocate spending to other aspects of the innovation agenda. But in MRI's November 2006 strategic plan, the government publicly reversed both of these contentions.

One of the government's initiatives is a $90-million institutionally oriented venture capital program that we understand will be announced shortly. While we welcome this type of program as a step towards a longer-term solution, we do, however, have some reservations.

By the time the program is up and running, there will be few innovative companies left to fund, there will be limited opportunity to leverage this capital and it will not address the funding requirements for early stage companies. It will likely not be a made-for-Ontario solution. We need a solution, and we need it fast.

We have a number of letters of support from recipients of LSIF funding, and if the members are interested, we can provide them with copies. But today I would like you to meet Dr. Niclas Stiernholm, whose company, Trillium Therapeutics, is a recipient of LSIF funding. He'll make a few comments.

**Dr. Niclas Stiernholm:** Thanks, Les. Trillium Therapeutics is a research-driven biopharmaceutical company. We are perhaps a prime example of what LSIFs can do. We were formed based on innovative and original research at six academic institutions in Ontario, and with the funding from two LSIFs we were able to transition out of the university into a fully dedicated R&D facility. We were able to progress our research to the point where we secured partnerships with multi-billion-dollar international companies, such as Genentech, that provided us with revenue that we could put back into the company, creating new jobs, new projects, allowing us to fund millions of dollars of research back into the academic institutions. We were able to acquire a foreign company, transfer its assets back to Canada and create new jobs and projects.

Perhaps most significant to all of us here, we were able to make significant advancement toward new treatments and products for such devastating diseases as rheumatoid arthritis, MS, lupus and inflammatory bowel disease. That will provide us with new expert opportunities and new jobs in Ontario.

As you can see, Trillium Therapeutics is not just a research company. We contribute to the GDP. We create new jobs, both for Canadian-born people and immigrants who are highly educated and trained, and we pay our taxes.

In closing, I'd like to say that there is an absolute need for us to have companies like Trillium Therapeutics as receptors for all the discoveries and inventions that are made at our Ontario universities and research institutions. Without receptor companies that can take discoveries and inventions into the marketplace, those discoveries will be useless or they will transition to the United States or other provinces. Thanks.

**1040**

**Mr. Lyall:** Thank you, Dr. Stiernholm.

Given the crisis in venture capital in Ontario, we have two urgent recommendations for the committee. First, we strongly urge the government to restore the LSIF program. At this time, the LSIF program is the only program able to access capital from retail investors. I don't want to mislead you: This will not restore funding to needed levels; it will only, at best, maintain current funding levels. That is why we strongly urge the government to

consider recommendation number two: Immediately commence consultations with the industry to develop a retail venture program for early stage companies. If we are to kick-start funding and restore Ontario's prominence in innovation, we will need a public commitment by both industry and government.

This kick-start can come in the form of the following options: an increase in the ticket size to $10,000; a short-term increase in provincial tax credit to 25%; extend it only to funds investing in early stage financing and targeted to specific sectors; and open the program to broader, community-based sponsorship.

Ideally, we would like to see the new retail venture capital program incorporated into the Ministry of Research and Innovation's strategic plan and formally announced in May 2007.

To close, I want you to ask yourselves:

—Can our economy afford to turn its back on $2.3 billion of GDP that is directly attributed to LSIF-funded companies?

—Can our provincial government afford to ignore the $357 million in tax revenues from LSIF companies?

—Can Ontario afford to dismiss 30,000 jobs created by LSIF-funded companies?

I think we know the answer, and we have to embrace the solution.

Premier McGuinty, as Minister of Research and Innovation, has said he wants to make innovation "inevitable" in Ontario. If our public policy-makers ignore this crisis in retail venture capital, the only inevitable thing will be the migration of innovation to Quebec, British Colombia and the United States.

**The Chair:** Thank you. This round of questioning will go to the official opposition.

**Mr. Ted Arnott (Waterloo–Wellington):** Thank you very much for your presentation. I would certainly concur that a healthy venture capital market is essential to economic growth.

I wanted to ask if you have an estimate as to what it would cost the treasury of Ontario to restore the labour-sponsored investment fund tax credit. If we were to do that this year, what would you think it would cost?

**Mr. Lyall:** I think the current budget is $20 million. To restore it to the level we're suggesting in our recommendations, the number would rise to something between $40 million and $60 million annually.

**Mr. Arnott:** Obviously, it wouldn't cost the government anything to commence consultations with your industry to endeavour to see what more can be done with respect to your needs and the needs of your clients.

**Mr. Lyall:** Exactly. It wouldn't cost anything, and frankly, it would be a welcome set of consultations. Unfortunately, when the government originally made the decision to terminate the program in 2011, industry was not consulted at all. In fact, if I may be bold to say, we were completely blindsided by that decision. Unfortunately, finance did not take it upon itself to consult with industry. The things that we, in industry consultations, said would happen, post-decision, to innovation in Ontario have indeed come true.

I think there's a great deal to be learned from working with industry on these points. My honest belief is that we can come to agreement as to solutions for both the government's mandate as well as the industry's mandate in financing these young technology companies. Bear in mind that these companies are located throughout the province. They are located in areas like Ottawa, Kitchener-Waterloo, London, Guelph and the GTA.

I think we're all familiar with the technology development that has occurred over the years in the Ottawa-Kanata region—telecom in particular. Just to give you another example, there was, in the first quarter of this year, only one new company financed in the Ottawa-Kanata region. That's a drop of almost 100% over the prior quarter. The trend we discussed in this paper is continuing, will continue, and will continue to deteriorate.

Very unfortunately, not only is it going to result in new companies not being financed—and jobs being created to help shift the economic base of this province—the other fallout will be that companies that are currently receiving financing from labour-sponsored funds are not going to be able to continue to receive that financing because there's a shortage of capital. Indeed, we are going to see failures. Our belief is that we are going to start to see failures this year. The compounded effect of not having new companies being built and financed, coupled with the loss of jobs from existing companies, I think, is going to be a bit of a travesty, frankly.

**Mr. Arnott:** To what extent are labour-sponsored investment funds today fully invested and to what extent are they sitting on cash?

**Mr. Lyall:** I think it's fair to say that there is only one fund in Ontario that has surplus liquid financial capacity to continue funding companies—new companies, that is. All the other Ontario funds' capacity, the $2.3 billion, is fully committed to existing companies. They have no capacity to finance new companies, and indeed, given the minimum appetite required to continue funding companies in existing portfolios, we believe that the existing funding is going to be exhausted within the next two years.

**Mr. Arnott:** That answers my questions. I want to thank you very much for your presentation and for your suggestions to the government members here.

**Mr. Lyall:** Thank you very much.

**The Chair:** Thank you for appearing before the committee.

## AMERICAN FEDERATION OF MUSICIANS OF THE UNITED STATES AND CANADA

**The Chair:** I now call on the American Federation of Musicians of the United States and Canada to come forward, please. Good morning, gentlemen. You have 10 minutes for your presentation. There may be up to five minutes of questioning following that. I would ask you to identify yourselves for the purposes of our recording Hansard.

**Mr. William Skolnik:** Good morning. My name is Bill Skolnik. I'm the executive director of the Toronto

Musicians' Association, local 149 of the American Federation of Musicians of the United States and Canada. Accompanying me is my colleague Garry Munn, who is president of local 467, the Brantford Musicians' Association, and Mr. Ray Koskie. I'd like to add that I'm not a lobbyist; I'm not a lawyer; I'm not an accountant. I'm a working musician and have been for many years, and so is Garry. In fact, we looked at the members' list of this committee and we've appeared in virtually every single one of your ridings. There's one exception, and we're willing to take a booking there too.

I want to thank you for allowing us to appear, and point out that we represent 14,000 musicians in Canada and over 6,000 in Ontario, and that we, as AFM Canada, have been pursuing social issues from the beginning. That's our mandate; that's what we do.

Numerous reports and studies have recognized this sector as being a major contributor to Ontario's economy—not just music, but culture. It was recognized in the 2006 report of the status of the artist subcommittee of the minister's advisory council for arts and culture in Ontario that the arts and culture sector contributes over $1,700 in economic return for every resident of Ontario.

As set forth in our October 2000 brief, there are some characteristics that are quite striking. The cultural sector labour force has a high level of education and a high rate of self-employment but nonetheless low earnings, especially for self-employed artists. The statistics presented in the study also demonstrate that the arts, culture and heritage labour force is a unique, important and fast-growing segment in the overall labour force in Canada.

Our main focus in this, of course, is to allow us to have collective bargaining—I'm going to be repeating that throughout. Despite high levels of education and substantial economic and immeasurable contributions they make to Canadian society, artists' incomes remain among the lowest in Canada. To give you a better understanding of the plight of Ontario artists, I highlight certain facts as detailed in our brief:

—The lowest-paid artists are among the worst-paid of any occupation in the entire labour force;

—Cultural occupations have an overall average self-employment rate of over one third, three times higher than the average for the labour force as a whole;

—Self-employed artists earn, on average, between 28% and 40% less than self-employment in all other sectors; and

—Most artists do not have access to social benefits generally available to the rest of the workforce.

Stuff that other people take for granted, we don't get. In fact, that's why we need collective bargaining; that's why we crave collective bargaining, in order to achieve those things.

For any of you who have engaged in collective bargaining, very little of it actually has to do with wages, especially in our sector; market forces take care of that. But people need protection from dismissal; they need to be able to come forward on safety and health issues without worrying about dismissal and have advocacy on their behalf. There are all sorts of issues that have nothing to do with actually setting wages that we're able to set with collective bargaining. In fact, one of the members of this committee has a son who is a beneficiary, a member of ours, and I'm sure he would be the first to stand in line to say that this a good thing for all artists.

**1050**

We're very, very disappointed, obviously, in what the act has done. To us, it's like—let me tell you a story: Before the last election, Mr. Takhar, who was my MPP for a while, came around and was canvassing. He stopped at my house—I happened to be there—and we chatted. I asked him about the status of the artist. He had an enthusiastic response. It was part of the platform of his party and he was well-versed and talked to me about it, and we both got excited. So we waited and waited and waited, and now we have this piece of paper that, in my view, with all due respect, masquerades as a status of the artist act. It's not an act; it's a betrayal. It doesn't even have lip service attached to it. It's not enough. We need more than this. We have simple solutions to it that are attached in amendments—my colleagues with the OFL have placed that.

I want to assure you, despite what you may hear, that the performing arts unions in this province are all upset with this piece of paper. We do not back it. It does not represent any of the things we need.

We're just asking for the same things that other people have, that other workers have. That's all. It's not new; it's not special. If you're an auto worker, you get it. We are workers. We represent workers. It's not a big deal. They do it in Quebec. We have a federal status that looks after us. In our view, it will enhance the economy, it will bring more money in and it will protect those who tell our story. It will protect those who make you think about this province, who write about this province, who sing about this province, who paint this province. That's who we need.

I'm not a musician anymore. I have the honour of representing those people. It's a great honour to be able to sit here in front of you and say: We need some help. It's not really a big deal; just treat us like everybody else.

I've talked about what I consider to be the promise that did not become a promise. Please read through the rest of what we have here. It gives all sorts of evidence as to why we think none of the recommendations of the subcommittee—which was a very, very bipartisan committee and still came up with, at the very least, the idea of investigating the concept of collective bargaining. Look at it. It's not the big bugaboo. I don't know why there's such avoidance.

It's important to us. We support these simple amendments that all of us need. It will bring us to a resolution for our own members' lives. It will allow them to have a certain amount of security. It will allow them to look after their health and safety concerns. They won't have to worry about reprisals or dismissal.

Thanks very much.

**The Chair:** Thank you. This round of questioning goes to the government.

**Ms. Judy Marsales (Hamilton West):** Good morning, Mr. Skolnik. Thank you for making your presentation this morning. I too am a musician—not quite with the status of many of the performing artists, but I have a passion for music nonetheless.

I'm very disappointed with some of your comments this morning, because I sincerely believe that we have made some tremendous strides forward in terms of recognizing the artistry and competency and the enrichment to Ontario life that musicians, artists and any number of categories of performing artists bring to the culture of Ontario.

I'm reminded that our platform, I think, correctly stated that we will immediately establish a minister's advisory council for the arts and culture, which has been accomplished. We certainly have come forward as one of the very first governments recognizing the value of arts and culture in some of those documents.

Some of the artists I speak to on a daily basis are very pleased with the recognition. Granted, there's a lot more to do, but having said that, I think we have really moved forward in terms of that recognition and I don't agree that collective bargaining is where this province should be right now. Again, I say that after consulting with a number of musicians.

Where are you getting this information from? I'm quite surprised and disappointed.

**Mr. Skolnik:** Where am I getting the information that we want collective bargaining?

**Ms. Marsales:** Yes. Who are you talking to?

**Mr. Skolnik:** I get it from my members, who pay my salary.

**Ms. Marsales:** Exactly. How about all the other people who are currently performing—

**Mr. Skolnik:** "Exactly"? I'm not sure I understand that response. That's where I get my information: from my members.

**Ms. Marsales:** What I'm saying is, there are a lot of people right now in the music industry—again, I don't want to narrow my perspective here—who feel restricted sometimes by the union requests. I'm very concerned about that.

**Mr. Skolnik:** They feel restricted by the union requests?

**Ms. Marsales:** Yes; that's what I've been told. I'm just passing on—

**Mr. Skolnik:** Really?

**Ms. Marsales:** Yes.

**Mr. Skolnik:** Okay.

**The Chair:** Any other questions? Hearing none, thank you very much for your presentation before the committee.

**Mr. Skolnik:** Thanks. I appreciate your time.

## WRITERS' UNION OF CANADA

**The Chair:** It's my understanding that le Comité d'action francophone de Welland are running late. Could the Writers' Union of Canada please come forward.

Thank you very much for accommodating the committee at this time. You have 10 minutes for your presentation, and there may be up to five minutes of questioning following that. I would ask you to identify yourselves for the purposes of our recording Hansard.

**Ms. Deborah Windsor:** I'm Deborah Windsor, executive director, Writers' Union of Canada.

**Ms. Marian Hebb:** I'm Marian Hebb, legal counsel, Writers' Union of Canada.

**The Chair:** You may begin.

**Ms. Windsor:** Thank you for this opportunity. As I just said, my name is Deborah Windsor, and I'm the executive director of the Writers' Union of Canada. With me today is Marian Hebb, legal counsel to the writers' union.

Marian and I appreciate this opportunity to make a presentation on behalf of the union's Ontario members. We bring with us the support of the Professional Writers Association of Canada. We have provided the clerk with a letter of support from the Professional Writers Association, along with our own written submission.

The Writers' Union of Canada is a national organization, and we represent the interests of Canadian writers, including our membership of over 1,600 professional writers. More than 800 of these writers reside in Ontario. Since its founding in 1973 by writers for writers, the Writers' Union of Canada, with its headquarters in Toronto, has evolved into the national voice for writers of books, with a mandate to promote our common interests and foster writing in Canada. We welcome the opportunity to present our views on the status of the artist act.

The writers' union appreciates the work that has been done by the Ontario Minister of Culture's advisory council for arts and culture. After consulting with the arts and culture sector for almost two years, their Report on the Socio-Economic Status of the Artist in Ontario in the 21st Century was submitted to the Ministry of Culture in October 2006.

The committee made a number of recommendations intended to improve the socio-economic conditions of Ontario artists today and in the future. These recommendations are not addressed in the proposed schedule 39 of Bill 187.

Let me tell you a little bit about the economics of a writer—you've just heard a bit about a musician, and I'll tell you that a writer is very similar. The major goal of the writers' union is to improve the socio-economic position of writers. In 2001, the average earnings of employed and self-employed Canadian creators were $23,500 per year. Close to one in two creators were self-employed, with earnings considerably less than this average and without the private and public employee benefits typically associated with paid full-time work. By contrast, the average income of the entire working population in 2001, of whom fewer than 10% were self-employed, was $31,800. In most creative sectors there has been no substantial rise in income for decades. For example, the average net professional income of Can-

adian freelance book and periodical writers was measured at $11,480 in 1998, close to the level it had been in 1979, and this constituted only 39% of the average writer's income, with 61% coming from teaching, editing and other works. Current studies indicate that creators still struggle to get their fair share.

**1100**

You might ask why there are such modest earnings. There is an imbalance in the bargaining power between creators and producers that generally leads to their undercompensation. This can be partly remedied by collective bargaining. Whatever the legal rights of creators, it must be recognized that the real value of authors' rights is drastically diminished where an individual author cannot afford either to enforce his or her rights through legal action or to risk loss of work or future work by challenging a producer. For this reason, creators look to their organizations for assistance. Organizations representing creators can sometimes support their members by negotiating minimum-terms agreements with producers or by recommending model contracts for their members' guidance.

Minimum-terms agreements, which are often also referred to as scale or framework agreements, are negotiated between producers and creators' organizations, ideally between producers' organizations and creators' organizations, to establish minimum terms of agreement and to make sure that the engagement of independent creators by producers is addressed. A creator may negotiate better terms than those identified in the scale agreement, but the producer is bound by the scale agreement and may not offer less favourable terms. Scale agreements have been negotiated on a voluntary basis by a number of organizations, mainly in or closely tied to the performing arts; for example, ACTRA and Equity and the Writers Guild of Canada.

A number of other organizations, including our own, have not been able to negotiate scale agreements but have created model trade contracts and recommendations that their members endeavour to obtain the terms that are comparable to the recommended terms. Model agreements have been developed in the writing sector by the Writers' Union of Canada, the Professional Writers Association of Canada and the Literary Translators' Association of Canada. These model agreements are useful to creators who negotiate for themselves with producers, and they may gradually help to raise standards. However, these model agreements are not often accepted by producers because the average individual creator has very little bargaining power.

Now I'd like to ask Marian Hebb to tell you a little bit about the history of status of the artist.

**Ms. Hebb:** The abysmal working and living conditions of writers and other artists have long been recognized. Marcel Masse, appearing before the standing committee on communications in Parliament, quoted this to the committee: "No novelist, poet, short story writer, historian, biographer or other writer of non-technical books can make even a modestly comfortable living by selling his work in Canada." This was in 1989, but he was quoting from the Massey report, which was in 1951. He said that little had changed, and we can say that again now.

In 1980, Canada became a signatory to the UNESCO recommendation concerning the status of the artist; it's called the Belgrade recommendation. Among the guiding principles of that document were recognition of the essential role of art in the life and development of the individual and society and of the consequent obligation of member states to ensure "that artists have the freedom and the right to establish trade unions and professional organizations of their choosing."

In Canada, the Siren-Gélinas report of 1986 included a proposal for legislation that would recognize artists' organizations as collective bargaining agents for self-employed artists. By 1988, Quebec had enacted two acts on the status of the artist, establishing two different regimes for the certification of artists' organizations and collective bargaining in various artistic fields.

A year later, the federal parliamentary standing committee on culture and communications unanimously recommended enactment of federal status of the artist legislation that would deal with professional relations between federal producers and self-employed artists. In 1992, the federal Status of the Artist Act was passed. Its provisions, which govern labour relations between federal producers and self-employed artists, became operational in 1995. Certification of an artists' organization under the federal Status of the Artist Act exempts it from restraint-of-trade provisions of the Competition Act, which has inhibited collective bargaining by artists' organizations.

The writers' union was actually certified as an artists' organization under the federal Status of the Artist Act in 1998. However, our members and most other independent writers do almost all their work for publication by producers who are not covered by this federal legislation, because the producers that they work for are not federal producers.

The federal Status of the Artist Act has had, and can only have, a very limited impact on the socio-economic conditions of artists, largely because most work in the cultural sector falls within provincial jurisdiction. Freelance writers are not protected by, and they do not benefit from, provisional labour legislation, which only deals with traditional employee-employer relations.

We are of the view that a labour relations component in the Ontario status of the artist act would hugely benefit artists working in Ontario. With very minimal amendments to the Status of Ontario's Artists Act, 2007, this and other important artists' concerns could be addressed.

**Ms. Windsor:** The writers' union has been meeting with other Ontario artists' organizations over the past two years. We've done this to identify what should be included in Ontario status of the artist legislation.

In December 2006, 30 artists' organizations from Ontario and across Canada, representing thousands of artists, signed and supported a statement on the status of

the artist legislation in Ontario. These organizations called on the Ontario government to introduce within its current mandate a status of the artist act which, at a minimum, must include the following:

—labour standards and taxation measures to immediately improve the working lives of artists in Ontario;

—protection for child performers;

—access to training and professional development programs and funds;

—tax measures favourable to artists;

—protection for senior artists; and

—a consultative process leading to the creation and enactment, within 24 months, of an appropriate labour relations mechanism encompassing a collective bargaining procedure for all professional artists and producers/engagers in the province of Ontario.

These minimum criteria for the status of the artist act are not addressed in the proposed schedule 39 of Bill 187.

In conclusion, we urge you to recommend amendments to schedule 39 of Bill 187 that will provide artists with confidence that they will have an opportunity to have their concerns addressed, including their need for a labour relations regime that will facilitate collective bargaining.

I thank you very much for this opportunity.

**The Chair:** Thank you for the submission. This round of questioning will go to the NDP.

**Mr. Michael Prue (Beaches–East York):** A question: You were in the room when the last deputant made his statement?

**Ms. Windsor:** Yes, we were.

**Mr. Prue:** He was speaking on behalf of the American Federation of Musicians. The questions from the government side related to people who were not in the union, I take it, having differing views.

Are the views of writers who do not belong to your organization in Ontario any different from those that you espouse here today?

**Ms. Windsor:** The writers' union has found that one of the problems that many writers have—we have a grievance committee, and when a writer has a problem with a contract they have entered into, they may approach the union, whether or not they are members. Through that, we found that there was a great misunderstanding amongst creators as to what a good contract should entail, the legal ramifications of it. So these are non-members of the union, whom I have had a great opportunity to speak with.

As well, as a result of that, we have been providing workshops on the business of writing. This year, I met with 378 writers who were not members of the union, and those writers expressed a need to have a supporting body, which is exactly what our members are saying.

**Ms. Hebb:** To add a little philosophical note to that, I think that people tend to forget—those who don't belong to associations and unions—that it is the advocacy work that is done by the unions, and the contracts and model contracts that are used by the union, that in fact raise the standards of the whole industry. The Writers' Union of Canada actually provides a lot of written information, various model contracts and advice on how to negotiate contracts yourself, and this information goes to a huge number of writers who actually don't belong to the union.

**1110**

**Mr. Prue:** A second set of questions: You're not the first people to talk about this. We heard this yesterday, and I'm sure we're going to hear it continually over the next afternoon as well, but are you in fact disappointed with this government's response? You have asked for things that exist federally and exist in the province of Quebec and elsewhere in Canada, things like labour standards and taxation measures, protection for child performers, protection for senior artists, a consultative process. You seem to have been just blown aside here. Is that your feeling?

**Ms. Windsor:** We feel that a lot of time and effort has gone into addressing the issue of a status of the artist legislation, and yet what we received—two pages of a portion of the budget. We didn't expect to see it in there because it really touches labour, industry, finance and culture. It's a very broad issue, and it should be addressed in all of those areas. It has not been addressed in this, and that is where we take great umbrage. We would like to see it opened so that those other components can be included.

**Ms. Hebb:** We appreciate the work that the government has put into it. I guess we're disappointed with the result. We appreciate the goodwill and attaching it to the budget because in fact that may mean that it actually happens, but we are extremely disappointed by the lack of content in it, and that is our disappointment. We feel that it's really a travesty of status of the artist legislation to have an act of this sort that has so little in it that is concrete, and that is a huge disappointment.

**Mr. Prue:** What you're saying then is, this weekend in June when we all celebrate artists is not enough?

**Ms. Windsor:** Most definitely it is not enough. We had anticipated that when the government promised to create a status of the artist act that it would address the issues we have identified. Our concern now is that yes, there is a status of the artist act in schedule 39, but it does not address those issues and it may be perceived as a fait accompli and everything is done. It is not. It is the first step and it must be acknowledged as only a first step.

**Ms. Hebb:** We think it could be fixed. We think that you could fix it.

**Mr. Prue:** But they'll have to vote for what I put in amendments, so—

**The Chair:** Thank you, and thank you for your submission this morning.

## WAKENAGUN COMMUNITY FUTURES DEVELOPMENT CORP.

**The Chair:** Now I call on the Wakenagun Community Futures Development Corp., please. Good morning. You

have 10 minutes for your presentation. There may be up to five minutes of questioning following that. I would ask you to identify yourself for the purposes of our recording Hansard. You can begin.

**Mr. Leonard Rickard-Louttit:** My name is Leonard Rickard-Louttit. I am the executive director of Wakenagun Community Futures Development Corp.

Greetings. I would like to thank the committee for the opportunity to provide my presentation this morning. As I had mentioned, I work for the Wakenagun CFDC, which is a First Nation-governed, not-for-profit corporation created to support the establishment of businesses in the western James Bay region. We traditionally refer to this region as Mushkegowuk. I also provide management support to the CreeWest Limited Partnership, which is a wholly owned First Nation business operating in the western James Bay region. I'm here today to speak to the proposed diamond royalty in the budget act.

The impact of the De Beers Canada Victor project on the First Nations of western James Bay has been enormous. The project has, for better or worse, brought the First Nations into the forefront of the development of an industry new to Ontario and Canada.

The decision to support this project was not an easy one to make. As one of the chiefs I work for stated, "When a drowning man is thrown a life preserver, he does not check where it comes from, he just grabs on to it hoping to survive."

We have reluctantly embraced the Victor project with the anticipation of a better future for our children and generations yet unborn. You can read any newspaper to read about the issues facing our communities. North or south, east or west, the issues are the same.

The Victor project has brought change to our communities. It has created employment, opened new business opportunities and assisted with the development and enhancement of infrastructure across the region.

In the fall of 2006, I toured the Victor project mine. Following my tour, I left with a sense of optimism, having seen many young First Nation people employed at site. For the first time in a long time, our young people have an option aside from being dependent on welfare.

My work with Mushkegowuk First Nations has also included the establishment of the CreeWest Limited Partnership. The Victor project was the primary catalyst for the creation of CreeWest, in addition to other First Nation businesses. It is our hope to establish a strong business foundation in preparation for future developments in addition to the Victor diamond project. My concern today is that this proposed royalty will stifle the development of a diamond industry in the Mushkegowuk region and, with it, future opportunities for the Mushkegowuk economy.

Aside from employment creation and business development, De Beers Canada has invested tens of millions of dollars in local infrastructure, including the James Bay winter road and the Five Nations energy transmission system. The winter road has become a multi-million-dollar-a-year project in comparison to the several hundred thousand dollars provided by the province for the winter road. This investment has provided our communities a safer, more reliable transportation link from which there is an immediate impact to the cost of living for the people living in Fort Albany, Kashechewan and Attawapiskat.

De Beers has also invested upwards of $80 million in the Five Nations energy transmission line. This will enhance the reliability of this community-owned asset. The twinning of the existing transmission line has also provided for the establishment of a fibre-optic network into the communities. This will allow for future developments related to Telehealth, education, and automated monitoring and remote access for our water treatment plants.

I question whether or not the province recognizes the value and impact that this private sector investment in First Nation-owned assets has had. I would say this investment has let both levels of government off the hook.

The Victor project has been a lesson hard learned by my people. At a time the government of Ontario should be supporting the participation of Ontario's First Nations in the development of our natural resources, by the introduction of this royalty you have only succeeded in demonstrating that we are not on the same page.

From a business perspective, the introduction of this diamond royalty could not have happened at a worse time. As we transition from the construction phase to mine operations, we have begun discussions with De Beers Canada in regard to the negotiation of contracts in support of mine operations. For CreeWest, and as a newly established business, a significant share of our revenues are dependent on the Victor project and our success is very much tied to the success of Victor.

It should be no surprise that increased financial pressures on the Victor project will result in the search for cost savings elsewhere. My fear is that those cost savings will be found in the contracts and future investments that De Beers may make in the Mushkegowuk region.

Let me make this clear: The financial well-being of entities like the CreeWest Limited Partnership and, by default, the economy of the First Nations of the western James Bay region is, whether we like it or not, dependent on the financial health of the De Beers Victor project. I fear that the government of Ontario will line the provincial treasury at the expense of the Mushkegowuk First Nations.

This is especially discouraging in light of the lack of any clear plan on the province's part to assist with First Nation economic development in Ontario. In 2005, the province, through the former Ontario Native Affairs Secretariat, terminated the working partnerships program. This program and the resources allocated through it to the First Nations was instrumental in the initial planning for CreeWest. The establishment of CreeWest was nearly crippled by that program cut. Despite the lack of provincial support, the First Nations were able to establish

CreeWest, and here we are today, participating in the development of Ontario's first diamond mine, and yet again the province is on the verge of making another decision that will have a negative impact on the economy of the Mushkegowuk First Nations.

I would encourage this committee and the Legislative Assembly to keep in mind that when I speak about business and our economy, I am also speaking about the health and social well-being of our communities. The goal the province should be targeting is the creation of a favourable business climate. This royalty creates uncertainty and an uneven playing field. This is not simply a business issue; for the First Nations of James Bay, it is our foot in the door for creating a sustainable economy that we can pass on to our children and to generations yet unborn.

**1120**

**The Chair:** Thank you. The questioning will go to the NDP and Ms. Martel.

**Ms. Shelley Martel (Nickel Belt):** I want to focus on this from the perspective of the government: Taking a look at my colleague Gilles Bisson's revenue-sharing bill, which would have certainly benefited not only Mushkegowuk but other First Nations who are involved in economic development, and the government didn't want to pass that bill because they said that they really didn't have the financial means at that time to do the revenue sharing. Then the government turns around in the budget and grabs the royalty tax from De Beers that probably puts at some risk the revenue that Mushkegowuk can now get from the project.

What do you think about a government that says that we can't do a revenue-sharing bill, introduced by Mr. Bisson, because we don't have the money, but we can sure grab from De Beers and put Mushkegowuk at risk?

**Mr. Rickard-Louttit:** Frankly, I spoke at the hearings regarding the resource revenue sharing process, and obviously, the First Nations were supportive of that. From our perspective, these are our lands and our resources being developed with no real benefit coming back to the First Nations, who are in such desperate need of additional resources to address health and social concerns in the communities.

I've talked to many community leaders about this proposed diamond royalty, and the feeling is that this is yet another example of a province that isn't paying attention to our needs and simply passing the buck.

**Ms. Martel:** It also flies in the face of the government's policy, about a year and a half ago, of a new relationship with the First Nations. There was a big announcement by the Attorney General about how we're going to work with First Nations and consult on issues that affect them. This affects Mushkegowuk quite directly. There was no communication with the council before this showed up in the budget, I would assume?

**Mr Rickard-Louttit:** Very much so. We talk about the diamond industry in Ontario, and let's be frank, the only diamond industry in Ontario now is the De Beers Victor project. The people most directly impacted by the project are the Mushkegowuk First Nations. It has certainly been a frustration on the part of the First Nations that they haven't been more actively consulted. What was communicated to me yesterday by some other community leaders was that they felt frustrated that this opportunity to come forward was at a time that isn't necessarily culturally sensitive to the Cree of James Bay. April and May is traditionally a very important time in our cultural calendar. Many of our community leaders and community members are currently out of the communities, participating in our annual goose hunt. I have a sense that there will be a definite feeling that they are being deliberately left out of this process.

**Ms. Martel:** Where are the negotiations now with De Beers? What are they telling you they intend to do, if they are saying anything that publicly to you right now as a result of this? What is the financial impact for them that will have an impact, then, on Mushkegowuk?

**Mr. Rickard-Louttit:** This is new to all of us, including De Beers. I don't think we have a full grasp of what the end result will be for us. Like I mentioned in my statement, we had just initiated those discussions. Up until that point, De Beers has been a very supportive partner in the development of, for instance, CreeWest and our participation in the diamond project. Frankly, I'm very much concerned for what will occur.

**Ms. Martel:** The negotiations, were they involving both revenue, per se, that the First Nations could use for whatever projects and also training and learning opportunities, and actual employment opportunities? Is it a combination of both?

**Mr. Rickard-Louttit:** My understanding of what's occurring—my work has specifically concentrated on the CreeWest Limited Partnership, which is us in partnership with other businesses providing service and supplies to the De Beers Victor project. I am aware that the First Nations have entered into separate processes for compensation and other arrangements with De Beers. My focus has been very much business-oriented in the supply of service to De Beers.

**Ms. Martel:** In terms of the supply of that service, or broader services, would it be fair to say that it's still not clear what that impact will be? De Beers hasn't sorted that out yet itself?

**Mr. Rickard-Louttit:** No. As I had mentioned, construction is winding up. I believe the mine should be opening next spring. Once that occurs, we'll be transitioning into operations, which is a whole new set of contracting. Right now, our focus has been on construction contracts, which have been three years in nature, starting when construction began and terminating once construction ends.

**The Chair:** Thank you for your presentation.

## COMITÉ D'ACTION FRANCOPHONE DE WELLAND

**The Chair:** I call on the Comité d'action francophone de Welland to come forward, please. Good morning. You

have 10 minutes for your presentation. There may be up to five minutes of questioning following that. I would ask you to identify yourself for the purposes of our recording Hansard.

**M^e^ Anthony Pylypuk:** Merci, monsieur le Président. Je m'appelle Anthony Pylypuk. Je suis l'avocat pour le comité d'action francophone de Welland, le CAF, dans l'affaire d'annexe 16 du projet de loi 187. Permettez-moi, s'il vous plaît, de vous parler en anglais principalement, parce que je parle et comprends mal le français.

CAF was founded in 2005 by the leaders of the francophone community of Welland, with widespread support from the residents of Welland as a whole, for several purposes, including: (a) advocating for the effective right of French-speaking persons to live and work throughout each day in the French language; and (b) advocating for the preservation, perpetuation, enhancement and expansion of French-language services, in Welland, in the surrounding communities, throughout Ontario and across Canada.

Tel que l'illustre le tableau suivant, la ville de Welland, en terme de pourcentage, représente la plus forte concentration de francophones au sud de Sudbury et à l'ouest de Cornwall, exception faite de Penetanguishene.

La présence de la communauté francophone de Welland est antérieure au 20^e^ siècle. La communauté était bien établie dans les années 1920.

In 1971, French was the maternal language of 17% of the population of Welland. In that year, the assimilation rate into the English community was 22%. In 2001, the francophone maternality had fallen to 13% and the assimilation rate had increased to 55%. This is documented in the affidavit of Dr. Charles Castonguay, which is found at tab 3.

For the francophones of Ontario, the process of assimilation is both incessant and pervasive. A combination of the cultural and linguistic dominance of the English-speaking majority, the power and proximity of the United States of America, and the Anglocentric nature of globalization and the Internet, among other factors, make it more and more difficult with each passing day for francophones to remain French in Ontario. To remain maternally French, the francophones of Ontario need the continuous support of the full spectrum of services in the French language in their individual communities. Moreover, as Dr. Breton, professor emeritus of sociology at the University of Toronto, has noted, both services and symbols are important in the reinforcement of the use of the French language in the community.

Unfortunately, the francophones of Ontario are poorly served by the governments of all levels. They are generally encouraged to go along to get along. A few brief examples will suffice. In designated French-language-service areas of the province such as Welland, one may register real estate transactions in English or in French—not in fact in Welland; you virtually do it in St. Catharines. No one, or practically no one, ever does it in French because it takes a day longer and it costs more, or both, while in English it's practically simultaneous, simply because the programmers failed to make software disponible en français.

If one calls at least one of the bilingual courthouses in Ontario, the opening message invites the caller as follows: « Pour le service en français, faites le neuf. » Ultimately, if no one answers, a voice in English advises that the court staff is busy and in English says to leave a message.

Since the initial enactment of the French Language Services Act, LSF, many provincial services then available to the francophones of Welland have ceased to be available to them. By one measure, 10 out of the 16 services from 1987 or 1985 have disappeared. It was in that context that the leaders of CAF brought suit against the government of Ontario over the removal of the bilingual land registry office from Welland, a designated area under the LSF, to St. Catharines, not a designated area.

The affidavits of Dr. Castonguay and Dr. Breton mentioned in these remarks are from the record in that proceeding. The lawsuit was ultimately decided against the francophone applicants by the Supreme Court of Canada on a refusal to grant leave, and I do not propose to make further mention of it, other than to note that the facts underlying the lawsuit served to sensitize the whole community of Welland to the plight of francophones.

**1130**

You have before you schedule 16 of Bill 187, which offers the establishment of the French language services commissioner by amendment to the LSF. The proposed powers of the commissioner are illusory at best. The commissioner may investigate the extent and quality of compliance with the LSF, shall report at least annually, may make recommendations and is supposed to encourage compliance with the LSF. The commissioner has no power to require compliance. The commissioner has no power to prosecute contraventions.

Others may suggest to you that these serious deficits in the proposed legislation can be corrected and that anything more than presently exists will be better than the nothing that now exists under the LSF. In a narrow sense, they may be right. Yet even the establishment of the most powerful commissioner would not be enough to ensure the survival of the French language in Welland or elsewhere in Ontario. At best, the commissioner's functions are intended to be largely reactive and retrospective.

What is truly needed to achieve the vision contained in the preamble to the LSF is a sea change in the philosophy underlying the delivery of services to the francophones of Ontario. For the francophones of Ontario to survive as a linguistic community and not merely as a cultural community, governments at all levels must not only make it possible for them to live and work each day in the French language; ils doivent prendre toutes les mesures pour habiliter les résidents de 1'Ontario de vivre et de travailler chaque jour dans la langue française aussi facilement que les anglophones le font en anglais. Ce ne serait pas suffisant d'en avoir moins.

In some, perhaps most, circumstances it may be necessary to do twice or thrice as much, or even more, to achieve this result and to offset the pressures of assimilation. To do this, however, will not only benefit the francophones of Welland or of Ontario; it will be of immeasurable, immense benefit to all of Canada.

In many ways, the government of Ontario and this Legislature have historically occupied, and will continue to occupy, a leadership role in Confederation. For Ontario, as the largest English-speaking province with the largest French-speaking minority, to adopt an unequivocal, proactive approach to the preservation, perpetuation, enhancement and expansion of the French language would send a message throughout the nation, and to persons of both official languages, that Canada is truly bilingual and not just another nation divided by language.

Finally, as goes Canada, so goes the world in many respects, especially in matters of peace and social justice. The significance of language ecology cannot be overstated. To quote what the former Secretary-General of the United Nations has written:

"Every second week, another language dies somewhere in the world.

"[E]ven though the necessity of preserving the linguistic diversity of the world has in recent years been realized, it has not given rise to the same degree of mobilization as the protection of biodiversity and the environment. Nevertheless, the stakes are as huge and language ecology should be a force of mobilization as great as ecology of nature.

"What is at stake, first and foremost, is the cultural heritage of humankind.

"What is also at stake is the establishment of a true global democracy….

"What is at stake, lastly, is the future relationship between cultures and civilizations…. And to speak" another language "is the safest way to meet the Other, to come to accept him or her and to value his or her differences.

"It is therefore up to us to gather the will and courage to preserve the richness of languages and cultures … to organize the safeguarding and protection of languages, especially those that are in peril, by favouring at a very early age, bilingualism, indeed trilingualism, by sustaining the use of languages by the media and by the Internet, and by developing" effective "legal instruments and bodies to this end...."

Those are my submissions.

**The Chair:** Thank you. The questions will go to the official opposition.

**M. Tim Hudak (Erie–Lincoln):** Bienvenue, M$^{e}$ Pylypuk, au comité des finances et des affaires économiques. Merci pour votre présentation. Mr. Pylypuk, as members may know, is a strong advocate for francophones across the province, particularly in the area that Mr. Kormos and I represent in southern Niagara. We fought a battle together, sadly unsuccessfully, to restore service at the land registry office in Welland. My colleague Mr. Kormos is here, and I'm going to split my time with Mr. Kormos.

My first question, Monsieur Pylypuk, is that on page 5 of your report, you talk about, "The proposed powers of the commissioner are illusory at best." In other words, you're saying that the commissioner, as proposed in the legislation, is a paper tiger and doesn't have much authority. You make a presentation of strengthening the approach in a general sense in government. Are there particular aspects of the bill before the committee today that you would strengthen? You mentioned things like no power to require compliance, no prosecution power, that sort of thing.

**Mr. Pylypuk:** As you may be aware, Mr. Hudak, and Mr. Kormos certainly is aware, I'm merely a small-town general practitioner of law. Persons far more skilled in areas you're asking about, such as Louise Hurteau for AJEFO and Ronald Caza from Heenan Blaikie, will be presenting before the committee later. I understand that they will be providing the committee with suggestions for the improvement of the proposed legislation as it presently is presented.

As an overarching comment, however, I would note that the French Language Services Act was enacted with the best of intentions by the Legislature in 1985—by a Liberal government, if memory serves me—and yet it took until 2000 in the Hôpital Montfort case where it was actually brought to confrontation. Therefore, I would suggest that the commissioner needs powers in the nature of a real commission, perhaps powers of the same nature as an Ombudsman, perhaps powers in the same nature as the securities commission. But as I mentioned, there are persons far more skilled than I am to give you that answer.

**Mr. Hudak:** Thank you, Chair. I'll split my time with Mr. Kormos.

**The Chair:** Mr. Kormos, you have about two and a half minutes.

**Mr. Peter Kormos (Niagara Centre):** Thank you kindly, Mr. Pylypuk. Quite frankly—I leafed through the appendices of your presentation—it's a very potent presentation. I encourage members of the committee to please read it. I just last night read the comment, "Our goal must be to enhance our diversity, not eliminate it." I join you in the fear that there is a process of elimination of our diversity. I also note the reference to Boutros Boutros-Ghali, where he talks about, "Plurilingualism is a privileged means for the promotion of a culture of peace." And I appreciate your comments as a speaker. In view of the fact that there remains some ongoing tension between Quebec and Quebeckers as they perceive their interests and their future, and other parts of Canada, do you see it as important for a part of Canada that is not Quebec to maintain, strengthen and reinforce its francophone community and not just accommodate but incorporate the francophone culture and language?

**Mr. Pylypuk:** Thank you, Mr. Kormos. In using the words "sea change"—I went on to the English Internet and found that it was first used by Shakespeare in The

Tempest. I was going to throw in the quote, but I thought that was perhaps a bit too cheeky. The fact is that many people think the autonomy or separation of Quebec is inevitable, that it will occur sooner or later regardless of what we do. Under the present circumstances, they may well be correct. But there are moments in the history of men and the history of peoples when fundamental transformation occurs such that a trend which has existed for a long time and which may be expected to continue indefinitely into the future is broken and a new trend is established.

Pierre Elliott Trudeau suggested and attempted to make Canada officially bilingual at the federal level. What needs to happen, in my most respectful submission, is for the province of Ontario to take up the torch that M. Trudeau left and make that fundamental transformation so that Canada can be a bilingual nation, and not, as the Prime Minister—that would be the federal Prime Minister—has indicated, a nation with two languages.

**The Chair:** Thank you for your submission.

**1140**

## CANADIAN MANUFACTURERS AND EXPORTERS

**The Chair:** I now call on the Canadian Manufacturers and Exporters to come forward, please. Good morning. You have 10 minutes for your presentation. There may be up to five minutes of questioning following that. I would ask you to identify yourselves for the purposes of our recording Hansard.

**Mr. Ian Howcroft:** Thank you, Chair, and good morning to all members of the committee. My name is Ian Howcroft. I'm vice–president of the Ontario division of Canadian Manufacturers and Exporters. With me is Miriam Christie from General Motors, one of our long-time members and a member of our taxation committee; and Paul Clipsham, who is the director of policy for CME Ontario division.

On behalf of Canadian Manufacturers and Exporters, I would like to thank the committee for the opportunity to express our views regarding Bill 187. We're pleased to be invited back to provide additional input, now that the budget has been tabled.

Canadian Manufacturers and Exporters is the voice of the manufacturing and exporting sector in Ontario. Our member companies account for approximately 75% of the province's total manufacturing output and are responsible for about 90% of the province's exports. We represent a very broad range of industry sectors, including automotive, resource-based, high-tech, plastic and consumer products, to name a few. Approximately 80% of our members are small and medium-sized enterprises, and consequently, CME is well-equipped to represent the voice of these manufacturers in the province.

In Ontario, our sector contributes 20% of the GDP and approximately $300 billion to the Ontario economy. Further, the manufacturing and exporting sectors provide employment to almost one million people directly, and many people do not realize that another 1.8 million individuals have jobs that are indirectly dependent on manufacturing. Manufacturing jobs are skilled and highly paid, with wages that are about 25% above the national average. Every dollar invested in manufacturing generates approximately $3.25 in total economic activity, the highest multiplier of any sector. However, we are concerned about the future of manufacturing. In Ontario, manufacturing shipments have dropped by 4.9% over the last year, and jobs in manufacturing have declined by 130,000 from the peak in 2002. We should all be concerned with these statistics.

While there are some good-news stories out there, we are going to focus on the overall trends and what we think must be done for things to improve. Manufacturers and exporters are facing unprecedented challenges, including soaring input costs, particularly energy, raw materials and labour; competition from developing economies such as India, China and Brazil; and the continuing high value of the Canadian dollar. Businesses are also facing nearly the highest marginal effective tax rates among OECD countries.

As you're hopefully aware, CME, with the support of the provincial and federal governments, embarked on a massive stakeholder engagement process entitled Manufacturing 20/20: Building Our Vision for the Future. Its goal was to try to take steps and identify solutions now so that in 2020 we do have a vibrant manufacturing sector. It's also a play on words to create that strategic vision, that 20/20 vision, for manufacturers.

Over the last 36 months, we listened to about 3,500 stakeholders and held almost 100 local meetings in communities across the country. Half of these were held in Ontario. Throughout the process, common themes emerged, including workforce capabilities, innovation, international business, business and financial services and the general business environment. The message from Manufacturing 20/20 is clear: We can compete in Ontario, even in the face of many challenges; however, each stakeholder will have to do their part to make the 20/20 vision a reality.

Manufacturers are responding by investing in innovative technologies and training that will improve efficiency and increase productivity. While manufacturers and exporters are making the changes necessary to remain competitive, the government has played, and must play, an important role in addressing barriers to growth and prosperity.

The CME Ontario taxation committee has identified key areas in Ontario's tax system that are necessary for the government to pursue in order to maintain a healthy economy and an improved competitive climate for Ontario manufacturers. In addition to tax policy reform, our recommendations also address areas such as the skills shortage, innovation and productivity, and overall regulatory impediments. Our membership believes that the comments herein will help the government make decisions that will support a competitive business environment for the benefit of all Ontarians.

The level of the Ontario tax burden continues to be viewed as an unnecessary and unproductive cost of doing business in Ontario. The 2006 Tax Competitiveness Report by the C.D. Howe Institute indicates that Canada's marginal effective tax rate is now eighth highest among 81 countries analyzed. These costs are beyond the capacity of individual companies to control and a major impediment to attracting new investment and sustaining economic growth.

As we are back to provide additional input, we will focus on three important areas in which Ontario can work to improve the marginal effective tax rate relative to competing jurisdictions and become a magnet for manufacturing investment. These three areas are the elimination of capital tax, general corporate tax rate reductions to 8%, and the accelerated depreciation.

We believe that the government has a unique opportunity at this time to leverage the most economic gain by proceeding with targeted tax reforms in each of these areas. We believe that the economic spinoffs from these reforms will garner the biggest bang for the buck and will provide the right incentive for future investment and growth.

With regard to the elimination of the capital tax, we'd like to slow the tide of high-value-added employment and investments leaving the province. We have to have businesses that are competitive and have competitive tax rates. The government has already recognized that the capital tax is a disincentive to capital ownership. Bill 187 proposes to eliminate this harmful tax by 2010. We feel that the immediate elimination would be best, but a reasonable alternative would be to parallel the elimination with the harmonization of corporate tax collection with the federal government, which is scheduled to begin in 2009. The accelerated time frame would be more feasible, given the incentives provided in the federal budget for provinces that do eliminate the capital tax.

With regard to the corporate tax rate reduction, the optimal means of improving the marginal effective tax rate is to reduce the general tax rate on businesses to 8%. This move would be relatively easy from an administrative standpoint and make Ontario's taxation rates competitive with other jurisdictions, particularly those with which we compete most regularly in the United States. This would allow companies to better justify existing and future investments in Canada and free up capital for process improvements, training and R&D spending.

Our members also recognize that a capital recovery system is an important element of the Ontario tax system. The Ontario capital cost allowance regime has been comparatively advantageous in the past. However, the system no longer compares very well with other jurisdictions.

On April 20, 2007, Minister Sorbara announced that the Ontario government would mirror the federal government's bonused depreciation for manufacturing and processing equipment for assets acquired after March 18, 2007, and before January 1, 2009. This is a measure that CME has long been advocating and is fully supportive of. The only caveat, however, which applies also to the federal initiative and hence Ontario is that the duration is insufficient for many manufacturers to take advantage of. Manufacturers typically have capital expenditure plans for significant investments of five to 10 years for their horizon. Therefore, unless they are at the beginning of a new investment cycle, they will not be able to take full advantage of this opportunity.

Ultimately, the measure will result in enhanced capital investment, increased employment and greater economic growth in the province of Ontario. In our view, this is undoubtedly a competitiveness issue. Many competing jurisdictions, such as Quebec, offer M&P capital investments at 125% depreciation in the year the expenditure is incurred.

Canadian and Ontario tax rates must be more competitive than those in the United States, not only to offset the advantages of the large US market but also to ensure that Ontario is a competitive investment location on a global basis. Mexico, China, Singapore, Chile and Brazil are, for many companies, even stronger competitors for innovation investments than the United States is.

I will now turn it over for Paul to continue comments on taxation. Then Miriam will talk about the changes that are going to be affected by the municipal property tax issues.

**The Chair:** You have about a minute and a half left.

**Mr. Paul Clipsham:** Okay. I'll make this short, then. A few other priorities on the harmonization side: We feel strongly supportive of the corporate tax initiative to harmonize the corporate tax collection system with the federal government. We also feel that there's an opportunity to influence the federal government to reduce SR and ED taxation out of the corporate tax base at the federal level. Ultimately, CME feels strongly that the government of Ontario should fully harmonize the current Ontario retail sales tax with the federal goods and services tax, the GST, to create a value-added tax system. CME believes that this initiative should be included as part of the mandate of the next government. Harmonization would increase the competitiveness of Ontario business. It will also reduce the cost of doing business in Ontario by streamlining tax compliance and make our products more attractive in the export market by reducing product costs.

**1150**

One other quick point, on the apprenticeship training tax credit: That's really a competitive advantage for Ontario businesses. We think that should be extended to at least a five-year minimum term because apprenticeship programs tend to be four years in length.

I just want to touch briefly on the proposed amendments to the Workplace Safety and Insurance Act. Bill 187 proposes amendments to the Workplace Safety and Insurance Act. Our members are concerned that we were not directly involved in the origin and development of the amendments contained in schedule 41 to Bill 187. This measure would result in approximately $700 million in

additional costs to employers. We believe that there should be a fulsome discussion with stakeholders and employers prior to that being included in a budget process.

I'll now turn it to Miriam to follow up on the Municipal Act issues.

**The Chair:** If you could make one comment, please.

**Ms. Miriam Christie:** Do you want the positive one or a negative one?

**The Chair:** It's your choice.

**Ms. Christie:** While the proposed business education tax reductions were viewed very favourably by industry, we are concerned about the proposed changes to section 357, which is under the Municipal Act, for repairs and renovations. Basically, if the proposal is passed, it will eliminate the opportunity for industry to recoup up to 100% of the taxes if they are trying to reinvest in their businesses. We think, given the competitive pressures on industry, anything that will allow the manufacturing organizations to reinvest in Ontario is a positive for the companies and for the province.

**The Chair:** Thank you. This round of questioning goes to the government.

**Mr. Arthurs:** Thank you for being here this morning and for the presentation. It's a limited time to cover a broad area. Obviously we're pleased that a number of the measures, both in the bill and things over the course of the mandate, have been supportive of the manufacturing and exporting industry overall.

Clearly, we set a target at the very beginning with respect to our largest export market, in the auto sector, to invest heavily to create opportunities for research and innovation within that sector. Hopefully, that filters into other sectors as well, and support sectors.

We're pleased to hear the support for initiatives on the capital tax front. We know you'd like it quicker. The inclusion of it within the legislation was one of the things we heard during the consultations, to firm up the commitment as opposed to announcements around it; to make it firm and to accelerate it even modestly, more so, to an earlier date.

On the BET, Miriam, I'm pleased to hear as well that the association is hearing good things about that initiative. It will take some time to fully implement.

I did note the comments, Paul, as well, on the VAT. As our next-mandate discussion, I think that's one that's likely to go on for some time. As we currently sit, there are no current proposals before us for VAT harmonization. We continue to work on the corporate business tax harmonization with our federal partners. That would create the paper savings and human cost savings, as well as some tax savings. But there are some implications on the VAT front, as you well recognize, for the consumer side, which would certainly need a lot of thought and a lot of discussion before we could proceed in that direction.

I think it would still be our contention that on the corporate tax side, overall, with our principal trading partners—you may want to comment on this—in the Great Lakes states, when all-in, we still remain quite competitive with those sectors. I would have to suggest that our position—thanks to Miriam and others—on the auto sector is that we're now the largest jurisdiction in North America for auto production. It speaks well, overall, to what we've been able to achieve. Certainly taxation is not the only reason. It may not be the reason why we're in that position. There are other factors that have encouraged that. Certainly the quality of work that's being done and the workforce that you've been able to acquire, assemble and train are a big part of that.

In particular, there may be interest in comments on our corporate tax position in relation to our principal trading partners on the Great Lakes front. I'm not sure who is best to handle that, but let me throw that to you and get some further commentary.

**Mr. Howcroft:** Well, as you said, Wayne, we are pleased with some of the direction. We'd like to see some of that accelerated. Our concern is we have to be even more competitive now because the challenges are increasing. We are competing with the United States, but investment is very fluid; we have to be cognizant of that and compete with other parts of the world as well. We don't want to be just a bit behind or moderately successful; we want to be very successful. To do that, we have to have an overall regulatory system that embraces innovation and competitiveness and makes us, as we said in our submission, the magnet to attract that investment. So we have to improve even further our tax competitiveness. You can look at different statistics and different criteria, but we still feel overall that we are not faring as well as some of the jurisdictions in the US. Many of the ones we compete against are different, but we have to do a better job than where we are right now.

**Mr. Arthurs:** I'm not sure how much time we have. For us, this is not the endgame in and of itself, but it's a movement in the direction I think the industry has certainly encouraged us, and we're trying to respond to that.

**Mr. Howcroft:** Thank you.

**The Chair:** And thank you for your presentation before the committee.

**Mr. Howcroft:** Thank you very much.

**The Chair:** Committee, please take your personal items out of the room. We are recessed until after routine proceedings.

**Mr. Hudak:** Same place?

**The Chair:** We could begin somewhat early if people are here.

*The committee recessed from 1156 to 1540.*

**The Chair:** The standing committee on finance and economic affairs will now come to order.

**Mr. Arthurs:** On a point of order, Mr. Chair: Just before we start, I'm looking at our schedule, because among the three parties we had tried to work out an arrangement whereby we could exchange things as we went. As I look at this morning, I think that both the third party and ourselves had three of the deputants to query and the official opposition had two, which, in a normal

three-set rotation, would leave the official opposition with this particular deputant to question. That would have us in line on sets of three; otherwise, we're likely to end up at the end of the day without parties having the opportunity on an equal basis to question deputants. Subject to agreement from the subcommittee, I would suggest that we would continue and leave this to the third party on this particular deputant.

**Mr. Prue:** I would go even further than that. Over the last two days, we have had an opportunity six times; the Liberals and Conservatives five times only. So I think the Chair should bear that in mind.

**The Chair:** The clerk advises me that the government was short one, but they caught up today.

**Mr. Prue:** And then again today, the opposition was short one.

**Mr. Arthurs:** As of this point, yes.

**Mr. Prue:** So you are both short one vis-à-vis me. That's what I'm saying: six to five to five. Therefore, I would still like to have some, but I acknowledge that I should get less this afternoon.

**The Chair:** Okay, we've heard your points.

## TORONTO WORKERS' HEALTH AND SAFETY LEGAL CLINIC

**The Chair:** Now I will ask the Toronto Workers' Health and Safety Legal Clinic to come forward. Good afternoon. You have 10 minutes for your presentation, and there may be up to five minutes of questioning following that. I would ask you to identify yourself for the purposes of our recording Hansard. You can begin.

**Mr. Daniel Ublansky:** Good afternoon. My name is Dan Ublansky. I'm a lawyer and director with the Toronto Workers' Health and Safety Legal Clinic. The Toronto Workers' Health and Safety Legal Clinic is a community-based legal aid clinic funded by Legal Aid Ontario which provides legal advice and representation to low-income workers in Ontario on matters related to health and safety. We also engage in law reform activities aimed at improving standards, regulations and laws affecting low-income workers.

These amendments to the Workplace Safety and Insurance Act have been a long time coming, although any move forward, however small, is welcomed.

I'm going to make some comments about a number of areas that are contained within Bill 187. The first, and I think the most important, concerns the issue of available employment. According to the federal Office for Disability Issues, 35.2% of working-age persons with disabilities in 2004 were unemployed or out of the workforce, as compared to 13.7% of persons without disabilities. More strikingly, among persons between the ages of 24 and 54, only 51% of those people with disabilities are employed, as compared to 82% of the population without a disability. On top of that, persons with disabilities receive employment earnings of approximately 20% below those people without disabilities.

That evidence, I think, is indisputable, and it's an indisputable damning of the current deeming system. The system that we have in place in the Workplace Safety and Insurance Act assumes that there is a level playing field in the labour market between those with disabilities and those without. The deeming system assumes that if a permanently disabled worker is unable to find work within his or her physical restrictions, it's the fault of the individual in all cases. Similarly, if a permanently disabled worker manages to find suitable work but at a lower-than-average rate, that's also his or her fault. This is a grievous injustice and it needs to be corrected immediately.

The deeming system must be replaced by an assessment process that looks at the circumstances of the individual worker to determine what is fair in the circumstances. If the injured worker has made a diligent and conscientious effort to return to the labour force, that should be acknowledged and factored into the determination of benefits. If, for example, the worker has managed to find employment, then actual earnings should be used for calculation of benefits. On the other hand, if the injured worker has done everything reasonably possible to find work but has been unsuccessful, it should be presumed that the barriers faced by the disabled worker—which may include other factors such as age, lack of education and language skills, and limited work experience—are simply insurmountable and that full benefits should be awarded as a result.

The proposed amendments to sections 42 and 43 will not eliminate the potential for the injustices described above to continue. The addition of the reference to availability of employment does not address the root of the problem in the current system. The issue is not the availability of employment in general, but rather the availability of employment to the individual injured worker who is permanently disabled.

One of the popular choices used by the WSIB for deeming purposes is "retail salesperson." A survey of job advertisements on the available websites will produce a relatively long list of possible positions. However, the reality is that the majority of injured workers do not get hired when they apply for those jobs, and that fact is what's reflected in the statistics that I gave you at the outset.

Under the proposed amendment, an injured worker can still be deemed to have earnings as a retail salesperson even though he or she has applied for hundreds of jobs unsuccessfully. And, believe me, that is reality. I have many clients who would fit that description. That just isn't fair and it's not just.

The proposed amendment partially restores language that was in the legislation prior to the 1997 Workplace Safety and Insurance Act. Unfortunately, the amendments do not include the list of individual factors to be taken into consideration in determining the amount that a worker is likely to be able to earn in suitable and available employment that appeared in the previous subsection 43(7) of the predecessor, the Workers'

Compensation Act. Those factors included personal and vocational characteristics of the worker; prospects for successful medical rehabilitation and return to work or labour market re-entry of the worker; and what constitutes suitable and available work for the worker. Those factors reflect the need, again, to define suitable and available employment in terms of each individual worker's personal situation, as argued above.

Although the language of subsection 43(7) of the former Workers' Compensation Act does not really address the fundamental unfairness of a system that assumes that persons with disabilities face a level playing field in the labour market, it would at least be a significant improvement if added to the current proposed amendments.

I think others have mentioned and I would also like to emphasize the bitter irony, if you like, of the impact of increases to the minimum wage on injured workers who are rated or who have been deemed at $10 an hour or less. As has been the case with previous increases in the minimum wage, these workers will face reductions in their benefits if they're still subject to review. In addition, workers who are currently going through their final review process will be considered to be capable of earning $10 an hour or more because of future increases in the minimum wage.

In our submission, an amendment has to be added to Bill 187 to protect injured workers who have been deemed under the current system from having their benefits reduced because of changes in the minimum wage. That surely cannot be anyone's intention.

**1550**

I'll just touch briefly on a couple of other issues. The provisions that deal with the review of loss of earnings after 72 months: Again, the idea of giving the board more flexibility to deal with these situations is a good thing, but I think the provisions are just too complex. The retroactivity provisions are just too hard to understand—and to what end? How many people are we really talking about? You're only really talking about people who, starting in 1998, have gone through the system, who have gone through a 72-month cycle, which takes you to about 2005. I would suggest that the number of people who would be affected is maybe in the hundreds, and the situations are so compellingly egregious that you can't really make a good argument for saying, "Too bad. The timing is wrong." So it seems to me that it's a lot of effort for no particular reason.

**The Chair:** You have about a minute left.

**Mr. Ublansky:** Okay. The last comment I'll make is about COLA, and the comment there is that the formula should be fixed. This shouldn't be just a three-year fix; it should be a permanent fix. The opportunity is here; let's take it.

**The Chair:** Thank you. This round of questioning will go to the official opposition.

**Mr. Arnott:** Thank you very much for your presentation. I found it very interesting. It's different for the finance committee to have the opportunity to discuss workers' compensation issues, because typically and historically workers' compensation issues and labour issues have been dealt with by different committees of the Legislature. But the nature of this bill, this omnibus bill, brings together all kinds of somewhat unrelated issues, and it gives us the opportunity to discuss them with people like you. So we appreciate your presentation.

I have a couple of questions, but first of all, I wondered if you had any additional points you wanted to add. The Chair's compelled to keep us moving—

**Mr. Ublansky:** No, I'm good, but thank you for the opportunity.

**Mr. Arnott:** Okay. You talked about the issue of available employment, and you suggested that the current deeming system in the Workplace Safety and Insurance Act needs to be replaced with an assessment process that would be fairer to the injured worker. Is there another jurisdiction in Canada, another province, that does this differently? Do the other provinces have deeming systems or some variation of the deeming system that we have here?

**Mr. Ublansky:** As far as I know. I haven't heard, in my dealings, of any model that is put out there as being the Cadillac model.

**Mr. Arnott:** So would the claims adjudicators perform this function at the Workers' Compensation Board?

**Mr. Ublansky:** Yes.

**Mr. Arnott:** Would that be your suggestion, that they be empowered to make that assessment?

**Mr. Ublansky:** Yes. Again, it's not that radical. As I mentioned in the submission, the only difference, really, between what I'm saying and what was in the previous legislation is this presumption that people with disabilities are on a level playing field with people who don't have disabilities. That's the only addition that I'm suggesting. It's really unfair to assume that because somebody has the skills and has received the training, they have an equal opportunity with a person who doesn't have that same disability. And, believe me, as I said, this is not theory. I've had many clients who have sent hundreds and hundreds of resumés, people who are in fact qualified for the jobs that they've been trained to do but just don't get hired, and that needs to be recognized. If somebody has done everything they can do and has been unsuccessful, how can you say that that's their fault?

**Mr. Arnott:** It's a reality that they must contend with, and it's not recognized currently.

**Mr. Ublansky:** It comes with the disability.

**Mr. Arnott:** In terms of your suggestion around cost-of-living adjustments and increases, would you favour an increase in the premiums that employers pay in order to pay for this? I would assume that the unfunded liability is still an issue at the—

**Mr. Ublansky:** I'm not a finance guy, so I'm not one who gets concerned over the unfunded liability issue. I think, as with the submission that the Injured Workers' Consultants put in this morning, that at the time that full

indexation was introduced in 1985, the board was only 44% funded, and nobody seemed to think that was a problem at the time. Now, all of a sudden, 20 years later, the board's 70% funded and everybody's worried that the system can't handle the increase. I don't think that's really true. Again, as was pointed out in the IWC submission, COLA pays for itself. If salaries are going up, the amount of revenue going into the board is going up. So it's six of one, half a dozen of the other at the other end.

**The Chair:** Thank you for your submission.

## CANADIAN CANCER SOCIETY, ONTARIO DIVISION

**The Chair:** I call on the Canadian Cancer Society, Ontario division, to come forward, please. Good afternoon. You have 10 minutes for your presentation. There may be up to five minutes of questioning following that. I would ask you to identify yourselves for the purposes of our recording Hansard.

**Ms. Irene Gallagher:** My name is Irene Gallagher, and I'm manager of public issues with the Canadian Cancer Society, Ontario division. I'm here with my colleagues Rob Cunningham, senior policy analyst with the Canadian Cancer Society, and Michael Perley, director, Ontario Campaign for Action on Tobacco.

We'd first like to thank the committee for the opportunity to provide comments on Bill 187. Our comments will focus on the bill as it relates to contraband tobacco products.

The government of Ontario has shown great leadership in tobacco control through the implementation of the Smoke-Free Ontario Act in May 2006, through increased prevention and cessation programs, and through tobacco tax increases.

The Canadian Cancer Society supports the proposed amendments to the Tobacco Tax Act in Bill 187. The government is to be commended for bringing these amendments forward. At the same time, additional contraband prevention measures which would have a greater impact should be implemented.

The increasing availability of tobacco contraband is undermining the province's excellent tobacco control strategy, especially in the area of youth prevention, and the government's ability to increase tobacco taxes. Increasing tobacco taxes is a priority for the Canadian Cancer Society because it's the most effective measure in reducing tobacco consumption. However, tobacco contraband is currently threatening the government's ability to increase tobacco taxes.

Michael Perley and Rob Cunningham will now speak to the specific aspects of taxation and contraband.

**Mr. Michael Perley:** I'm Michael Perley, director of the Ontario Campaign for Action on Tobacco. Thank you again for another opportunity to present on tax policy with reference to Bill 187. This committee has heard on numerous occasions from the Ontario campaign, Physicians for a Smoke-Free Canada, the Canadian Cancer Society and others regarding this significant ongoing problem.

On Tuesday of this week, national and provincial health agencies launched a contraband control campaign in Ottawa at an Ottawa news conference. The main campaign document is attached to my statement for your reference. This initiative follows numerous efforts during the past several years to convince federal and provincial governments to adopt a comprehensive—and I should underline the word "comprehensive"—contraband control campaign.

The tax enforcement provisions included in Bill 187, specifically in schedule 40, are a modest step forward and are worth supporting, but more action is needed to stop the flow of contraband into our communities. As Irene mentioned, my colleague Rob Cunningham, who's a lawyer and senior policy analyst at the society's national office, will talk about the necessary remedies in a bit more detail. I'd like to focus on one aspect of this problem, namely the existing Ontario quota system. Ontario has established quotas for tax-free sales of cigarettes on First Nations territories. Quota is determined by a formula that takes account of on-reserve and off-reserve First Nations populations and generally yields a rate of consumption of about 3,000 cigarettes per person on the reserve per year. I should mention that that includes all persons of whatever age. This means that the allowable quota on-reserve for tax-free sales equates to about three times the national average for cigarette consumption. As long as we have an unenforced quota system in Ontario—and this system is largely unenforced at the moment—it will continue to contribute to the contraband problem because it will allow quota product, untaxed, that is not sold to First Nations persons legitimately to be resold either to non-First Nations individuals who come onto a reserve to purchase at kiosks, or it can be taken off-reserve by anyone who can get their hands on it and sold to anyone who wishes to buy it, tax-free. The existence of an unenforced quota system will also maintain the plague on First Nations' health caused by tobacco use. The rate of tobacco use among our First Nations is more than twice the Canadian average and, in some cases, much higher, and related health problems abound in their communities, including cancer and heart disease.

I'd now like to turn the remainder of our time regarding the remedies for contraband over to my colleague Rob Cunningham.

**1600**

**Mr. Rob Cunningham:** Thank you to Michael Perley and Irene Gallagher. Chair, members of the committee, at the outset, let me reiterate our acknowledgement of the outstanding work that the government has done in terms of the Smoke-Free Ontario strategy with respect to programming, legislation and tax increases to date, and let me acknowledge the support from all parties in the Legislature for the progress that we have made.

With respect to Bill 187, we are supportive of the measures in Bill 40. We are also supportive of the

announcement in the budget with respect to increased funding for enforcement efforts with respect to tobacco contraband. These are very much steps that we endorse.

By way of context, in the material that the clerk has distributed to you, you see this graph that shows the comparable tobacco tax rates among Canadian provinces. We see that Ontario and Quebec have the lowest tobacco tax rates in Canada yet the highest rates of contraband. That doesn't seem to make sense, so we look at British Columbia and we look at Alberta and there's no material level of contraband at all. Part of the reason for that is that some other provinces have implemented contraband prevention measures that Ontario has not.

The key to controlling tobacco contraband is to eliminate the source of contraband. If we look at Ontario and Quebec, there are four main sources of contraband. One is on the US side of the Akwesasne reserve in New York state near Cornwall. That would be the responsibility of the US government and the Canadian federal government to deal with. On the Kahnawake reserve near Montreal, the Quebec government and the federal government would have responsibility. But there are two in Ontario: one unlicensed manufacturing operation on the Tyendinaga reserve near Belleville and one licensed manufacturer, Grand River Enterprises, on the Six Nations reserve near Brantford, Ontario. In terms of volume, Grand River Enterprises, GRE, is much more significant. What is happening—Michael Perley talked about the quota system—is that Grand River Enterprises is shipping tax-exempt cigarettes to reserves across the province, ignoring the legal limit with respect to the quota for each reserve. So there's an unrestricted quantity going to each reserve without Ontario tobacco tax paid. Non natives are purchasing these, and these products are being diverted off-reserve.

How do we respond? Our recommendations allow for these situations to be addressed without having to enforce on the reserve. Five other provinces have implemented a refund and rebate system: Alberta, Saskatchewan, Manitoba, Quebec and New Brunswick. Before products leave the factory at Grand River Enterprises, an amount equal to Ontario tobacco tax should be included. That way there is no motivation for illegal distribution because they're not cheaper than what you'd otherwise pay at retail. When there is a sale on a reserve by an on-reserve retailer to an eligible native, the retailer can subsequently apply to the Ontario government for a refund. A combination of this refund system with the quota system would allow the prevention of the current abuse that we have.

Second, if we look at the Tyendinaga situation, what do we do? We can amend Ontario legislation to prohibit the sale of raw materials to an unlicensed manufacturer. We choke off the inputs—leaf tobacco, cigarette paper, cigarette filters, packaging—so that it's not possible to make these products. The Quebec government has started to seize inputs, raw materials, into products; Ontario could do the same.

In our brief, we talk about five other recommendations, which I won't go into in detail, but they include having a tracking-and-tracing system and better package markings for Ontario; establishing a minimum bond of $5 million to obtain a tobacco manufacturer licence—the Ontario government does require such a licence; to revoke tobacco manufacturer licences where necessary; and finally, to work with the federal government to persuade the US government to shut down the illegal production on the US side of the Akwesasne reserve. Thank you. I look forward to any questions the committee might have.

**The Chair:** Thank you for your presentation. This round of questioning will go to the NDP.

**Mr. Prue:** It has been my experience, wherever there are rebates on taxes—you often see that in airports in other countries, even in Canada; you see a little sign up saying, "Visitors to Canada, you may apply for a rebate"—that the take-up on that is pretty poor. Would you expect the take-up of Canadian citizens buying cigarettes on the reserve to be equally poor?

**Mr. Cunningham:** I think we can look at the experience in other provinces. For example, in Alberta, the obligation is on the retailers. It's not the individual status native who applies; it's the retailer. They have a tremendous economic incentive to get their money back. They do apply, and they get refunds. It works well.

**Mr. Prue:** It's not the individual; it's the retailer?

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

**Mr. Prue:** That would make more sense.

I don't know how—other than having really beefed-up enforcement and all that that entails—you stop people from going on to some of the reserves to buy the cigarettes. It seems to be a huge magnet. I was at a public meeting just the other night where the people in the apartment building were complaining because the guy had set up a wholesale operation in his apartment, which the police know of, but they're not willing to shut him down. He's literally selling hundreds of thousands of cigarettes a day right at the corner of Main and Danforth.

**Mr. Perley:** We've started, with the Ministry of Finance, to do joint operations with finance, the OPP and public health units. This is particularly true in the Kingston area and Haliburton-Kawartha-Pine Ridge, where they work together to do surveillance on people coming off the reserve who've made the kind of purchases you're speaking of. They are increasing the number of takedowns of these couriers, let's call them, pretty significantly, but that is not done widely at all. It's certainly not done very well in the Toronto area, although efforts are being made. It's a question of assigning appropriate resources to the health units and doing joint-force operations, not laying it on the OPP or laying it on tobacco enforcement officers, who right now, if they're out in the community and see the kind of operation you're describing, have no authority to seize contraband when they come across it. They call the OPP or the RCMP, and by the time the call has gone in and somebody shows up, the contraband has disappeared. That's another one of the recommendations: giving our tobacco enforcement officers, who are in all the health units,

authority to seize when they see it. That helps address what you're describing.

**Mr. Prue:** I think not everybody here would have been in Belleville when you gave that—could you give them the explanation of the costs? I think some of these are mind-blowing, how cheap it is to buy these cigarettes, particularly the ones in the sealed package.

**Mr. Cunningham:** For example, this package here of 200 cigarettes is about $15, compared to a normal retail price of $53 to $68 in Ontario, depending on the brand. High school students in Belleville and Kingston are smoking this product. Medical officers of health are extremely concerned. When you point out the specific example that you have, if we were to go after every retailer—the key, most effective way is to eliminate the source, in terms of enforcement.

**Mr. Prue:** Would you anticipate any difficulties? We are all mindful of what is happening on some of the reserves and the whole issue. I'm very sympathetic to aboriginal land claims and things, but they can be fraught with difficulty for police and governments. Any idea how we could beef that up without creating a kind of—

**Mr. Perley:** We're starting to see interesting precedents with the Akwesasne Mohawk Police participating with the RCMP in joint takedowns on-reserve and off-reserve. That's one hopeful sign for that particular area. In another area of consideration, there is talk in some provinces—and some provinces actually have done this—of giving the native reserve population—the band council, more correctly—the authority to collect the tax themselves and dedicate the tax to local development projects or whatever; in other words, provide that funding for local on-reserve development, as opposed to streaming it back to the federal or provincial governments.

**Mr. Prue:** Oh, I really like that one. I hope everybody heard it. Thank you.

**The Chair:** Thank you for your presentation this afternoon.

**1610**

## HÔPITAL MONTFORT

**The Chair:** Now I call on Hôpital Montfort to come forward, please. Good afternoon. You have 10 minutes for your presentation. There may be up to five minutes of questioning following that. I would ask you to identify yourselves for the purposes of our recording Hansard.

**M^me^ Gisèle Lalonde:** Merci beaucoup, monsieur le Président. Si vous voulez bien, nous allons faire notre présentation en français et nous pourrons répondre à vos questions en anglais.

Je suis Gisèle Lalonde, la présidente de SOS Montfort. J'ai avec moi M^e^ Ronald Caza, qui est un avocat très connu pour défendre les causes à la francophonie.

Je suis venue souvent dans le passé pour critiquer le gouvernement pour des droits des francophones qu'on ne respectait pas toujours, mais je dois vous dire aujourd'hui que je viens ici toute réjouie du fait qu'on a une très bonne nouvelle, que d'ailleurs M. McGuinty nous avait déjà annoncée, la mise sur pied du commissariat aux services en français.

On se réjouit énormément, et nous remercions aussi la ministre Meilleur, qui est d'ailleurs ici, parce que nous savons que, étant la ministre responsable des services en français, elle a travaillé très fort pour que nous ayons cette belle implantation qui va sûrement nous aider à mieux vivre en français.

Nous avons, comme francophones de l'Ontario, toujours demandé non seulement de la tolérance mais également du respect et de la compréhension du fait français en Ontario. La communauté voit ce geste que le gouvernement fait comme une reconnaissance du fait français, et je dois vous dire qu'on se sent vraiment valorisé. Ayant fait le tour de la province à plusieurs reprises, je dois vous dire que partout ce n'est pas toujours aussi facile de pouvoir éloigner les difficultés, les injustices.

À Montfort, comme vous le savez, il y a 10 ans le gouvernement ontarien voulait fermer l'hôpital. Heureusement, nous avons eu une communauté qui était bouleversée mais qui nous a suivis. En trois semaines, nous avions ramassé plus de 10 000 personnes au centre municipal d'Ottawa. Je dois vous dire que ça a été relativement facile parce que la région d'Ottawa compte quand même plus de 200 000 francophones. C'est assez facile pour nous, même si cela a été très difficile de ramasser ces gens-là et d'aller jusqu'en court pour avoir nos droits. Mais, il y a des places dans la province, des milieux isolés, des endroits où les francophones sont vraiment peu nombreux, par exemple, dans le sud de l'Ontario, dans l'ouest, dans le bout de Thunder Bay, dans le bout de Windsor, un peu partout. Ces gens-là ont beaucoup de difficultés lorsqu'ils ont des injustices envers eux, que ce soit des individus ou nos institutions. C'est pour ça que ce projet de loi est tellement important pour nous.

Aujourd'hui, on vient d'une façon très positive. On a demandé à M^e^ Caza, qui est un avocat qui a travaillé pour toutes les causes francophones au Canada, pas seulement en Ontario, mais qui est de chez nous, de Sturgeon Falls, et qui vient d'Ottawa actuellement—il va justement vous parler d'amendements qu'on pourrait apporter à cette loi qui permettrait de mieux desservir les francophones en Ontario. Je laisse la parole au M^e^ Caza.

**M^e^ Ronald Caza:** Merci beaucoup, Gisèle. Je voudrais juste clarifier en effet que je viens de Chelmsford et non de Sturgeon Falls, pour ceux qui connaissent la région.

Je veux commencer simplement par vous dire qu'il y a trois amendements qu'on demande, qu'on suggère. Le projet de loi est extraordinaire. C'est un outil important que vous nous donnez, que vous donnez à la communauté.

Avant, je veux juste donner un peu de contexte, vous expliquer pourquoi on demande ces changement-là. Ensuite, nous allons avoir l'AJEFO, qui va suivre, et l'Association du Barreau de l'Ontario, qui vont aussi suggérer des modifications.

Le contexte n'est pas compliqué. La communauté francophone est menacée d'assimilation. L'albatros que la communauté a autour du cou, c'est l'assimilation. L'assimilation n'est pas compliquée. Qu'est-ce que c'est que l'assimilation? C'est lorsque les francophones de partout en province décident d'arrêter de faire des efforts pour vivre en français, c'est l'assimilation. Donc, on doit s'assurer que les francophones de partout ne se découragent pas de continuer à faire des efforts pour vivre leur langue et leur culture.

Lorsque la Loi sur les services en français n'est pas respectée, il y a des francophones qui arrêtent de faire des efforts pour vivre en français et protéger leur culture, ce qui veut dire que nous avons l'assimilation. Donc, on a trois suggestions pour s'assurer que le gouvernement puisse réaliser ce qu'ils veulent faire avec la création du poste de commissaire, qui est de s'assurer d'avoir le respect de la Loi sur les services en français.

On vous a présenté un document et on a même rédigé le langage en français et en anglais qu'on proposerait pour être ajouté au projet de loi. Des trois changements, le premier, c'est que le ou la commissaire doit être quelqu'un qui est en fonction et qui ne dépend pas du gouvernement de l'heure. C'est essentiel pour que cette personne puisse se sentir à l'aise de procéder de l'avant avec les recommandations et les enquêtes. Donc, on suggère d'avoir un terme; on recommande un terme de sept ans. Les commissaires dans ce poste aux Territoires du Nord-Ouest, au Nouveau-Brunswick et au fédéral ont une période, ont un terme. C'est la première suggestion pour s'assurer que le commissaire puisse s'y rendre.

La deuxième suggestion, c'est qu'il est important que le commissaire puisse mener à bout son enquête. Présentement, ce qui arrive, c'est qu'il peut tout faire ce qu'il a à faire, sauf s'assurer que la violation arrête ou que le droit soit respecté. Donc, ce qu'on suggère, c'est que—et on retrouve la même chose avec le commissaire aux services en français aux Territoires du Nord-Ouest et la loi fédérale—on demande qu'il puisse ester en justice. Ça veut simplement dire que s'il dépose son rapport et que la violation n'est pas réparée ou il n'y a pas de respect, il peut procéder devant les tribunaux. Que ce ne soit pas le gouvernement ou le ministère ou, pire, un individu qui soit obligé ensuite de prendre le rapport pour se présenter devant les tribunaux. Donc, on demande qu'il puisse ester en justice, ce qui veut dire qu'il puisse aller devant les tribunaux.

Dans la même clause, vous allez voir que si un individu ou une organisation décident, eux, d'aller devant les tribunaux et c'est prévu qu'ils le peuvent, le commissaire peut intervenir. Le commissaire a intérêt—il ou elle va avoir intérêt à ce que la loi soit respectée et, pour qu'elle soit respectée, parfois il faut faire intervenir les tribunaux. Souvent, c'est pour que les tribunaux puissent interpréter l'étendue de l'obligation. Donc, c'est le deuxième point.

Le troisième point c'est que c'est une réalité que les gens ne font pas de l'argent avec la Loi sur les services en français. Le francophone qui demeure à Welland ou qui demeure à Sturgeon Falls, si ses droits sont violés et il va aller devant les tribunaux, ce n'est pas pour avoir de l'argent; c'est pour protéger sa culture et sa langue, ce qui est essentiel. C'est clair que c'est essentiel. L'Ontario veut protéger sa minorité linguistique—c'est l'objectif de la loi—mais pour le faire, ils ont besoin d'un avocat. On vous demande comme troisième amendement que, comme on retrouve dans la Loi sur les langues officielles fédérale, il est prévu dans la loi que si un individu se rend pour contester une violation devant les tribunaux, les tribunaux ordonneront que ses frais juridiques soient payés. Qu'il ait gain de cause ou qu'il n'ait pas gain de cause—d'abord, s'il n'a pas agi de façon déraisonnable—ses frais juridiques vont être payés.

La raison pour laquelle c'est important, c'est que dans le système judiciaire qui existe aujourd'hui, si tu vas devant les tribunaux et tu perds, mais tu n'as pas tes dépens—un individu ne peut pas prendre la chance de ne pas avoir gain de cause et avoir une hypothèque sur sa maison parce qu'il a voulu protéger sa communauté. Donc, l'importance—que ce soit prévu comme c'est prévu dans la Loi sur les langues officielles fédérale—la communauté, les citoyens peuvent utiliser la loi pour se rendre devant les tribunaux et c'est prévu qu'ils vont avoir une ordonnance pour les payer, et l'ordonnance seconde finalement le ministère qui viole leurs droits.

Ce sont les trois changements qu'on propose. L'objectif est de s'assurer que ce qu'on veut réaliser avec l'amendement et la création, c'est qu'on puisse le réaliser, et le réaliser autant que possible.

Je vous remercie et je pourrais répondre à vos questions.

**1620**

**The Chair:** Thank you. This round of questioning goes to the government. Mr. McNeely.

**M. Phil McNeely (Ottawa–Orléans):** Merci, madame Lalonde et monsieur Caza, d'être venus ici aujourd'hui. On a eu une présentation ce matin d'Anthony Pylypuk de Welland. J'étais membre de l'APF et on est allé à Welland, où j'ai rencontré quelqu'un qui avait le même nom que ma mère : Morin. Alors, je sais comment c'est important à travers la province d'avoir des services en français. Lui a bien expliqué l'affaire de l'assimilation et c'est très important pour toutes les personnes qui sont à la table ici.

Premièrement, je veux dire que M$^{me}$ Lalonde est la personne qui a sauvé l'Hôpital Montfort, avec notre leader de la francophonie à Ottawa et à Orléans, dans ma « riding ». Les trois domaines que vous avez mentionnés, vos trois demandes, à mon avis, ne sont pas très difficiles. On a bien compris M$^{e}$ Pylypuk, ce matin, qui a dit la même chose en anglais, alors je n'ai pas de questions. Si vous voulez prendre le temps pour souligner les parties des trois demandes, vous l'avez.

**M$^{e}$ Caza:** Peut-être que j'aimerais prendre l'occasion pour faire un petit résumé en anglais, si vous me le permettez.

The only reason that these amendments are being requested—and it's the only reason—is just to ensure

that what the government wants to realize by creating the position of commissioner, that the commissioner is able to fully play that role. That's why there are three amendments: One is simply that he's named to a specific term. The second one is that he's able to go before the courts, because if he's not able to go before the courts, he's really only in a situation of being somewhat of a whistleblower or somebody able to bring issues. The reality is this: The francophone community cannot wait. It can't wait years and years. When the issue arises, it must be dealt with.

There's recent case law from the Supreme Court of Canada where they've actually said that when you're dealing with linguistic rights, it's important for the judge to be able to do what judges normally don't do: take control of a file. Make sure that schools are built. Make sure that rights are respected. The reason is that it's irreparable harm every day. That's why it's essential that the commissioner, whose mandate it will be to ensure that the law is respected, has the power—if it's not being respected—to go before the courts to ensure that the law is being respected.

The last section is to ensure that individuals—ordinary people from across the province—don't risk losing their homes because they decide to challenge a ministry that's not respecting the act, which is why you provide that, as long as they're not acting unreasonably, their legal costs will be paid. The judge will order that their legal costs be paid.

If you make those changes, we feel that what you're doing is you're empowering the commissioner to make sure that he is able to realize what you all want him to realize with this amendment.

**The Chair:** Any other questions?

**M. McNeely:** Avez-vous d'autres commentaries, madame Lalonde?

**Ms. Lalonde:** Oui. Maybe I could say that as a school trustee, I remember that as a francophone, even as the chair of the Ontario School Trustees' Council, they would always say that francophones were a group of interest. I think that today, the government makes us realize with this legislation that they also recognize the French fact in Ontario and that we are one of the founding nations.

For us, you cannot imagine what would be the acknowledgement, la valorisation, of the francophones. We have made a great, great step forward with la francophonie. Ontario should be very proud today of what they're doing because we have a lot to do also in Canada, and this is a model for other provinces that have not done it.

**Mr. McNeely:** We are very proud of what you've done.

**The Chair:** Thank you for your presentation.

## CENTRE FRANCOPHONE DE TORONTO

**The Chair:** Now I call on the Centre francophone de Toronto. You have 10 minutes for your presentation. There may be up to five minutes of questioning following that. I would ask you to identify yourselves for the purposes of our recording Hansard.

**M. Jean-Gilles Pelletier:** Chers membres du comité, mon nom est Jean-Gilles Pelletier. Je suis le directeur général du Centre francophone de Toronto. Je suis accompagné de M$^{e}$ Aissa Nauthoo, la directrice juridique du centre francophone.

Je tiens d'abord à féliciter le gouvernement, et particulièrement la ministre Meilleur, qui vient de nous quitter pour la création du poste de commissaire et d'un commissariat aux services en français. C'est une réalisation qui sera importante.

Seulement pour votre information—and we'll be able to answer questions in English later on—le Centre francophone de Toronto offre des services en français à Toronto depuis les 30 dernières années. Nous sommes mandatés par plusieurs paliers de gouvernement. Le centre francophone offre des services en français au nom du gouvernement du Canada, entre autres de Citoyenneté Canada, Ressources humaines Canada, Patrimoine canadien et Santé Canada; évidemment au nom du gouvernement de l'Ontario, du ministère de la Santé et des Soins de longue durée, des Services à l'enfance et à la jeunesse, d'aide juridique, des Affaires civiques et l'Immigration, et aussi du Conseil des arts de l'Ontario; et au nom de la ville de Toronto, de Santé publique. Donc, nous sommes un mandat, un organisme mandaté par plusieurs paliers de gouvernement, mais définitivement par le gouvernement provincial.

De par notre expérience sur le terrain, nous sommes persuadés que l'établissement du commissariat aux services en français ne fera qu'augmenter la protection des droits des francophones en Ontario. En veillant au respect de la Loi sur les services en français, la mise en place du commissariat permettra aux francophones de bénéficier d'un mécanisme plus efficace pour donner suite à leurs plaintes quand les ministères et agences ne se conforment pas aux exigences de la loi. En effet, en dépit des garanties qu'offre la Loi sur les services en français, il n'existe pas de mécanisme adéquat pour protéger les droits des francophones et francophiles à recevoir des services en français et peu de moyens légaux pour faire respecter la loi.

J'aimerais maintenant attirer votre attention sur l'importance reconnue dans le projet de loi pour le commissaire d'analyser non seulement l'équivalence des services, mais également la qualité de ces services. En effet, à titre d'agence désignée sous la Loi sur les services en français, le Centre francophone de Toronto a constaté à maintes reprises l'importance d'adopter des approches novatrices pour offrir des services en français de qualité, qui sont parfois bien différentes des approches privilégiées pour offrir des services en anglais.

Dans ce contexte, la création du commissariat pourra mener à une amélioration de la qualité des services en français ainsi qu'à un accès accru à ces services.

Ils nous apparaît également important de souligner l'importance pour le commissaire de pouvoir considérer

non seulement les services offerts par les ministères, mais également les services offerts par les agences de transfert de paiements, tel le Centre francophone de Toronto, tel que prévu à l'article 2b) de l'annexe 16. L'offre de services en français de la part de ces agences, bien qu'ils soient encadrés contractuellement, est souvent boiteuse, particulièrement quand ces agences ne sont pas désignées sous la Loi sur les services en français.

Deux constats particulièrement sous-tendent notre point de vue à cet égard. Premièrement, les services offerts par les agences de transfert de paiement sont des services de bases essentiels pour maintenir la qualité de vie des Ontariens et Ontariennes, et particulièrement des citoyens désavantagés financièrement et vulnérables. Deuxièmement, il est évident depuis les 20 dernières années que les ministères ont recours de plus en plus fréquemment aux agences pour offrir des services directs en leurs noms. Dans ce contexte, la capacité du commissaire d'analyser les ententes contractuelles qui lient ces agences aux ministères gouvernementaux est une fonction prometteuse, et nous l'applaudissons sincèrement.

Nous aimerions cependant faire les observations suivantes afin d'assurer l'efficacité des fonctions du nouveau commissaire et d'assurer que les objectifs de cette loi soient rencontrés. Ça me fait plaisir maintenant de passer la parole à M[e] Nauthoo.

**M[e] Aissa Nauthoo:** Chers membres du comité, permettez-moi aussi de féliciter le gouvernement pour cette initiative de créer un commissariat et un poste de commissaire aux services en français. Je suis ici non seulement à titre de représentante de la clinique juridique du Centre francophone de Toronto, mais je parle aussi au nom du Réseau francophone des cliniques juridiques de l'Ontario, dont je suis membre. D'ailleurs, ce réseau a fait des soumissions écrites concernant le projet de loi.

**1630**

Le réseau représente des cliniques qui offrent des services en français aux justiciables francophones à faible revenu qui ont souvent recours à des tribunaux. Quand je dis tribunaux, je parle surtout des tribunaux administratifs tels que le tribunal du logement et le tribunal d'aide sociale. Dans ce contexte, l'accès à des services en français, que ce soit au niveau des services gouvernementaux ou au niveau des tribunaux, est crucial afin que ces justiciables puissent trouver une résolution à leur problème.

Personnellement, je peux attester au fait qu'il existe pour le moment plusieurs problèmes au niveau de la prestation des services de la part de ces tribunaux et de ces agences gouvernementales. Par exemple, au niveau du tribunal d'aide sociale, pour le moment on a un problème avec les décisions des membres du tribunal qui sont émises en anglais, un mois après que l'audience ait eu lieu en français, et les décisions en français sont émises quatre à six mois plus tard, juste parce qu'on demande d'avoir la décision rédigée en français.

Avec le mécanisme actuel, il est vrai qu'on avait la possibilité de déposer une plainte à l'Office des Affaires francophones, mais on reconnaît que l'office a aussi plusieurs d'autres obligations que simplement de résoudre des problèmes au niveau des droits linguistiques. C'est pourquoi nous sommes d'avis que la création de ce poste va vraiment faciliter notre travail au niveau des cliniques qui offrent des services en français.

Nous aussi aurions aimé recommander quelques amendements à la nouvelle loi, et c'est plus ou moins ce qui a été énoncé par M[e] Caza tout à l'heure en ce qui concerne notamment les fonctions et pouvoirs du commissaire, l'indépendance du commissaire et l'absence d'un recours judicaire dans la nouvelle loi.

Dans le projet de loi, la fonction du nouveau commissaire est plutôt de favoriser l'observation de la loi. Cependant, on a fait une comparaison de ces pouvoirs avec ceux de l'ombudsman de l'Ontario et ceux du commissaire fédéral aux langues officielles, et nous sommes d'avis que ceci soulève des questions importantes quant à l'efficacité du travail du commissaire.

L'article 58 de la Loi sur les langues officielles confère au commissaire fédéral sur les langues officielles le droit d'enquêter sur les plaintes faisant état d'un cas de non-reconnaissance du statut d'une langue officielle ou à l'esprit de la Loi sur les langues officielles. Le commissaire fédéral a le pouvoir de recommander que des lois ou règlements soient reconsidérés. De la même façon, les pouvoirs de l'ombudsman provincial incluent le pouvoir de recommander à une organisation gouvernementale qu'une certaine loi doit être réexaminée. Cependant, si on regarde le libellé du texte de l'annexe 16 du projet de loi, le texte suggère que les pouvoirs du commissaire seraient limités à la favorisation de l'observation de la loi tel quel ou telle qu'interprétée par le ministre délégué aux Affaires francophones, qui est chargé de l'application de la présente loi.

Nous soumettons respectueusement que la modification au projet de loi devrait être explicite en ce qui concerne le pouvoir du commissaire de recommander des changements dans l'interprétation de la Loi sur les services en français et ses règlements par le ministre aux Affaires francophones. D'autre part, nous soumettons que l'expression « favoriser l'observation de la présente loi » au paragraphe 12.2 de l'annexe 16 soit modifié à : « assurer le respect de la présente loi. » Dans le même contexte, la version anglaise, selon nous, devrait être modifiée afin que le terme « encourage » soit remplacé par le mot « ensure. »

**The Chair:** You have a minute left for your presentation.

**M[e] Nauthoo :** Je passe au deuxième point : l'indépendance et le mandat du commissaire. Selon les modifications dans l'annexe 16, le commissaire serait nommé par le lieutenant-gouverneur en conseil. Par contraste, l'ombudsman, qui est un officier de l'Assemblée législative, est nommé par le lieutenant-gouverneur en conseil sur adresse de l'Assemblée législative et pour une durée prescrite. Il ne peut exercer d'autres fonctions et n'est pas fonctionnaire. Le commissaire aux langues officielles doit aussi se consacrer uniquement à sa charge, et a un mandat pour une période déterminée.

Le processus de nomination proposé dans l'annexe 16—simple nomination par le lieutenant-gouverneur en conseil—n'assure pas l'indépendance du commissaire et pourrait nuire à l'efficacité de ses fonctions. Par souci de transparence, nous soumettons que le modèle de nomination de l'ombudsman soit suivi et que le commissaire soit nommé sur adresse de l'Assemblée législative.

Le dernier point que j'aimerais mentionner est l'absence d'un recours judiciaire. Les modifications proposées sont silencieuses quant au droit de recours judiciaire de la part du plaignant et aussi sur l'initiative du commissaire. La Loi sur les langues officielles prévoit qu'un plaignant peut former un recours devant un tribunal judiciaire : la cour fédérale. La loi prévoit aussi la réparation qui peut être accordée à un plaignant eu égard aux circonstances.

Nous soumettons que les mêmes droits de recours judiciaire devraient être inclus dans les modifications à la Loi sur les services en français afin de donner l'occasion à un plaignant de poursuivre ses recours en cas d'insatisfaction à l'égard de la résolution de sa plainte. Merci.

**The Chair:** Thank you. This round of questions will go to the official opposition.

**Mr. Ernie Hardeman (Oxford):** Thank you for the presentation. I was kind of intrigued with your presentation on the commissioner and that point, again. It seems the previous presenters and yourselves are very pleased with the appointing of the commissioner, yet when we look at what amendments you're looking for, we seem to get to the point where it's a nice idea, but the way it's being done is not going to change much from what's presently happening. Is that a reasonable assumption?

**Mr. Pelletier:** I think what we are suggesting is improvements on something that's already very good. So the overall impact of this bill is going to be very significant towards improving the implementation of the French Language Services Act. We are proposing fine-tuning the proposal, but beyond that we are confident that it will improve the quality of French-language services being provided in Ontario.

**Mr. Hardeman:** I'm not suggesting that with your presentation you're pointing out that you don't think this is an improvement to what presently exists; I'm just referring to the office of the commissioner and the authority. I'm taken with the description of the appointment by order in council, by the Lieutenant Governor, as opposed to being a servant of the Legislature. I think it's very important to recognize the difference between the two: Appointment by order in council is in fact subservient to the minister; a servant of the Legislature has power over the minister. I think you make a very good point: If the intent of the position is to be able to defend French-language services from intrusion by government legislation, an office that doesn't have the power to override or to look at the minister's actions will not serve the community as I think it's intended to serve.

I think it's very important that that's recognized, that the government looks at making that change. If this is the way they want to go, and they want the power the Ombudsman has or the Provincial Auditor has—servants of the Legislature—if the French-language services commissioner is going to have that type of authority over French-language services, then it needs to be separated from government and cabinet. I think it's important to recognize that we keep talking about the Lieutenant Governor doing the appointing. The Lieutenant Governor only rubber-stamps the appointment of cabinet, whoever that may be. So I think it's very important that that's put in place.

The other thing—you mentioned about legal recourse beyond the commissioner making recommendations. Could you explain to me a little bit more about the legal recourse that you believe should be in existence beyond the commissioner's decision?

**1640**

**Ms. Nauthoo:** What we would ideally like to see in the amendments is a specific provision regarding legal recourse. Speaking from my point of view, from my clients that I serve at the community legal clinic, oftentimes these are people who are very poor; in fact, we practise poverty law. So they would be quite fortunate, actually, if they were even accepted by the legal clinic, given the amount of files that we have and given the limited resources that the clinics have. Going before the federal court oftentimes provides a big challenge for us. But in terms of the proposed amendments, what we're trying to say is that if the specific provisions are there—again, we're not saying that if the provisions are not there, the legal recourse would not be available—it will make it easier for somebody to appeal to the federal court in terms of having legal recourse.

**The Chair:** Thank for your presentation before the committee.

## ONTARIO MINING ASSOCIATION

**The Chair:** Now I call on the Ontario Mining Association to come forward, please. Good afternoon. You have 10 minutes for your presentation. There may be up to five minutes of questioning. I would ask you to identify yourself for the purposes of our recording Hansard.

**Mr. Peter McBride:** Thank you, Mr. Chair. My name is Peter McBride. I'm manager of communications with the Ontario Mining Association. Thank you for the opportunity to be here. I'm here today on behalf of the 57 members of our association in the mineral industry in this province. My president, Chris Hodgson, is actually in Dryden right now at a Northern Ontario Municipal Association event.

I'd like to say that certainly there are some positive aspects in the budget as it was presented from the point of view of mineral producers. The commitment to geological exploration is very significant for the future of the industry. On the environmental front, the introduction of good Samaritan legislation for cleanup of abandoned mine sites on crown lands is something we've been ask-

ing for for a long time, and it's great to see it. Consultation money for working with First Nations is most helpful. And certainly, from any business point of view, the elimination of the unproductive capital tax is helpful. Also, there have been a number of announcements recently from the government supporting mining research at the Centre for Excellence in Mining Innovation, MIRARCO in Sudbury, and NORCAT as well.

To give the scope of this industry, it was over $9 billion in 2006, up from about $7.5 billion the year before. But it's an industry that's investing $100 million annually in high-tech R&D. For those who still think you need a strong back to be a miner, it may help in some cases, but 85% of the workforce uses advanced technology, and it's an industry that has 50% more PhDs than manufacturing on a per capita basis.

The big impact of the industry: It's investing and making capital expenditures of about $1.6 billion a year. There's very little leakage, and most of that stays within sight of a head frame. Most of it stays within Ontario and over 90% of it stays within Canada. But it's the nature of the industry to be supportive of building communities and providing spinoffs.

Productivity is second to none in the province. The province could probably do with more miners, since every one is producing over half a billion dollars in wealth for the province. But the benefits of the industry go far beyond simply the corporate taxes that companies pay. They're really just the tip of the iceberg. For the industry of late, not counting 2006, which is not calculated yet, you're looking at well over $400 million in corporate taxes, which roughly would match the personal income tax paid by the employees in the industry. And for every well-paying mining job—the average is somewhere between $100,000 and $120,000 a year—you're looking at economic studies saying there are three service jobs which are created by it.

One area of controversy in the budget that was raised, of course, is the proposed diamond royalty that would basically triple the mining tax paid by De Beers, after they had built a business case to invest $1 billion.

I do have to emphasize that sometimes the tax issues are misleading. All mining companies in Ontario pay all corporate taxes, the same as everybody else. On top of that, they also pay Ontario mining tax. Tim Hortons, General Motors and the cafeteria at Queen's Park do not pay Ontario mining tax. This is not the only tax mining companies pay; it's in addition to it.

The way the royalty is proposed, which goes beyond the bounds of the existing mining tax, can do serious harm to the future of our economy and especially northern Ontario. You're adding another layer of cost to a very internationally competitive business, and I think, in all seriousness, you're harming the international reputation of this province, which has worked very hard over the last couple of decades to produce a competitive tax regime and a competitive infrastructure.

Reputation is very important. Publications beyond Ontario, in Europe, Africa and Australia—I'll use one quote that's typical: "Victor is a relatively small mine and it is Ontario's only diamond mine, which makes it look like the punitive royalty is being levied on one mine, one company and one community." At this time, I'd like to point out that South Africa's new mining royalty bill has diamond royalty pegged at 5%.

I realize offshore investors don't vote at the ballot box in Ontario, but with this era of globalization, we all have to know that future employment and entrepreneurial opportunities for everybody in this province, especially young people, depend on international companies voting with their dollars to invest in our province. This action taken is doing nothing to encourage that.

Our reputation as a place to invest in mineral development has been eroding. As early as 2000-01, it was number one in the world. We have now slipped to 20th. Ontario's attraction percentages of exploration dollars in Canada have gone down from 32% to about 22% in the last five years. It's time for us to realize we need to work to reverse this trend.

In the business pages every day you can see there's a commodity boom going on in the world around us. Provinces and countries are benefiting from this. In British Columbia right now, you've got 25 mining projects with over $6 billion of investment in the pipeline and all the spinoff benefits that brings. It's not encouraging to see from the perspective of a Canadian and Ontarian, but by 2010, you can expect to see Canadian mining companies having invested over $14 billion in mineral-producing projects in Africa, which some people equate with not-strong tax regimes. Ontario, plain and simply, is not getting its share of mineral development that's going on in the world right now. We have the geology. What's holding us back, I believe, is the politics.

Historically this industry certainly has been a strong player in the development of the economy of our infrastructure and will continue to do so. Mining is a long-term industry, from the time you look for a mineral before it's a commodity that's produced that you can sell to the world. I would really like to encourage the government to give greater consideration to the impact of its action on the economics of this sector, the wealth it creates and the community development it provides.

Those are my official comments. I'd be pleased to take questions.

**The Chair:** Thank you for the submission. The questioning will go the NDP and Mr. Prue.

**Mr. Prue:** We've had some other deputants earlier today and the last day on the same topic. I just want to try to understand the impact if a company like De Beers or some other similar company didn't open up more diamond mines. We've heard of the hundreds of jobs being offered for the first time to native youth in Attawapiskat, the training, the kids going to college, the infrastructure being built in villages where there was none. Can you confirm that and tell us what the long-term aspects are? If Ontario continues to go from number 1 to number 20, I'd hate to think of what it would look like if we were at number 40.

**Mr. McBride:** Thank you for that question, Mr. Prue. Yes, I can say that without the close to $1-billion investment from De Beers, I think the whole province would be a lesser place. We can talk about the raw numbers of basically that $1-billion investment, where contributions to the gross domestic product of Ontario are almost a seven times factor: The $1 billion becomes about $6.85 billion.

**1650**

But I think, more importantly, what you've got to look at is this, and again, I want to stress the infrastructure and community development of mining: Close to $90 million has been spent by De Beers extending the electricity transmission line from Moosonee up the west coast of James Bay. That infrastructure, without the diamond mine, would not be there. The winter roads, which cost about $12 million a year to maintain, would not be there helping those communities stay in touch with the world and providing economic opportunity for them. I'm not a member of a First Nation . I can't pretend to speak on their behalf, but I know second-hand from the ones in all of northern Ontario that they see this as a shot at the wage economy, which they don't normally have. I don't think you can put a dollar value on human development. There are skills that could be developed and be totally transferable, but it has the potential to change a lifestyle and bring—I hate to use the term in our own province—Third World communities into at least the second, if not the first world. I think communities elsewhere—we lose perspective in southern Ontario. To fly from Timmins, which De Beers is using as their base for this mine, it's a two-hour flight to Attawapiskat. You can fly from Toronto to Halifax in that time.

What it means for all of northeastern Ontario is, again, equally significant for infrastructure, training and development. But I think the personal aspect that wouldn't be there and wouldn't be in that part of the province otherwise is what I'd like to emphasize.

**Mr. Prue:** More time?

**The Chair:** Yes.

**Mr. Prue:** Okay. Many members of this committee and many members of the Legislature have had an opportunity to travel in northern Ontario with committees. They've seen the life in many of the aboriginal communities, the First Nations communities, the northern store where a quart of milk costs like $12, and nobody has a job. Have you been to Attawapiskat lately? Has any of that improved? Have prices come down? Have people got money to buy ordinary things for their kids, like fresh vegetables and fruit?

**Mr. McBride:** I think, Mr. Prue, the best thing to say is that what the mine has brought to that community is hope—hope of training, of developing a skill. It might be as a welder, it might be as an environmental technician; it could be anything like that. But because of the infrastructure improvements of electricity, of winter roads, yes. Not to what you would find, of course, at Main and Danforth or something like that. But certainly to give families in that community more of a chance to buy the things we take for granted in southern Ontario, yes, that's happening.

**Mr. Prue:** And it is your position and the mining position that if we have this punitive tax, royalty, this grab from this government, there will potentially be far fewer opportunities like De Beers for northern communities.

**Mr. McBride:** Absolutely, and I think we're seeing, unfortunately, a trend that could be going in that direction.

**Mr. Prue:** Thank you.

**The Chair:** Thank you for your presentation.

**Mr. McBride:** Thank you, committee.

## ASSOCIATION DES JURISTES D'EXPRESSION FRANÇAISE DE L'ONTARIO

**The Chair:** Now I call on l'Association des juristes d'expression française de l'Ontario. It might not have been good, but you knew what I was saying anyway.

**Ms. Louise Hurteau:** We like to say l'AJEFO.

**The Chair:** You caught on.

**Ms. Hurteau:** I did catch on. It's a long title.

**The Chair:** I apologize for my French. You have 10 minutes for your presentation, and there could be five minutes of questioning. I would ask you to identify yourself for the purposes of Hansard.

**M^e^ Hurteau:** Louise Hurteau, présidente de l'Association des juristes d'expression française de l'Ontario, l'AJEFO.

Monsieur le Président, honorables membres du comité, mes représentations porteront sur l'annexe 16, annexe qui propose des modifications à la Loi sur les services en français, et plus en particulier touchant le mandat du commissaire. Ma courte présentation se divisera en trois parties. Dans un premier temps, je vais vous expliquer qui nous sommes en tant qu'organisme. Dans un deuxième temps, je discuterai de nos attentes du poste du commissaire aux services en français. Dans un troisième temps, je vous présenterai nos recommandations.

L'AJEFO est un organisme à but non lucratif. Nous regroupons des juristes de l'Ontario, incluant avocats, juges, étudiants, interprètes et traducteurs. Depuis sa création en 1980, l'AJEFO défend la juste place à laquelle a droit en Ontario la langue française.

Plus précisément, l'AJEFO revendique l'accès à la justice en français, propose des réformes législatives et réglementaires jugées « indiquées », rappelle aux acteurs gouvernementaux et paragouvernementaux leurs obligations juridiques et leurs devoirs moraux en matière de langue française, éduque les membres des communautés d'expression française par rapport à leurs droits linguistiques et conscientise les Ontariens de la province vis-à-vis du fait français.

L'AJEFO apprécie et applaudit l'initiative du gouvernement de créer un poste de commissaire aux services en français. L'AJEFO propose des recommandations à la fois précises et constructives visant à permettre au

gouvernement de traduire concrètement sa volonté de protéger la minorité francophone en Ontario et d'enrichir les droits des Ontariens de recevoir des services en français; effectivement, de faire progresser le français en Ontario.

Comme elle a été établie, la Loi sur les services en français a été adoptée en 1986 dans le contexte général d'une progression et d'une amélioration constantes des services en français. La création du poste de commissaire n'est qu'une mesure pour fin de s'assurer l'accès égal aux services du gouvernement pour la communauté francophone. Ainsi, avec le titre de commissaire, les attentes de la communauté francophone étaient élevées, surtout lorsqu'on considère que cette personne sera responsable d'une loi quasi constitutionnelle. Le commissaire doit jouer un rôle plus large que d'être conseiller et stabilisateur, tel que prévoient les modifications à la loi présentement.

Nous nous attendions à ce que le commissaire soit un agent indépendant du cabinet et qu'il, ou elle, ne se rapporte pas directement au ministre délégué aux Affaires francophones pour effectivement donner à ce poste plus de crédibilité et de l'impartialité. De plus, nous nous attendions à ce que cette personne joue les rôles suivants :

Un rôle de protecteur des services en français de qualité. En dessus de comprendre le droit d'enquêter et de faire des recommandations, cette personne doit pouvoir faire le suivi de ses recommandations et agir s'il y a inaction de la part des organismes gouvernementaux.

Un rôle de vérificateur : qu'il puisse exercer une surveillance sur l'ensemble des organismes gouvernementaux assujettis à la loi.

Un rôle de liaison : qu'il puisse collaborer avec les organismes gouvernementaux dans leurs efforts pour améliorer la mise en œuvre de la loi.

Un rôle de vigie : qu'il puisse agir de façon préventive en intervenant dans l'élaboration de vos lois, des règlements et des politiques du gouvernement pour s'assurer la mise en œuvre de la loi.

Des rôles de promoteur et d'éducateur : qu'il puisse faire la promotion des services en français auprès du public et des organismes gouvernementaux.

Je vous ai fait parvenir un document qui résume les recommandations. Vous en avez entendu parlé par M^e^ Caza, M. Jean-Gilles Pelletier et M^e^ Aissa. Évidemment, si vous regardez les points, l'indépendance de ce rôle est très important. Je ne vais pas répéter cela. Le paragraphe 12.2 de la Loi sur les services en français : je suis d'accord que l'on change le mot à « assurer ». On a indiqué « pour veiller à l'observation », et en anglais c'est « to ensure compliance ». Les deux m'iraient ou iraient à l'AJEFO.

Plus en particulier, le point trois que nous faisons sur la feuille que vous avez, que j'ai rédigée en français, c'est effectivement de donner le rôle au commissaire de recommander des mesures correctives qu'il estime appropriées, d'accorder du temps à l'organisme gouvernemental visé de se plier à ses recommandations, d'effectuer un suivi pour assurer que les recommandations ont été suivies, et s'il constate que les recommandations n'ont pas été suivies, qu'il se rapporte à l'Assemblée.

**1700**

Dans un troisième temps, vous verrez que nous avons ajouté le rôle de vigie dans nos recommandations.

Je vous invite, dans vos délibérés, de tenir compte de nos représentations et si vous avez des questions, il me fera plaisir de vous répondre. Je vous remercie de votre attention.

**The Chair:** Thank you for the presentation. This round goes to the government.

**M. Jean-Marc Lalonde (Glengarry–Prescott–Russell):** D'abord, je tiens à vous féliciter. Je crois que c'est la première fois que j'entends, depuis 12 ans, trois présentations en français qui sont données devant un comité permanent.

J'ai remarqué les questions qui étaient posées par le groupe Centre francophone de Toronto tout à l'heure, et puis vous référez à quelques-uns des points qu'ils ont mentionnés. Je dois dire que j'ai manqué la présentation de l'Hôpital Montfort avec le M^e^ Caza et celle de M^me^ Gisèle Lalonde. Je dois dire qu'elle n'est pas mon épouse, mais ce sont deux femmes super. Mon épouse est une femme super et M^me^ Lalonde d'ici est « M^me^ SOS Montfort. »

Je regarde aussi les recommandations que vous faites. Le commissaire doit répondre à qui, d'après vous?

**M^e^ Hurteau:** On voit vraiment un rôle indépendant. On voit ce rôle comme étant très semblable aux autres commissaires. Monsieur Lalonde, je crois que je dois faire référence à M. le Président et répondre à votre question. Il est très important que ce rôle de commissaire soit semblable aux autres rôles de commissaires que nous voyons dans les autres lois du gouvernement de l'Ontario et, semblablement, au commissaire aux langues officielles. C'est vraiment un genre d'ombudsman à quoi on s'attend : un chien de garde, effectivement, pour faire avancer nos droits.

**M. Lalonde:** Donc, son rapport ou ses recommandations doivent être soumis à l'Assemblée.

**M^e^ Hurteau:** C'est ce que nous recommandons.

**M. Lalonde:** C'est très bien. Un autre point qui m'a vraiment frappé, c'est lorsqu'on dit « encourage »—vous avez mentionné qu'on doit dire « doit assurer ». Je suis pleinement d'accord et j'espère que vous allez soumettre une modification; on dit toujours « amendement » mais c'est une modification au projet de loi qui fait partie de la Loi 187 actuellement.

L'autre point : Vous savez sans doute que nous sommes au-delà de 550 000 en Ontario. Maintenant, de plus en plus en Ontario, on s'aperçoit qu'un groupe comme le vôtre est demandé. C'est pourquoi? C'est qu'on reconnaît l'importance des francophones en Ontario. Si je regarde maintenant, on dit qu'il y a au-delà de 168 000 étudiants qui poursuivent des études qu'on appelle « immersion ». Lorsqu'on voit qu'il y a seulement 91 000 d'inscrits dans nos écoles francophones, cela démontre que de plus en plus, lorsqu'on veut faire

affaire avec le monde entier, dans le monde des affaires il est très important d'avoir les deux langues.

C'est pour ça qu'on voit aujourd'hui que la position de commissaire aux services en français devient de plus en plus importante—qui faisait partie de nos politiques, vraiment, lors de l'élection de 2003, puis aujourd'hui on ira dire, à ce point-là, que l'on l'a inscrite et inclue dans le budget, dans le projet de loi 187, afin de pouvoir le passer le plus tôt que possible.

Je vous félicite, et je dois dire que les points que vous avez soulevés seront certainement pris en considération.

**M^e^ Hurteau:** Je vous remercie.

## COMITÉ DES LANGUES OFFICIELLES DE L'ASSOCIATION DU BARREAU DE L'ONTARIO

## ONTARIO BAR ASSOCIATION, OFFICIAL LANGUAGES COMMITTEE

**The Chair:** Good afternoon. I know that you've been sitting there for some time but I feel compelled to tell you that you have 10 minutes for your presentation and five minutes of possible questioning. I would ask you to identify yourself for the purposes of our recording Hansard.

**M^e^ Michelle Vaillancourt:** Merci beaucoup, monsieur le Président et honorables membres du comité. Mon nom est Michelle Vaillancourt. Je suis une avocate et la présidente du Comité des langues officielles de l'Association du Barreau de l'Ontario.

Le Comité des langues officielles de l'Association du Barreau de l'Ontario a comme mandat de promouvoir l'usage du français au sein de l'administration de la justice en Ontario et de représenter les intérêts des juristes d'expression française au sein de l'ABO, l'Association du Barreau de l'Ontario. Aujourd'hui, je ferai ma présentation dans les deux langues officielles. Je vais commencer en français.

Premièrement, le Comité des langues officielles de l'ABO, tout comme les autres organismes francophones devant vous aujourd'hui, applaudit le gouvernement ontarien en ce qui a trait à la création d'un commissariat aux services en français. Nous remercions également l'honorable ministre M^me^ Meilleur pour tout son travail à cet égard.

Comme dans le cas des autres organismes, nous avons certaines suggestions à faire en ce qui a trait aux modifications à la loi, et je reviendrai sur ce point dans quelques minutes. Avant de passer à nos suggestions, j'aimerais juste faire un petit tour en ce qui a trait à notre communauté francophone ici en Ontario. On retrouve dans le préambule de la Loi de 2001 sur l'emblème franco-ontarien que la langue française est présente en Ontario depuis près de 350 ans. Les premiers francophones qui se sont installés dans le territoire de l'Ontario furent les missionnaires qui établirent la mission de Sainte-Marie-au-Pays-des-Hurons en 1639. Donc, notre présence en Ontario remonte à longtemps.

La communauté francophone de l'Ontario compose la communauté francophone la plus nombreuse au Canada après celle du Québec. Le français est l'une des langues officielles du Canada, et en Ontario il jouit d'un statut de langue officielle devant les tribunaux, dans l'éducation et à l'Assemblée législative.

Selon l'information retrouvée sur le site Web de l'Office des Affaires francophones, on est plus de 500 000 francophones qui habitent en Ontario présentement, ce qui est 4,2 % de la population ontarienne. La Loi sur les services en français nous donne le droit d'employer le français pour communiquer avec le siège et l'administration sociale d'un organisme gouvernemental et d'une institution de la Législature, et d'obtenir des services en français. Ce même droit existe à l'égard de tout autre bureau de l'organisme ou de l'institution qui se trouve dans une région désignée selon la loi.

Traditionnellement, selon le site Web des Affaires francophones, là où on trouve des francophones équivalant à 10 % de la population, ou si on a 5 000 habitants francophones, on réussit à obtenir une désignation; notre région devient désignée. Ça veut dire qu'on a un plus grand accès à des services en français des bureaux gouvernementaux de l'Ontario. Présentement, on a 25 régions désignées en province et il y a 201 agences qui ont été désignées pour offrir tous leurs services, ou une partie de leurs services, en français, tel le Centre francophone de Toronto, qui a fait une présentation ce matin.

Cela veut dire qu'une personne francophone peut se rendre à un de ces bureaux du gouvernement de l'Ontario ou aux centres francophones et être servie en français. L'importance de cela c'est que, plus on a accès comme francophone à des services en français, plus on se sent valorisé au niveau de notre langue et notre culture, et plus grandes sont les chances qu'on va maintenir notre langue et notre culture et que cette langue et cette culture seront transmises à notre prochaine génération.

Pour ce qui est de nos commentaires à l'égard des modifications de la Loi sur les services en français, nous répétons en large partie ce qui a déjà été dit par d'autres organismes, mais je voulais porter votre attention spécifiquement à la Loi sur les langues officielles fédérale : a cet égard, en ce qui a trait au point que l'honorable M. Lalonde a soulevé avec M^e^ Hurteau, le besoin que ce poste de commissaire se rapporte à l'Assemblée législative.

**1710**

According to section 49 of the Official Languages Act, "The Governor in Council shall, by commission under the Great Seal, appoint a Commissioner of Official Languages after consultation with the leader of every recognized party in the Senate and House of Commons and approval of the appointment by resolution of the Senate and House of Commons."

In this case, the Official Languages Committee of the ABO supports the AJEFO's recommendation that the appointment of the commissioner under the French Language Services Act be following approval by the Legislative Assembly, thereafter to be named by the Lieutenant Governor in Council. That's one point.

Secondly, with regard to a fixed term raised by Maître Caza this morning—the seven-year fixed term, which we

also see in the federal Official Languages Act, subsection 49(2)—the official languages commissioner is appointed for a period of seven years. We agree with that recommendation, that that should apply in the case of the French Language Services Act as well.

With regard to the other point raised by Maître Caza and others this morning, the need to have legal recourse: This can also be found in the Official Languages Act, section 77 and onwards. That is a very important addition that needs to be made to the French Language Services Act. But before I get there, I wanted to say one other thing: In response to the comments made by Maître Hurteau just now regarding certain modifications that she's requesting on behalf of her association, that they be made to the French Language Services Act—these are also supported by the Official Languages Act of Canada. There are sections there that, after the commissioner has done his or her inquiry, the commissioner can go to the entity and the ministry and can propose certain corrective measures. It can then do a report to Parliament thereafter.

All of the things that Ms. Hurteau raised earlier on, we can see support for those proposals in the Official Languages Act. It's a very good reference tool for us because we have legislation that's very similar, it's quasi-constitutional, as is the French Language Services Act. There are tools in that act that would allow us to accomplish the goals that we would want to accomplish in Ontario with the appointment of this new commissioner. I invite you to refer to sections 49 to 81 of the Official Languages Act, which deal with the Commissioner of Official Languages.

Finally, on the issue raised by Maître Caza this morning, sections 77 and 78 of the Official Languages Act allow a complainant who has made a complaint to the commissioner, after filing the complaint, to bring the matter before the courts for assistance. It allows the commissioner to do the same. The commissioner can do so as a party or as an intervenor. This is a great advantage in terms of access to justice because of the difficulty and expense of bringing a matter before the courts. This is a discouraging factor for many individuals. Although they may have a very valid case, they may be completely deprived of services that they're entitled to under the French Language Services Act, but they may not have the means to pursue this recourse before the courts. The benefit of the provisions of the Official Languages Act, which we suggest be repeated in the French Language Services Act, is that it allows an individual access to justice either through the commissioner taking on the case or through the individual receiving funding for their costs where the case is reasonable—the other provision that Mr. Caza raised this morning.

In large part, we support the recommendations made by other French organizations earlier on. We invite you to refer to the provisions of the federal Official Languages Act, as many of the things raised today are supported in that act. Thank you very much.

**The Chair:** Your timing's impeccable. Now we'll go to the official opposition.

**Mr. Hardeman:** Thank you very much for the presentation. I wanted to go to the appointment of the commissioner and the concern that has been expressed by—I haven't had the opportunity to hear all the delegations, but the ones that I've been listening to here, every one of them has pointed out the problem with the way that they're being appointed: by order in council as opposed to being appointed by a resolution of the Legislature.

You being from the legal institution in the province, shall we say: Does a commissioner appointed by order in council, which is cabinet, which is on the recommendation of the minister responsible for French-language services—the complaint will primarily be about French-language services. Legally, is there really any power for that commissioner? It's a nice title, but what would be the power that they would have?

**Ms. Vaillancourt:** The way the amendments are proposed at this point, the power is limited to the power to make recommendations. The Official Languages Act goes further than that. It allows the commissioner to actually bring a proceeding before the courts if it is not satisfied that corrective measures have been implemented following its recommendations. While there is some political power to recommendations being made by the proposed commissioner, we believe there should be more teeth to the legislation, which would allow that commissioner to take it further if, following its recommendations, appropriate actions are not taken. The commissioner could then take it onwards toward the courts.

**Mr. Hardeman:** When you're referring to the French Language Services Act, you're referring to the federal act, where they have the power to take it to the courts.

**Ms. Vaillancourt:** Yes. The federal Official Languages Act allows the commissioner to take it before the courts. The current modifications to the French Language Services Act don't go that far. We're proposing that the modifications go further.

**Mr. Hardeman:** It seems, in all the presentations, that there's some real merit in some of your suggestions. If we're going to have a commissioner, let's have a commissioner who has the authority to do what the system requires. This is a budget bill, but all the discussion coming forward that I've sat through is on the French-language-services portion of the budget bill. The government would know what the federal act says, and we hear all the references to what's in the federal act. We should be making amendments to this one to more closely align it with the federal act. The government must have known the federal act existed. Why would those things not be in it?

**Ms. Vaillancourt:** I'm not really well placed to answer that. I don't know. All I can say is that today, as French organizations were coming before you to say that we applaud the change—we're very happy about the change; we simply want certain additions to be made to this new position to render it a bit more effective to accomplish the goals of the French Language Services Act. I don't know why those weren't put in there at first instance, but what we're hoping is that upon this committee's hearing our submissions today, you will

refer to the proposals put forward by certain organizations, look to the Official Languages Act and give the proposed commissioner a bit more power.

**Mr. Hardeman:** I share your hope; I just don't share your vision that the changes will take place. I think they were intentionally left out. As they were preparing this amendment, they had the right amendment before them. They decided not to put that in this bill.

Forget the federal bill altogether; look at what's there now. What extra powers or what extra benefits are we going to get out of this act without giving a commissioner more power to actually force government to do something?

**Ms. Vaillancourt:** Right now, as it is, if a person is complaining about a violation to the French Language Services Act, the person has two recourses: He or she can file a complaint with the Office of Francophone Affairs or bring an application for judicial review to the courts. Currently, the Office of Francophone Affairs has many mandates, one of which is to receive complaints. With the creation of this new body, that will be its primary focus. The benefit of this modification will be, we hope, a more expanded inquiry and investigation process than is in place right now because there are limited resources to do that level of investigation, given all the other things that office has to handle.

Certainly, that's a benefit right there: the expanded investigation and the resources for that. But as we say, we think that the legislation needs to go further because the power to make recommendations is nice, but there also needs to be some ability to do follow-up if corrective measures are not implemented.

**The Chair:** Thank you for the presentation.

**1720**

## POLICE ASSOCIATION OF ONTARIO

**The Chair:** Now I call on the Police Association of Ontario to come forward, please. Good afternoon. You have 10 minutes for your presentation. There may be up to five minutes of questioning following that. I would ask you to identify yourselves for the purposes of our recording Hansard.

**Mr. Bruce Miller:** My name is Bruce Miller and I'm the chief administrative officer for the Police Association of Ontario. I was also a front-line police officer for over 20 years prior to taking on my current responsibilities. With me is Karl Walsh, the president of the Ontario Provincial Police Association. Karl has been a front-line officer for 20 years. Finally, Mr. Ron Middel is here today. He is the vice-president of the OPP Association.

The Police Association of Ontario represents over 30,000 police and civilian members from every municipal police association and the OPPA. We have included further information on our organization in our brief.

We appreciate the opportunity to provide input into this important process. As you know, Bill 187 covers a number of areas, many of which are outside of our expertise. We plan to address one specific area that we believe will have a positive impact on community safety.

We are here today to speak in support of schedule 32, which would amend the Police Services Act to allow for a divestment agreement to be put in place for police members between the Ontario Municipal Employees Retirement System, commonly known as OMERS, and the Ontario Pension Board.

Restructuring in the police sector has resulted in a great deal of mobility between provincial and municipal police services. The number of police services in Ontario has dropped from 108 in 1995 to the current 62. The vast majority of amalgamations have involved municipal police services and the Ontario Provincial Police. In some cases, municipal members have had to join the OPP, while in other cases, OPP members have had to join municipal police services.

There is no divestment agreement currently in place between OMERS and the OPB. Police personnel who terminate their employment and voluntarily transfer between the two plans are allowed to transfer their pensions. The same does not apply to police personnel who are forced to transfer their pension assets from one plan to the other because of restructuring. Any transfer of pension credits and assets between pension plans in connection with a group transfer is subject to the consent of the Superintendent of Pensions of the Financial Services Commission of Ontario.

Under FSCO's interpretation of the Pension Benefits Act, in order for the superintendent to consent to a transfer of assets between pension plans, provisions applicable to members transferring out of a pension plan must be replicated for these members in the pension plan to which they are transferring.

This has proven to be a roadblock for both OMERS and the OPB as the provisions of both plans are not identical. This has resulted in the inability of employees captured by a divestment to have the choice to transfer pension credit and assets.

Upon retirement, our members who have been affected by restructuring end up receiving pensions from two separate plans. Police personnel who find themselves in this situation generally incur a financial loss in their pensions, as the original plan does not recognize financial improvements that may have occurred as a result of promotions or seniority. This has created a great deal of uncertainty for police personnel who are faced with moving between municipal and provincial police services or who are contemplating retirement.

Take the example of a 10-year constable who is impacted. Assume that the officer worked for a total of 35 years and is eventually promoted to staff sergeant. His or her pension payments from the two separate plans would be based on the following: the best five years for the 10 years he or she was a constable and the best five years for the time he or she was a staff sergeant, plus seniority pay. However, if the same officer had remained with the same plan, then he or she would receive one pension based on 35 years as a staff sergeant, plus all seniority pay. The financial difference is very substantial.

I'll now ask Karl Walsh to conclude our presentation.

**Mr. Karl Walsh:** Currently, many police personnel are reluctant to retire and are waiting to see if this issue can be successfully resolved. This impacts community safety as we need to ensure that police services are continuously rejuvenated with front-line personnel who possess the youth and physical ability to perform their required duties. High stress and shift work contribute substantially to the need for a timely early-exit option.

The need for a divestment agreement has been the subject of discussions since the early 1990s. To their credit, the Ontario government moved forward on this issue and created a working group to examine this matter. The group was tasked with making recommendations to the Minister of Government Services that resulted in this legislation. We would like to thank Minister Phillips for his leadership on this issue, as well as MPP Dave Levac, who introduced a private member's bill to address this matter. The need for a divestment agreement is supported by the Police Association of Ontario, all of our member associations, including the Ontario Provincial Police Association, OMERS and the OPB.

We believe there should be a divestment agreement in place to allow for portability of pensions, ensuring that fully trained police personnel are able to transfer their skills and abilities to new policing environments. Police personnel should not be negatively impacted by restructuring. A divestment agreement will also help to allow for a smoother transition in any future restructuring and help to ensure safe communities.

We would certainly urge that this legislation be enacted as quickly as possible. I'd like to thank the members of the committee. We'd be pleased to answer any questions that you might have.

**The Chair:** Thank you for the presentation. It's my understanding that we have agreement to go to the official opposition with this question.

**Mr. Arnott:** Thank you very much for the presentation this afternoon. Let me, on behalf of our caucus, express our appreciation to your members for the outstanding work that you do to keep the province safe. We really do appreciate the work that you do.

I think your comments on Bill 187 are very helpful. Having had the privilege of representing much of Wellington county for the last 17 years in the Legislature, having gone through a county restructuring exercise and the county of Wellington deciding to go into a long-term contractual relationship with the OPP to provide the policing services for the county of Wellington, and folding into the Wellington county OPP the former police officers who had been employed by the town of Fergus police, the town of Palmerston, the town of Harriston, I know that a number of our police were affected by this problem. I've heard from a number of them. They've been asking me to support their request to get this pension issue resolved, and I certainly supported them in that.

You're confident that this bill will solve the problem?

**Mr. Miller:** We're confident that this bill is going to address it, and we've certainly had our solicitors review it. We've had OMERS and the Ontario Pension Board review it. All parties around the table believe that this is the best way to address the issue and end a long-standing inequity. We certainly greatly appreciate the support we've received from all members on this issue.

**Mr. Arnott:** Does the divestment agreement still have to be drawn up after the bill passes, assuming it does?

**Mr. Miller:** The legislation will allow for a pension transfer agreement to be negotiated between OMERS and the Ontario Pension Board. It was certainly helpful at committee having both plans well represented. They are both confident that this can be done in a timely fashion.

**Mr. Arnott:** So there is an acceptance by OMERS and the pension board that this is an issue that has to be resolved?

**Mr. Miller:** And they are in complete support. That was certainly very clear at the committee level.

**Mr. Arnott:** Let's hope that works. Thank you very much for your presentation.

**The Chair:** Thank you for appearing before the committee.

**1730**

## ONTARIO NETWORK OF INJURED WORKERS GROUPS

**The Chair:** Now I call on the Ontario Network of Injured Workers Groups to come forward, please. Good afternoon, gentlemen. You have 10 minutes for your presentation, and there may be five minutes of questioning. I ask you to identify yourselves for the purposes of our recording Hansard.

**Mr. Peter Page:** Good afternoon and thank you for having us. My name is Peter Page. I'm the president of the Ontario Network of Injured Workers.

**Mr. Karl Crevar:** Karl Crevar, the Ontario Network of Injured Workers Groups, treasurer.

**Mr. Orlando Buonastella:** Orlando Buonastella. I'm on the executive of the Ontario Network of Injured Workers Groups.

**Mr. Page:** I'd like to begin with a small introduction. We are here before you today to comment on Bill 187 only as it relates to and amends the Workplace Safety and Insurance Act and the WSIB.

While we are pleased to have this opportunity, we are also disappointed by the short time frame that has been allotted to address the issue of major concern to our organization: the poverty faced by injured workers and their families in Ontario. The Ontario Network of Injured Workers Groups wants to assure this committee that we come here before you as representatives of injured workers in a spirit of co-operation. We acknowledge that the government has addressed some of the issues that have been driving the impoverishment of injured workers in this province for many years. We see these amendments as a product of our work and the work of our allies in the labour movement and injured workers' legal clinics—work that has made members of the Legislature

aware of the economic crisis that currently confronts permanently injured workers.

The amendments introduced by the government with respect to the WSIA are interim cost of living adjustments and an intention to prevent the practice of deeming injured workers to have jobs they do not have and cannot obtain. These are phantom jobs, as we call them.

These amendments indicate that the government has indeed been listening to injured workers and represents recognition that the current legislation produces poverty after injury. Unfortunately, while the changes are welcome and well-intentioned, as currently framed, they do not meet the real and present needs of our community.

Karl Crevar would like to make a few comments.

**Mr. Crevar:** Good afternoon. It's good to see you again, Pat, and some other members.

Let me start by just a bit of background. We've been coming to the Legislature for almost 20 years to address poverty and benefits for workers who have been denied and pushed into poverty as a result of a workplace injury. We should not forget that in 1915, when Judge Meredith—when they introduced the Workmen's Compensation Act, workers gave up their rights to civil litigation in exchange for fair compensation. The exchange was that employers would be funding the system through assessment rates and so on.

What we're concerned with again today—even though we acknowledge and are very pleased that for the first time in many years we've had the opportunity to come to a committee and address some legislation that's actually being introduced. We recognize the small step that's been taken forward with the introduction of the interim increase in benefits to reflect on indexation.

As you'll read in our submission, we have made some references—we find it very frustrating and very strange, because in 1985, Paul Weiler submitted a report to the then minister, Robert G. Elgie, and to the House, stating very clearly that it was unfair and that benefits should not be fully indexed for injured workers. Just to cut it short—you can read a little bit of the history—all three parties had agreed in 1985 that it was wrong and then implemented full cost of living, full indexation. Here we are, over 20 years later, again coming to the government, saying, "Something has happened, particularly with the introduction of the Friedland formula, which has created poverty." That's the area we want to address.

I want to emphasize that we do acknowledge and appreciate the step taken in the current legislation under Bill 187, but it only goes to the end of 2009. What do we have to do? We have to come back to the Legislature again, cap in hand, saying, "Why are we being denied the simplest form to ensure that we are not driven further and further into poverty?" We have to keep that in mind.

We've also included within our submission some rates, some numbers. All you have to do is look. From 1996 to 2007, benefits went up a mere 2.9%. Inflation went up 25.4%. Injured workers' loss to inflation was 22.5%. That's the area. That's a huge loss. To see an anti-poverty budget being introduced today and not really addressing the poverty issue faced by injured workers I believe is a disgrace. Injured workers deserve better. They've built this country, they've built this province, and they should not be driven into poverty simply by not having full indexation of their benefits.

If we go on, we also outline to you in the presentation that of 200,000 or more injured workers in Ontario with permanent impairments since 1990, only 25,000, which represents 12%, receive any long-term benefits. Why is that? Of those permanently impaired, 65% are unemployed today.

There was also a study of homelessness that was done by an organization called Street Health in 2005 that indicated that 57% of the homeless who were interviewed had suffered a workplace injury. What are we doing to workers in this province after they get hurt? It paints a very, very drab picture.

What we're asking for: We're not asking for the moon; we're asking for fairness. At the very least, and I refer back—we acknowledge the fact that's it's three years, but why not reinstate full indexation, at minimum, of the benefits? If that's not possible within this budget, within the legislation, at least make it retroactive. Workers have lost over 20% due to inflation. Why not go back and do that? I remind people that under the current act, it is the employer's responsibility to fund the system. What we're finding is that taxpayers are subsidizing some of those costs. That is not fair to taxpayers. That's not fair to the workers who gave up blood, sweat and tears to build this great province of ours.

The other area that we had some concerns about were on deeming. As well-intentioned as it may have been, when we look very closely at the legislation—and I want to recognize three MPPs who, through their private members' bills, attempted to address the deeming factor, particularly Michael Gravelle, who has supported the injured workers, Jennifer Mossop and Andrea Horwath, who have supported our cause over the years.

The deeming provision is not removed. As well-intentioned as it may be, it has not been removed. We have made some proposals in our submission to you to carefully look at that. The phantom jobs still exist. Workers are going to be deemed to phantom jobs, are going to be deemed to be able to earn some sort of income while they continue to be unemployed. That is not fair. When you change the words to "likely to earn," that indicates clearly that deeming will still be in place. It should be referred to as "actual earnings," along with the other provision that was added in the legislation of "available." The "actual earnings" are the real earnings that workers are losing. We have addressed other areas.

The impact of the minimum wage increase: We support the minimum wage increase for workers; there's no doubt. But how will that impact on injured workers—and it will—and how the board deems people on their earnings? I'll give you an example where a worker may be demed at a job currently at $7.50 an hour—and is unemployed, by the way. When the legislation comes in and bumps that up to $10.50, the rest of that will be taken off their current benefits. That's how that will work, in a

nutshell. We've tried to explain that in a little bit more detail. I do know that you had other organizations addressing those very same issues.

We want to urge members here to look very carefully at what is being proposed and what we are proposing for amendments to the act.

I believe my time is almost up, Pat; it has been a while.

**The Chair:** Very close, very close.

**Mr. Crevar:** So I will close, and we would be more than happy to answer any questions that you may have. Thank you.

**1740**

**The Chair:** And thank you for the submission. This round of questioning goes to the government.

**Mr. Arthurs:** Gentlemen, thank you for being here this afternoon as we get late in our day, and particularly at this time of year with April 28 fast approaching, and the folks who were here today. So we certainly want to recognize the contribution the workers make, particularly when it's a situation where they either have an injury which doesn't allow them to work or, in extreme cases, loss of life. We need to recognize those things.

We're pleased as well, obviously, that you're here recognizing some steps that are being taken to support injured workers: the increases we have in the budget, three increases over the next 18 months, our recognition of some of that need. Obviously, more needs to be done. I think everyone around this room and elsewhere will acknowledge that.

One element of the legislation, though, allows for increases to be put in place at the discretion of the government of the day without further legislative change. So, ideally, the next time you have to be back here in that regard it would be to lobby a government, whoever it might be, to make those changes but not necessarily to have to lobby them from the standpoint of creating legislative change, which is obviously always more cumbersome and difficult than being able to lobby a government through its effective ministers in cabinet to make appropriate changes. So we're certainly hopeful that that inclusion, although it doesn't index the increases to the cost of living, allows for changes that ideally would go beyond a cost-of-living range in any given year at any given point in time. So it's six of one and half a dozen of the other. If it's built in as a COLA adjustment, you're going to be locked in to a number. If it's not locked in in the longer term to a COLA number, it gives you the opportunity to lobby effectively and appropriately for enhancement to do some of the catch-up that's needed, that has been long outstanding in that regard.

Give me a further example, a little better understanding—I still don't grasp it as fully as I might—of the deeming provision, of how a change to the actual from the likely scenario would provide the injured worker with a better outcome. You've mentioned the minimum wage.

**Mr. Crevar:** What we have found over the years by the deeming provision is that the board deems at some point in time a worker's ability to return to some type of work. That person may not be able to return to work. There may be a dispute of that, where the board takes it upon itself and says, in its opinion, that person can actually return to a job that pays X number of dollars. At that point, that determination is made depending on what their pre-injury earnings were versus what the board deems them capable of making, and yet they don't have a job. So that could eliminate any lost wages. In many cases where you take the minimum wage jobs, there would be no loss of earnings, yet the worker is still out of work. So it's saying, "In our view, we think you can get a job at $7.50 an hour." The person is not working and is not entitled to any loss of earnings, to put it in a nutshell. It gets a little bit more complicated.

**The Chair:** Thank you.

**Mr. Crevar:** If I could, Mr. Hoy—just a comment on what you've said. We've been lobbying for over 20 years. We've been lobbying for change to return to a fairer and a just system. I understand where you're coming from, but we find it very, very frustrating and very difficult that every time legislation comes forward we have to push for those changes and then we have to come back all the time, cap in hand.

We are not asking for the moon. I repeat that. I would ask you to really consider the proposals in Bill 187 that we put forward to seriously address this poverty bill, because it does not address eliminating poverty. It only eases some of the pain. It will not address anything else.

**The Chair:** Thank you for your submission.

## MUSHKEGOWUK COUNCIL

**The Chair:** Now, for the committee, we have a teleconference with Grand Chief Stan Louttit. I believe he's on the line now. Is that correct? Can you hear me, Chief?

**Grand Chief Stan Louttit:** Yes, I can hear you.

**The Chair:** Hello. This is the committee room. Can you hear me, Chief?

**Grand Chief Louttit:** Yes, I can hear you.

**The Chair:** Very good. You have 10 minutes for your presentation this afternoon, and there could be, and likely will be, five minutes of questioning following that. So just for our recording Hansard, if you would state your name, you can begin.

**Grand Chief Louttit:** My name is Stan Louttit, and I'm the Grand Chief of the Mushkegowuk Council. The Mushkegowuk Council is a regional organization on the western coast of James Bay that represents seven First Nations: the Attawapiskat First Nation, where the De Beers Victor Project is located, including as well Kashechewan First Nation, Fort Albany First Nation, Moose Cree—there are seven that make up the council.

I thank the standing committee for allowing me the opportunity to make this presentation on what I deem to be Ontario's unilateral and arbitrary decision to implement the substantial 13% tax increase to the royalty rate for the only diamond mine in Ontario. Among other

things, I guess I can say that this decision by government conflicts with the current policy of that government to develop the north; for example, the Grow North campaign.

As well, members of the committee may be aware that this government over the past two or three years has been quite active in trying to promote a relationship with First Nations across Ontario. In the spring of 2005, the Ontario government introduced the policy Ontario's New Approach to Aboriginal Affairs. Out of that policy of the Ontario government, in June 2006 Ontario's Draft Guidelines for Ministries on Consultation with Aboriginal Peoples Related to Aboriginal Rights and Treaty Rights was put forward. The Honourable David Ramsay, Minister of Natural Resources and aboriginal affairs, approved funding. Just recently, he provided funding to the chiefs in Ontario to offer input into these processes and to develop a consultation plan. I'll tell you why I think this is important later.

As well, on February 8, 2007, the Honourable Rick Bartolucci, minister of NDM, wrote to the chiefs in Ontario and he said, "I'm promoting Ontario's strategy entitled Toward Developing an Aboriginal Consultation Approach for Mineral Sector Activities." That's the McGuinty government's strategy—

**The Chair:** Chief, we're having trouble hearing you. If you could just back up from the phone, perhaps, a bit.

**Grand Chief Louttit:** Okay. Can you hear me now? How's that?

**The Chair:** We can hear you, but there was a lot of garble. So if you could just try it again.

**Grand Chief Louttit:** Okay. How's this? Can you hear me? Is that okay?

**The Chair:** Yes, go ahead.

**Grand Chief Louttit:** Okay. In Rick Bartolucci's letter, he stated, "MNDM is committed to meeting its consultation obligations with aboriginal communities and to ensuring that activities within these jurisdictions occur in a manner that is consistent with the crown's obligations concerning aboriginal and treaty rights." I'll follow up on that later as well.

Ontario's decision to make arbitrary decisions regarding the De Beers Victor Project on the royalty rate increase very clearly, in my opinion, contradicts its own efforts to establish consultation processes and relationships with the First Nations in Ontario.

Ontario cannot say that this budgetary change has nothing at all to do with First Nations. It has everything to do with First Nations. This budget change will impact current and future plans for diamond mining efforts, their discussions with First Nations on mining on First Nation traditional and customary lands and the ensuing efforts for revenue-sharing and impact-benefit agreements, such as—the Attawapiskat First Nation recently signed an agreement with De Beers.

Now, on case law: I don't know how many members are aware that case law has ruled in favour of First Nations regarding the duty to consult. For example, the Haida Nation versus British Columbia; Taku River First Nation versus British Columbia; Mikisew Cree First Nation versus Canada: All these cases had to do with the refusal of parties to consult with the impacted First Nation.

These court cases serve as a benchmark for all other cases and provinces. Just because this happened in British Columbia, don't think this does not apply in Ontario. It certainly does. Legal challenges can take place where provinces or resource developers will not abide by the court rulings exampled above. For example, if the royalty tax increase is implemented, this completely contradicts the case law that has been in place, and Ontario's own efforts to implement some of the strategies with First Nations in Ontario totally contradict that.

**1750**

When De Beers made the decision after many exhaustive processes, including environmental assessments, negotiations with Attawapiskat First Nations and other First Nations like the Kashechewan First Nations, those decisions were made to proceed with Ontario's first diamond mine on the basis of the tax regime that was in place at the time, three, four or five years ago. There was no indication back then that tax regimes would change, and now the De Beers Victor project is behind the eight ball and they're in a difficult situation in terms of trying to proceed with the commitments they made before because of Ontario's arbitrary decision.

A couple of quotes from the Premier. "Ontario mining tax rate for new remote mines is 5%," he said on June 19, 2006. Again on June 19, 2006, at the groundbreaking ceremony of the Victor project near Attawapiskat, the Premier said, "An investment in northern Ontario communities today is an investment in Ontario's future prosperity"—these taken away from those commitments and statements as Premier by the arbitrary decision to implement a tax regime that is not fair to the only diamond mine in Ontario.

The royalty increase creates uncertainties for future investment. This is contradictory to what the Premier says—"We want prosperity"—but on the other hand, he's imposing a ridiculous claim that will scare off investors in future diamond mines in Ontario.

There are other tax regimes in other provinces that are clear, consistent and fair; for example, Quebec and British Columbia. Let's learn from them. Let's see what's good in those provinces, take that and see how we can implement a similar thing in Ontario.

As I indicated, this unfair tax hike jeopardizes current and future exploration. Not only that, but capital investments, employment, winter roads, all-season roads that we so dearly need in our area—we're fly-in, we're remote. The Victor mine only comes around once in a blue moon in our territory, and we need it. Decisions like this by the government are going to scare people away.

McGuinty again said, "Since coming to office, the McGuinty government has worked to create a favourable investment climate in Ontario. Provincial tax rates for mining are among the lowest in Canada." This was in a

press release in 2006. With this recent budget, the Premier is now doing the exact opposite of what he said in that press release. The tax hike does not create a favourable climate in Ontario and clearly provincial tax rates for mining are no longer the lowest in Canada.

An effort was made for the Ontario government to consider a revenue-sharing bill for First Nations in Ontario. The local member in our area for Timmins–James Bay, Gilles Bisson, introduced a revenue-sharing bill for Ontario. The McGuinty government rejected this proposal that would allow us to gain a little bit from what's happening on our lands.

**The Chair:** You have about a minute left.

**Grand Chief Louttit:** Okay. Now this same government wants to revenue-share with itself. This is an insult to First Nations. On what guarantee can we get some of the money that Ontario has taken?

Remember as well that Ontario was a signatory to Treaty 9 in 1905. Unlike any other treaty in Canada, Ontario was a signatory to that treaty, which said, among other things—understood, among other things—that we should share the wealth. But they don't want to in 2007. I don't understand that.

Sirs and madams of the standing committee, all we want is fairness. Thank you.

**The Chair:** And thank you, Chief. The questioning will go to the NDP. Mr. Bisson.

**Mr. Bisson:** Good day, Chief Stan.

**Grand Chief Louttit:** Good afternoon, Mr. Bisson.

**Mr. Bisson:** Long time no hear.

**Grand Chief Louttit:** Long time no hear.

**Mr. Bisson:** How's the goose hunt?

**Grand Chief Louttit:** Oh, very well. I had good fun, a good holiday. I'm all refreshed.

**Mr. Bisson:** Good stuff. We'll be working soon. Listen, Grand Chief Stan, you said something at the end, and I think the point really needs to be made; that is, we have a signed treaty with the First Nations of Attawapiskat and others, under Treaty 9 in 1909, and part of that treaty is to share the revenue of what is within the lands themselves. You touched on this a little bit, but I want you to make the point—you made the comment and maybe you can explain it a bit—that what the government is attempting to do here is say no to sharing revenue with First Nations but take additional revenue and share it amongst themselves. Maybe you'd expand on that a bit.

**Grand Chief Louttit:** Yes. I hurried on account of I was told I only had a minute.

Ontario, unlike any other treaty in Canada, is a signatory with Canada and the First Nations from northern Ontario on Treaty 9. Obviously Ontario wishes not to recognize their legal and moral obligation to consult with First Nations on issues that directly and indirectly impact First Nations.

Our elders, as we interview them and talk to them—and the records show that the understanding of the treaty process in 1905 was that there would be a sharing of the resources on the lands by all the parties, not taken by the provincial government as they do now—recognize them as provincial crown lands—but rather that there would be a sharing of those lands with the parties, and this is not happening today. On any activity that happens in our territory, I think we've got to go back to the principle that was understood by not only my forefathers but your forefathers that, "Hey, there are riches in this land. We can both benefit." We're not, right now. The only way we can benefit is if we negotiate with a certain company and try to get our own revenue-sharing specific to that First Nation in that activity. It's not mandatory; it's not law. We've got to fight for every little cent we get.

I think that what Ontario should be doing is recognizing that fact and recognizing that First Nations are stewards of these lands and that we have to share as per what our grandparents and great-grandparents agreed to in 1905.

**Mr. Bisson:** Thanks, Chief Stan. In short, what you're basically saying is that we are asking for revenue-sharing as First Nations and what the government effectively is doing here is saying no to us, but they're taking more, which brings me to the next point.

There have been impact benefit agreements negotiated with the community of Attawapiskat, Fort Albany, Kashechewan, Moose Cree First Nation. Those impact benefit agreements are there as a way of basically giving those communities an ability to share in some of the wealth of the extraction of the diamonds of the area.

**Grand Chief Louttit:** Yes.

**Mr. Bisson:** Once this tax comes into force, and it means that De Beers makes less money, will it negatively impact those impact benefit agreements and does it mean to say in the end that those communities will get less?

**Grand Chief Louttit:** I cannot speak for De Beers themselves, but I can see that their agreements with First Nations and partners alike are based on what their projections are, based on the old regime. With this 13% hike and this major tax grab by Ontario, obviously this is going to have a ripple effect on the First Nations communities. You hear about Kashechewan in the news every day in regard to their quality of life, their water, the flood plain and flooding issues. If there was a revenue-sharing regime in place, it would help these kinds of things and allow the First Nations to become a bit more proficient and a little bit more self-sufficient in a lot of areas.

**Mr. Bisson:** So, in the end, there will be less money for the IBAs if the revenue goes down for the company because of more taxes?

**Grand Chief Louttit:** Exactly.

**Mr. Bisson:** Okay.

**The Chair:** Thank you for your participation this afternoon, Chief.

**Grand Chief Louttit:** Thank you.

**The Chair:** I want to remind the committee that amendments shall be filed with the committee clerk by 12 noon on Friday, April 27, 2007—that's a hard deadline; it comes from the House—and that the committee will meet for the purpose of clause-by-clause consideration on Tuesday, May 1, 2007. We are adjourned.

*The committee adjourned at 1800.*

*Continued from overleaf*



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