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Thursday 3 December 2009

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des débats
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Jeudi 3 décembre 2009

**Standing Committee on
Justice Policy**

Ontario Labour
Mobility Act, 2009

**Comité permanent
de la justice**

Loi ontarienne de 2009
sur la mobilité
de la main-d'oeuvre

Chair: Lorenzo Berardinetti
Clerk: Susan Sourial

Président : Lorenzo Berardinetti
Greffière : Susan Sourial

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON JUSTICE POLICY

COMITÉ PERMANENT DE LA JUSTICE

Thursday 3 December 2009

Jeudi 3 décembre 2009

The committee met at 0903 in committee room 1.

The Chair (Mr. Lorenzo Berardinetti): Good morning, everybody. I call this meeting of the Standing Committee on Justice Policy to order. Today on Thursday, December 3, we're dealing with Bill 175, An Act to enhance labour mobility between Ontario and other Canadian provinces and territories.

SUBCOMMITTEE REPORT

The Chair (Mr. Lorenzo Berardinetti): The first item to be dealt with is the subcommittee report. Do I have someone to read that? Mr. Levac.

Mr. Dave Levac: Your subcommittee on committee business met on Wednesday, December 2, 2009, to consider the method of proceeding on Bill 175, An Act to enhance labour mobility between Ontario and other Canadian provinces and territories, and recommends the following:

(1) That, as per the time allocation motion, the committee hold one day of public hearings at Queen's Park on Thursday, December 3, 2009, during the committee's regular meeting times.

(2) That groups be offered 15 minutes and individuals 10 minutes in which to make a presentation.

(3) That interested people who wish to be considered to make an oral presentation on Bill 175 will be scheduled on a first-come, first-served basis until all allotted presentation times have been filled.

(4) That the deadline for written submissions be 5 p.m. on Thursday, December 3, 2009.

(5) That the research officer provide the committee with highlights of the Agreement on Internal Trade, highlights or a copy of the Quebec-Ontario labour mobility agreement, and information on any European Community trade agreements regarding labour mobility and procurement policies.

(6) That the administrative deadline for filing amendments, as per the time allocation motion, be 12 noon, Friday, December 4, 2009.

(7) That, as per the time allocation motion, the committee meet for clause-by-clause consideration on Monday, December 7, 2009, after routine proceedings.

(8) That the committee clerk, in consultation with the Chair, be authorized, prior to the passage of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

So submitted to Mr. Chairman.

The Chair (Mr. Lorenzo Berardinetti): Is there any debate? Do we have a motion to adopt the report?

Mr. Dave Levac: So moved.

The Chair (Mr. Lorenzo Berardinetti): All those in favour? Opposed? Carried.

ONTARIO LABOUR MOBILITY ACT, 2009

LOI ONTARIENNE DE 2009 SUR LA MOBILITÉ DE LA MAIN-D'OEUVRE

Consideration of Bill 175, An Act to enhance labour mobility between Ontario and other Canadian provinces and territories / Projet de loi 175, Loi visant à accroître la mobilité de la main-d'oeuvre entre l'Ontario et les autres provinces et les territoires du Canada.

ONTARIO FEDERATION OF LABOUR

The Chair (Mr. Lorenzo Berardinetti): We'll move on to our deputations for this morning. Our first one is our 9:05 presentation, the Ontario Federation of Labour. We have Terry Downey, executive vice-president. Good morning, and welcome to committee. Just so you know the rules, we have 15 minutes allocated for your presentation. Any time that's not used in your presentation will be allocated between the three parties to ask questions. So welcome.

Ms. Terry Downey: Thank you. Good morning. My name is Terry Downey, and I'm the executive vice-president for the Ontario Federation of Labour. With me also is Pam Frache, the director of education, who has done extensive research on Bill 175 for the federation.

The OFL represents over 700,000 workers in Ontario in both the private and public sectors.

I want to express our extreme dismay that the Ontario government has decided to limit debate on Bill 175. One day of hearings in Toronto is insufficient to engage the many diverse communities throughout Ontario. As a result of this decision to limit debate, many concerned Ontarians have been shut out of the process altogether.

Bill 175 has broad-ranging and sweeping implications, not only for workers but for the public. Bill 175 gives legal effect to aspects of the Agreement on Internal Trade, a non-binding agreement which itself has not been

subjected to meaningful public scrutiny. We are further concerned that most Ontarians have not been informed that Bill 175 will make Ontarians liable for millions of dollars in fines—as high as \$5 million.

We are very concerned about the impact it will have on Ontario's ability to insist on high-quality training standards for regulated trades and professions. Too often, we forget that licensing standards were developed in response to very real and demonstrated health, safety and quality-of-service problems. It would be detrimental to Ontario if the lessons learned from the past, including tragic ones, were lost. Indeed, different jurisdictions often have different standards, reflecting legitimate differences in the needs of the population. The Ontario Federation of Labour believes that limiting further government abilities to meet the needs of the citizens is unwise and contrary to democratic principles.

While we've been assured by some in government that Bill 175 will not compromise Ontario's legal rights to set standards as appropriate, we do not believe that Bill 175 and the Agreement on Internal Trade—which I'll refer to as AIT—as they are currently written, will safeguard the public interest, especially since it will be up to AIT-established tribunals, beyond the reach of democratically elected representatives, to determine the validity of any exemptions secured under Bill 175 and the AIT. After all, under the AIT, exemptions can and will be challenged and adjudicated, not by elected governments but by the tribunals established under the AIT.

While the Ontario government has faced challenges in enforcing its own laws and regulations—under the Employment Standards Act and even the trades qualification and certification act—we are hard-pressed to understand how the province expects to monitor and enforce the validity of credentials issued by private, for-profit institutions elsewhere.

In fact, recent media reports, particularly those in the *Toronto Star*, have highlighted Ontario's challenge in ensuring that the credentials issued by private, for-profit colleges in Ontario actually reflect high-quality training and appropriate curriculum. Monitoring the quality of training offered out of province or even out of the country by private institutions, as contemplated under Bill 175, seems even more unlikely. We are therefore concerned about the potential risk posed to the public when the credentials of those trusted to provide services cannot be adequately verified.

0910

We are extremely concerned about how Bill 175 and the imposition of the Agreement on Internal Trade will affect the red seal program for authentic trades. While Bill 175 asserts that it will not negatively affect the red seal program, we remain unconvinced. The government must acknowledge that in the event that a lower standard of qualification is approved for a trade that is also among the red seal trades—and this is possible, since not every province participates in the red seal program—the lower standard will inevitably prevail in practice. This cannot but undermine the red seal program and produce an out-

come which is decidedly contrary to this government's stated support for the program.

We are concerned about the labour market impact that Bill 175 will have on Ontario workers who are already facing stiff competition for scarce employment. Reductions in training standards and increased competition for scarce jobs will contribute to a downward pressure on wages. Given the fact that wages in Canada have been virtually stagnant in real terms for more than 25 years, and the prospect of further wage reductions in a province hit hard by the recession and struggling to maintain consumer spending, any policy that may undermine the jobs or earnings prospects of Ontarians must be rejected.

Ontario's jobless recovery ought to be a serious concern for this government and should underline the need for a comprehensive good-jobs-for-all strategy, yet Bill 175 threatens to undermine positive employment-related initiatives undertaken by elected representatives. We fear, for instance, that policies encouraging local hiring or even affirmative action hiring for particular equity-seeking groups may well contravene the labour mobility provisions outlined in either the AIT or Bill 175. For example, Bill 175 clearly states: "No municipal governmental "regulatory authority shall require that an individual reside in its geographic area of jurisdiction as a condition of eligibility for employment, if the individual resides in a province or territory of Canada that is a party to the Agreement on Internal Trade."

As a strategy for community development, Bill 175 is seriously flawed, and we are further concerned that even the Ontario government's own Green Energy Act could be at risk under Bill 175 and the AIT.

In the broad context, we continue to have serious concerns about the short-term and long-term implications of giving legal effect to any aspect of the AIT.

The labour movement has been on record with your government opposing the establishment of any agreement that bears resemblance to the BC-Alberta trade, investment and labour mobility agreement, TILMA. In fact, public scrutiny stopped the spread of TILMA to other provinces since governments were loath to introduce trade agreements that would provoke public outcry. Instead, it appears that the previously innocuous Agreement on Internal Trade has become the vehicle to bring TILMA in through the back door of every province in Canada.

In correspondence to us on our concerns about erosion of training standards under TILMA, Economic Development and Trade Minister Sandra Pupatello wrote the following, "It is my understanding that the BC and Alberta governments have retained the right to regulate, provided they do not create unjustified barriers to trade. This seems a fair and balanced approach in theory. However, this balance will remain an open question until the dispute settlement mechanism works in practice."

Yet, before meaningful evidence of how this dispute resolution mechanism works in practice has been gathered, the Ontario government signed on to the AIT containing the very provisions included in TILMA, and while the AIT may not be legally binding, Ontario has

taken an extraordinary step in creating legislation, Bill 175, to make it so.

To date, Ontario is only one of four provinces that have chosen to try to enshrine the AIT in legislation. A majority of provinces appear to be choosing non-legislative, non-legally binding paths. Will Ontario be among a minority of provinces who have legally committed themselves to \$5-million penalties? Given the fact that the Ontario government is facing a \$25-billion deficit, and given the fact that Ontario could not meet its retraining obligations as originally promised in the Second Career strategy, making the province legally liable for multi-million dollar penalties seems folly, especially since other provinces have chosen not to open themselves up to such financial risk.

Bill 175, we are told, has been tabled to address labour mobility issues. Yet we have received only anecdotal evidence that there are significant barriers to labour mobility, hardly enough to warrant the imposition of extreme legislation such as Bill 175. There is, however, one labour mobility issue that the Ontario Federation of Labour has drawn attention to. It is, notably, an issue upon which both the Ontario and the federal government have been deafeningly silent. This is the area of financial measures to ease the financial burden for workers who do need to travel out of province to secure employment. As a result of devolving employment insurance part II benefits to the provinces, no level of government has been willing to step up to the plate to provide the necessary and adequate financial support and tax measures that could assist workers who do need to travel out of province for employment.

We support labour mobility for all workers, but such mobility must be in the interests of workers themselves, not in the interests of employers whose real interests too often lie in reducing training standards and the wages associated with such standards. High training standards go hand in hand with safe workplaces and safe communities. Workers should have the financial support to move as necessary and the income support to pursue the training they need, from literacy, language and basic skills to high-quality apprenticeship training in authentic trades. Most importantly, the government they elect should defend their interests and develop employment and training strategies that provide good jobs for all.

To summarize, the Ontario Federation of Labour is extremely concerned with the lack of transparency and formal public dialogue that has characterized Bill 175 and other AIT-related initiatives. We believe that the bill is seriously flawed and an unnecessary intrusion into the legitimate and legal rights of Ontarians to establish standards that meet the needs of the population.

The Ontario Federation of Labour is calling on the government to:

(1) Conduct meaningful regional public hearings, not only on the implications of Bill 175 but also on the implications of the Agreement on Internal Trade and other interprovincial trade deals;

(2) Ensure that no aspect of the Agreement on Internal Trade is given legal effect in Ontario;

(3) Oppose and neutralize any financial penalties that may be imposed on the province or local government or agency under the Agreement on Internal Trade;

(4) Protect the red seal program by exempting red seal trades from the AIT.

Thank you. That's our submission.

The Chair (Mr. Lorenzo Berardinetti): Thank you. That uses up all of the time. We have maybe one minute, if there are questions from any of the three parties here. Very quickly, anything from the Liberal side? Let's do a quick rotation here.

Mr. Dave Levac: Yes.

The Chair (Mr. Lorenzo Berardinetti): Go ahead, Mr. Levac.

Mr. Kevin Daniel Flynn: I think, if there's only a minute left, we're not going to get a meaningful answer.

The Chair (Mr. Lorenzo Berardinetti): All right. Mr. Bailey?

Mr. Robert Bailey: If you could only make a couple of improvements to the bill, what would they be?

Ms. Pam Frache: I think one of the key things is to have a provision along the lines of the legislation in British Columbia that says that no aspect of this legislation will give legal effect to the Agreement on Internal Trade, and that's not extraordinary. That's what exists in the British Columbia legislation. And we would eliminate all references to the financial penalties associated with the Agreement on Internal Trade.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Mr. Marchese?

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Mr. Rosario Marchese: I just want to thank you, and I want to tell you that I believe that 99.9% of the population doesn't have a clue what this bill is about; 99.9% of the population doesn't even know what the agreement between Quebec and Ontario was. There were no discussions. Other than Papatello writing an article in the Toronto Star, we don't have a clue what the government did. A closure motion was moved on this bill on Monday, and on Thursday we have hearings. Normally we advertise these things, and the government simply hasn't given us that chance. I just want to tell you thank you very much, and whatever you can do to let your folks know how decent this government has been would be great.

Ms. Terry Downey: We agree, and we've been sounding the sirens on this. In fact, since Friday, our office has been getting many calls about the concerns on this from employers who want to create green jobs in this province.

The Chair (Mr. Lorenzo Berardinetti): Thank you for your presentation this morning.

CERTIFIED GENERAL
ACCOUNTANTS OF ONTARIO

The Chair (Mr. Lorenzo Berardinetti): We'll move on to our 9:20 presentation. Certified General Accountants of Ontario: Doug Brooks, chief executive officer.

Mr. Dave Levac: On a point of order, Chair: If we could ask the deputants to provide us with a copy of their written submission, we'd like to have that for the record.

The Chair (Mr. Lorenzo Berardinetti): Okay, I'll ask the committee clerk to get that.

Good morning. Welcome to the committee.

Mr. Doug Brooks: Good morning. Thank you for granting the Certified General Accountants of Ontario the opportunity to speak with you this morning—

The Chair (Mr. Lorenzo Berardinetti): If you could, just for the record, provide your name.

Mr. Doug Brooks: My name is Doug Brooks. As CEO of CGA Ontario, I'm here representing the association, 19,000 CGAs and 8,000 aspiring certified general accountants who are enrolled in the CGA program of professional studies. Let me begin by providing you with some background on CGA Ontario and the skill level of certified general accountants.

CGA Ontario is a self-governing body that grants the exclusive rights to the CGA designation, and controls the professional standards, conduct and discipline of its members and students in the province of Ontario. CGAs follow the profession's generally accepted accounting principles and generally accepted auditing standards. They adhere to a national code of ethics and rules of professional conduct. They meet ongoing professional development requirements, and those in professional practice carry mandatory liability insurance. We are a self-regulating body that takes our duty to protect the public interest very seriously.

Certified general accountants are accounting and finance professionals with a difference. They've been trained to look beyond the numbers, drawing on their broad learning and individual strengths to facilitate problem solving and to provide leadership across industries and within changing business realities.

CGAs have worked hard to achieve a respected designation through rigorous academic training and intense real-world experience. CGAs can be found in every sector of the economy, from education to government, from banking and finance to manufacturing, hospitality and entertainment.

Some prominent certified general accountants you may be familiar with include: the Globe and Mail Report on Business's just-announced CEO of the year, Sergio Marchionne, president and CEO of Fiat; Joe Pennachetti, city manager for the city of Toronto; MPP Bruce Crozier; and MP Yasmin Ratansi. They are a diverse group, indeed.

Certified General Accountants of Ontario has been a long-time supporter of the Agreement on Internal Trade, as have all of our colleagues across the country, because labour mobility across provincial lines makes sense. Removing unnecessary regulation increases Canada's productivity and competitiveness. If the work is the same, qualified workers from one province should be able to do that same work in another province.

My primary goal today is to draw your attention to the Ontario government's intention to implement a barrier to

labour mobility for public accounting under the terms of the Agreement on Internal Trade—a barrier that is inconsistent with the agreement's stated objective of allowing individuals who are certified by a regulatory authority in one jurisdiction to be certified for that occupation anywhere in Canada, without additional education or experience requirements.

I want you to consider why this barrier to public accounting remains and who it really protects, and I want you to support our request to eliminate it. Finally, I want you to bear with me as I take you through a rather complicated story about public accounting and labour mobility.

Public accounting is what the accounting profession refers to as "attestation"; that is, an accountant, independent of the organization, expresses assurance in respect of financial information of an enterprise.

For more than 40 years, CGA Ontario has advocated for access to public accounting licences for CGAs in Ontario, because they are qualified to do the work. Such access would increase choice for consumers and increase competition among those offering their services.

We, and probably those of you who were in the Legislature at the time, thought we had achieved access in 2004 when the Public Accounting Act was passed. That act resulted in the formation of a reconfigured Public Accountants Council and identified the Certified General Accountants of Ontario as a designated body under the act. Five years later, we remain unauthorized to issue licences to qualified CGAs as we work our way through a complex process to meet the regulations set by the council, regulations that mirror those of our major competitor. Ontarians are still left with a single choice for public accounting services today, as they were prior to 2004 when the Legislature voted for change. This is the state of public accounting in Ontario—the only jurisdiction in Canada that excludes CGAs from offering public accounting services.

Two weeks ago, the Quebec government approved new public accounting regulations, allowing qualified CGAs to offer complete public accounting services to for-profit and publicly listed companies. These regulations eliminate Quebec's barrier to interprovincial trade and labour mobility and will benefit companies that do business in both Quebec and other parts of the country. It enables Quebec's CGAs to offer the full range of services that they have been trained to provide. It also ensures greater competition in Quebec among accountants offering their services to the public.

CGA Ontario's pre-certification standards include national course content and exams, combined with work experience requirements. No matter where you study to become a certified general accountant within Canada, the same thorough and rigorous qualification standards apply uniformly across all provinces and territories. The public can be satisfied that CGAs across the country meet the highest standards of education and professional conduct. The association's national qualification standard is sufficient for Quebec, as it is for every other province and territory in Canada except Ontario.

Jerry Minni, a CGA who has been auditing public companies in BC for more than 15 years, can now do that work in Quebec, in Newfoundland and in Alberta—everywhere in Canada but Ontario. Clearly the work isn't different, yet Ontario continues to restrict mobility and competition in public accounting in Ontario by placing public accounting on its list of exceptions for labour mobility.

The government has notified CGA Ontario that the reason for placing public accounting on its list of exceptions is because allowing free entry of qualified accountants from other parts of Canada to practise public accounting in Ontario would ignore the licensing regime the government has put in place in Ontario. This means that the province of Ontario's public accountant licensing regime is allowed to prevent qualified professional accountants from being licensed in Ontario even though they are certified as qualified to practise public accounting in other provinces and territories in Canada. Additional qualification requirements would be necessary in Ontario, a position that is contrary to the fundamental principle of labour mobility's mutual recognition of professional qualifications from one jurisdiction to the other that this bill commits to. Twelve of 13 jurisdictions in Canada are already prepared to accept each other's public accounting qualifications. These are qualifications that allow certified general accountants to practise their profession across jurisdictional boundaries. Ontario will be the sole exception, insisting on maintaining a barrier that an independent trade panel previously ruled is inconsistent with the provisions of the AIT. That was in 2001.

In August 2005, an AIT trade panel reached the same conclusion in the case of Quebec, calling on the provincial government to change its laws to ensure there was no restriction to the occupation of public accounting for qualified professional accountants. Quebec now complies. Ontario does not.

The government also claims this barrier is needed to protect consumers. However, the government has not provided any evidence that public accountants who are licensed to practise public accounting in their home jurisdiction would put consumers at risk if they were to practise public accounting in Ontario. CGAs are entitled to audit federally regulated banks and insurance companies, furthering the point that neither consumers nor capital markets are at risk.

Given the fact that a CGA has the right to practise public accounting in every jurisdiction in Canada other than Ontario, we are left wondering why. Does it make sense that Jerry Minni, that CGA in BC, who can and does audit publicly traded companies in his home province, can't do that work in Ontario?

Premier McGuinty said that full labour mobility will help Ontario workers and industries succeed in a challenging economy by strengthening our competitiveness and productivity, removing barriers to opportunity. CGA Ontario agrees. He applauded full labour mobility as good news for Ontario. More Canadian workers would be

free to move and find work where opportunities exist or where their skills are needed. Ontario employers would have a broader pool of qualified candidates and enjoy similar processes for hiring workers from other parts of Canada. CGA Ontario agrees. Yet Jerry Minni and his CGA colleagues across the country are left out because of a stated need to protect consumers which remains unsupported, and a desire to enforce made-in-Ontario regulations which runs contrary to the act.

0930

Ontario is the only jurisdiction in Canada that does not recognize CGAs' right to practise public accounting, thereby stifling competition, to the detriment of Ontario businesses large and small. Ontario is the only jurisdiction that will have an exception for public accounting under the AIT, leaving itself open to yet another challenge. I encourage you to uphold the full labour mobility Premier McGuinty promised. I respectfully ask you to remove the exception for public accounting from the bill.

Thank you very much.

The Chair (Mr. Lorenzo Berardinetti): Thank you. That leaves about five minutes for questions, roughly two minutes per party. We'll start with the Liberal Party.

Mr. Kevin Daniel Flynn: Thank you, Mr. Brooks, for appearing today. Could you explain the regulatory authority that exists currently in Ontario in the accounting field? How are you governed in Ontario today?

Mr. Doug Brooks: The Public Accountants Council.

Mr. Kevin Daniel Flynn: What decision have they come to as to the issue that you've brought before us today with regard to the ability of CGAs to perform certain tasks?

Mr. Doug Brooks: I believe that the council has submitted its point of view to the government, which we were made aware of, which supported a legitimate objective—so a barrier.

Mr. Kevin Daniel Flynn: Seeing as the process that's envisioned under the act is a dynamic process, were that to change in the future, would it not make sense that the act would change?

Mr. Doug Brooks: Sorry. I'm not sure I understand your question.

Mr. Kevin Daniel Flynn: If the regulatory authority that we were talking about a second ago were to change its opinion, would it not then follow that the act would then change also to follow that opinion?

Mr. Doug Brooks: I think if we hearken back to the principles laid out in labour mobility, the real issue here is that practising public accountants in 12 other jurisdictions—so 12 of 13—who are qualified to do that work and are doing that work are not able to do that work in Ontario. That's inconsistent.

Mr. Kevin Daniel Flynn: I understand that you have a concern with the regulations and the legislation as it exists today, and I think the point that I heard you say is that this isn't going to make it any better for you. It is pretty much the status quo as to how your profession is allowed to practise in Ontario today.

Mr. Doug Brooks: Our designation; that's correct.

Mr. Kevin Daniel Flynn: And you saw this as an opportunity to perhaps change that?

Mr. Doug Brooks: For the members who practise or want to practise in Ontario, we are having to comply with the regulations as set out by the Public Accountants Council. This is an issue for members across this country who do this work and have done this work for many, many years in provinces where they're qualified to do that work. The provisions around the Agreement on Internal Trade suggest that those individuals should be able to practise in this province regardless of our internal or Ontario-specific regulations.

The Chair (Mr. Lorenzo Berardinetti): We must move on, then. Sorry. Mr. Bailey?

Mr. Robert Bailey: Explain to me: How does a multi-national company that's based in Ontario and that does business all across Canada—how would this work for them? Or say they're doing business in Ontario but they are based somewhere else, like Quebec; their head office is in Quebec but they're doing business in Ontario. How does this work for them? You couldn't do their books with this new legislation?

Mr. Doug Brooks: This is about public accounting; we're not talking about people in industry, just for clarity. But it would suggest that a person who's the auditor for that Quebec-based company and who happens to be a CGA could not audit any of those satellite companies, organizations, in Ontario.

Mr. Robert Bailey: So this would certainly hamper business, especially if you were a company that did business all across the country in Canada, the other 12 jurisdictions.

Mr. Doug Brooks: It may limit your choices about who does your public accounting work, who attests to your financial statements, and I think for Ontario businesses it certainly reduces the amount of choices that are available for public accounting services.

The Chair (Mr. Lorenzo Berardinetti): We're going to have to move on. Mr. Marchese?

Mr. Rosario Marchese: You're an accountant, so you might be the best person to answer this question. There are \$5-million penalties for those ministries or municipalities or non-governmental agencies that do not comply with the bill. Do you find that's a bit too much? Why would they do that?

Mr. Doug Brooks: What I will say is that the original AIT provisions really didn't have any teeth in terms of a fine, so under the previous ruling in 2001, and in 2005 for the province of Quebec; under the new provisions of the Agreement on Internal Trade, the fines are real. So if this happens to be found by an independent trade panel, there would be a fine that the province of Ontario would be facing.

Mr. Rosario Marchese: I understand that. So you agree? You like the idea of having \$5-million fines? Maybe we should increase them to \$10 million.

Mr. Doug Brooks: What I do agree with and support is the notion of labour mobility and people being able to move—

Mr. Rosario Marchese: No, I understand that. So you think the fine is okay and maybe we might even increase it to make sure that people do comply?

Mr. Doug Brooks: I think the spirit of the agreement is to comply and that the provisions for fines are there probably to keep people committed to the agreement.

Mr. Rosario Marchese: In some professions, there are standards that everybody agrees to. So you may have regulatory boards across the country saying, "Yes, this is one standard that we all agree to." What if you have a trade and/or profession where the standards are different? What do you do then?

Mr. Doug Brooks: Again, I think the whole focus of the agreement is on the work that is done in maintaining standards. We have national standards that comply with international standards. Our profession is a little bit different in that there are three significant bodies across Canada, but we're all guided by, as I said, generally accepted accounting principles, auditing standards—

Mr. Rosario Marchese: I wasn't talking about you. I was talking about, if you have a different profession and/or trade where the standards are different, what do you do? Is this bill good in that regard?

Mr. Doug Brooks: Yes, I think the bill lays out very clearly the answers to those questions in terms of putting consumers at risk, for instance—

The Chair (Mr. Lorenzo Berardinetti): I'm sorry; time is up. We're a bit beyond your time, actually. Thank you for your presentation.

We'll move on to our next deputation, which is the Canadian Union of Public Employees.

Mr. Robert Bailey: Chair, could we get a copy of their presentation?

The Chair (Mr. Lorenzo Berardinetti): There's a request for a copy of the last presentation. Mr. Brooks?

Mr. Rosario Marchese: Mr. Brooks, do you have a copy to give?

Mr. Doug Brooks: Yes.

CANADIAN UNION OF PUBLIC EMPLOYEES

The Chair (Mr. Lorenzo Berardinetti): Good morning and welcome. Could you please identify yourselves for the record, and, again, you have 15 minutes for your presentation.

Mr. Fred Hahn: Thank you. My name is Fred Hahn. I'm the secretary-treasurer of CUPE in Ontario. With me today is Archana Rampure, who is a researcher with our organization, as well as Stella Yeadon, who is a legislative liaison with CUPE Ontario.

CUPE represents some 220,000 members across the province working in the broader public sector, in health care—hospitals, paramedics, long-term care and home care; in municipalities, hydro, utilities and libraries; in social services like child care, mental health, developmental services and community-based agencies; and in the education sector, from early learning to elementary and secondary schools, and in post-secondary institutions

across the province. Many of our members are also trades workers who are certified to practise their trade. Others are professionals who are regulated by a variety of legislation and their regulatory colleges and associations as a result of their jobs. And of course, as citizens of the province, our members are all affected by standards and regulations that are in place to protect the public of Ontario.

We are here today on behalf of our members to talk to you about our serious concerns with Bill 175, the act to enhance labour mobility between Ontario and other Canadian provinces and territories. I'm going to try to be as brief as I can. I know there is a relatively short amount of time for presentations—10 or 15 minutes—so I'm going to try to do the top 10 reasons why we think this piece of legislation should be withdrawn by the government.

Problem number 1: We have to start with concerns about the speed with which this legislation is being rushed through the process and the detrimental impact that will have on democracy. There was closure moved on Monday. We were informed yesterday afternoon that there were going to be hearings today. The real concern that we're trying to figure out is, why the rush? The Canadian Constitution guarantees us as citizens of our country the right to actually live and work in any province or territory. We don't believe there are real barriers to labour mobility in the province, and any issues that were related to labour mobility have been voluntarily dealt with through measures and interprovincial standards like the red seal program for skilled trades workers. What we really need is province-wide hearings on these kinds of measures that will have, we think, very far-reaching impacts on the province, and on the democratic process in which we pass legislation.

0940

Problem number 2: The government just passed Bill 183, establishing a college of trades. Part of that new college's mandate is going to be to establish standards for various trades, working with the various stakeholders. But Bill 175 will require Ontario regulators, including the new college of trades and other regulatory bodies, colleges, and professional associations to recognize certification from other jurisdictions that have lower standards. Bill 175 requires that Ontario has to harmonize their standards with other standards across the country, and we see this as a code word, quite frankly, for a race to the bottom. The word "reconcile" is actually used in the legislation, but what the bill doesn't spell out is that the only real way to reconcile Ontario's standards with standards from other jurisdictions that are lower is that they would have to mirror those lower standards. This piece of legislation, if it's passed, will not carry any legal weight in any other jurisdiction. So, it's hardly as though a regulatory authority from Ontario could ask any other jurisdiction's regulatory authority to raise its standards to Ontario's levels. There should be no doubt in anyone's mind: The impact of this bill will be a race to the bottom in terms of occupational standards and regulations. We're

not looking at scenarios where best practices from across the country are actually going to form the basis of national standards. Instead, what we're looking at is the institutionalization of the lowest standards from other provinces, in our own. There are a series of exemptions that the government has listed for various professions, and what we're trying to figure out is why certain professions should be exempted. If this is such a good idea, then why would we exempt any at all? One of them would be the example of water technicians. We all remember the tragedy that befell our province in terms of the Walkerton example. It is a prime example of why it is we need, in our province and in local communities, the ability to make standards that make sense for our citizens. This bill would make those kinds of things impossible to continue.

Problem number 3: Some people suggest that this bill could address the plight of foreign-trained professionals, many of them immigrants who are unable to practise their professions in our province. But let's be clear: This bill will do absolutely nothing for foreign-trained professionals. In fact, what it will do for newcomers is put them at the back of a longer line, because they will now have to be waiting behind professionals from other provinces and jurisdictions who have different qualifications and who will now need to be recognized as a result of this piece of legislation. It will harm foreign-trained professionals who are already residents of our province.

Problem number 4: Bill 175 imposes expectations on regulatory bodies and non-governmental organizations that are unrealistic. They would have to investigate certification standards, not only in Ontario but now across the entire country. Ontario's occupational and professional regulatory bodies just aren't equipped to make those kinds of assessments and decisions. Most of them are funded by voluntary or compulsory fees paid by members. The irony, we believe, is that the members of these colleges will end up paying higher fees in order to enable those same regulatory bodies to do investigations on certifications that will ultimately be in direct competition with the members of those associations.

Problem number 5: Bill 175 also threatens Ontario's regulatory bodies with fines of up to \$5 million if they can't demonstrate within a very narrow framework of exemptions why somebody from another region should be deemed to be unable to work here. It's not enough that they have to evaluate the enterprises in Ontario; as I said, they now have to evaluate enterprises from across the country. A \$5-million fine is a huge hammer over which people will be increasingly pressured to simply lower standards to the lowest common denominator.

Problem number 6: the Agreement on Internal Trade. We believe this piece of legislation actually will implement this agreement into law. This agreement is not currently law in the province of Ontario. If the government of Ontario wants to implement this into law, it should have explicit and discrete public hearings on whether or not the population of our province believes

it's the right thing to do. The Labour Mobility Act, as you've already heard, in British Columbia, explicitly excludes the Agreement on Internal Trade. This piece of legislation refers to it time and again. Let's be clear about something: The Agreement on Internal Trade is kind of like what NAFTA is for North America. It is our position, and the position of many, that NAFTA is partly responsible, if not wholly responsible, for the job losses that we've had in our province—some 200,000 jobs between October 2008 and October 2009. In the face of a job crisis of this magnitude, we find it incomprehensible that the government might be pushing through a piece of legislation, without proper consultation, that would weaken job security—the little that is left—for the members of our province.

Problem number 7: People actually don't want this kind of legislation, and I can say this to you with great confidence, because unlike the government, we actually engaged in a tour across the province. We engaged with people, we listened to them and we talked to them. We did it with the Council of Canadians, a coalition partner. We went to Ottawa, Kitchener, Toronto, Sudbury, London, Windsor, Kingston and Hamilton. In each and every one of these communities, the hundreds of people who showed up were quite clear that they would reject these kinds of pieces of legislation and internal trade agreements that actually benefit corporations and not people, not local communities.

Problem number 8: Unemployment in Ontario is at a record high. The labour statistics for October 2009 mark it at 9.3%. In the context of what is being suggested here, with unemployment even higher in places like Labrador and PEI, we know that this will increase competition for jobs in our province. What we need is not labour mobility legislation. What we need is a real, local jobs strategy for our province.

Problem number 9: It's not going to help our economy. There's no doubt it's a happy prospect for some companies and corporations that increasing jobs at a time of great unemployment will actually put downward pressure on wages and benefits. Let's be clear: We're not saying here that jobs should be reserved only for people from Ontario, but we simply point out that any alleged skills shortage that may be used by some to support the quick passage of the labour mobility act is simply fictitious. There are thousands of people in our province who are currently unemployed, who would be more than willing to have a job and would happily take these jobs. The concern, if there is one, about skills and training: It's a government responsibility to offer retraining, as was mentioned previously by the Ontario Federation of Labour.

Problem number 10: Passing this bill will make it impossible for municipalities and other government agencies to set up programs that need to address specific local needs and concerns. Preferential hiring from target communities would be seen, we believe, as a barrier to labour mobility. Government procurement and hiring need to be used as instruments of social policy, not just

an expression of market forces. Offering preferential hiring to people at risk, to students in the summer: These are the very policies that we need to look to further pursue in the midst of an economic crisis in our province, particularly one that harshly impacts some demographics of our province more than others. We believe, as do all of the people who came to our tour dates across the province, that Ontario-specific standards and regulations are a net benefit to the people of our province. There's agreement that Ontario has been a strict regulator in the past. We believe these high standards have safeguarded the public. We believe that we must have a jobs solution that doesn't increase competition for jobs in our province, but rather creates training opportunities to put Ontarians who are currently unemployed, who've been hit hard by our recession, back to work.

On behalf of our more than 220,000 members in the province, I am urging each and every one of you on the justice committee to vote against this piece of legislation. We often come before committees—in fact, I've been here three times in the last six weeks—on various pieces of legislation, and we talk to people about seeking amendments. I want to be clear that in its current form, this bill is unacceptable and we don't believe that any amendments will make it acceptable. We think the government needs to go back to the drawing table, to involve communities and stakeholders, to have a real discussion about how these kinds of pieces of legislation would have huge impacts in our province.

I want to thank you for your time and attention.

The Chair (Mr. Lorenzo Berardinetti): Just one brief minute per party. We'll start with the Conservative Party. Mr. Bailey.

Mr. Robert Bailey: Thank you for your presentation. I support what you said about public hearings. I've been involved in some discourse in the last couple of weeks about public hearings about taxation matters and other issues. I'm sure any time a government makes any kind of changes, whether it's with labour legislation or tax implications, there should be public hearings, so I advocate on behalf of that. If you can impress upon the government to do that, I'd support you.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We'll move to Mr. Marchese.

Mr. Rosario Marchese: Thank you, Fred. I think this government is committed to passing it and they're doing it in quick haste.

One of the concerns we have is that the onus is not on the individual who comes from a province that might have a lower standard to prove that they are capable; the onus is reversed. It's put on the receiving province to show that there are problems, in a variety of ways, including safety concerns, and that puts a tremendous responsibility on the province, given the context of a \$5-million fine. They have to go and find out whether these people are indeed qualified. I'm sure you have a comment on that.

Mr. Fred Hahn: It's not, in fact, just the province. There are dozens of regulatory bodies, non-governmental

organizations, municipalities, universities—all of these organizations would have to be able to figure out ways to demonstrate that there were reasons why they wouldn't accept qualifications from somebody from another jurisdiction. With a \$5-million fine, and not having that capacity in these organizations, we believe they will simply change their standards to recognize whatever standards that person has.

The Chair (Mr. Lorenzo Berardinetti): Mr. Flynn.

Mr. Kevin Daniel Flynn: Thank you, Mr. Hahn, for coming today, and thank you for making your point so clearly.

The bill was introduced on May 5, and as I understand it, it's been in the public realm now for almost 10 months. So when you say it's being rushed through, I'm not sure I'd share your opinion on that.

You talked about the waste water technicians and the fact that we've exempted them. I was trying to understand the point that you were trying to make. On one side, you're saying that you think it's a race to the bottom. I think it's a race to the top, and the evidence I would have for that is, when we looked at waste water technicians, we thought, no, the Ontario standard is higher and should be higher, and we're not going to let anybody practise that trade in Ontario unless they meet that higher standard. Surely that's an example of a race to the top. But you seem to be using it from the perspective that somehow it was lowering the standards, and I didn't follow that logic.

Mr. Fred Hahn: I guess from my perspective, on the issue of the public realm, one day of public hearings announced two days before, in my view, isn't actually allowing it to be fully in the public realm for public consultation.

Let me talk to you about water standards. If the bill in its current form is such a darn good idea, if we should really enhance labour mobility across regions and provinces, if we have these barriers that we should remove, then why is it that we would exempt any job? I think you've raised a perfect example. We put standards in place in this province that are higher than they are in other places. We did it for very good reasons, because people died. So we have to be able to protect those jobs, because if we didn't, what this bill would do is force those standards to disappear. You've exempted a series of jobs. What about all the other ones that haven't been exempted? What about the impacts that will happen there? This is our problem and our concern.

Mr. Kevin Daniel Flynn: Can you point to one example where that's happening? Tell me a trade—

The Chair (Mr. Lorenzo Berardinetti): Time is up. I'm sorry. I have to intervene here. We've given everyone 15 minutes, and I just want to be fair with this. I do apologize. Maybe you can have a discussion outside. I want to be fair to all parties.

Interjections.

Mr. Fred Hahn: I'd be happy to.

The Chair (Mr. Lorenzo Berardinetti): Thank you for your time.

Our next deputation was a 9:50 one to be confirmed, and that was not filled in, so we'll go to our 10:05 deputation. I'm just going to ask, is the Registered Nurses' Association of Ontario here? They're not here. I would suggest that we just recess until 10:05 to see if they do show up at that time, and if they don't, then we'll recess until this afternoon. So we're recessed until 10:05.

The committee recessed from 0953 to 1004.

REGISTERED NURSES' ASSOCIATION OF ONTARIO

The Chair (Mr. Lorenzo Berardinetti): The committee is now back in session. It's now 10:05. I'd like to welcome the Registered Nurses' Association of Ontario to our committee. Good morning and welcome.

Ms. Doris Grinspun: Good morning. My name is Doris Grinspun. I'm the executive director of the Registered Nurses' Association of Ontario, RNAO.

RNAO is the professional body for registered nurses who practise in all roles and sectors across Ontario. Our mandate is to advocate for healthy public policy and for the role of registered nurses in shaping and delivering health services.

With me today is Rob Milling, the director of health and nursing policy at RNAO.

We are here to express the strong concerns that nurses have about Bill 175, the Ontario Labour Mobility Act, 2009.

First, I want to say something about trade deals in general. Bill 175 fulfills an obligation dating back to 1994 and the signing of the Agreement on Internal Trade by Canadian governments. The AIT, like the trade deals before and after it, and most recently the deal that Ontario signed with Quebec several months ago, was negotiated behind closed doors, with no transparency and no input from the public. We have expressed these concerns in public forums before. Sadly, the limited public hearings that this bill is seeing today are yet another example. A bill that has such far-reaching implications for social, environmental and health care policies and programs, as well as nursing and all other professions—and yet the public is not hearing enough about it. Such legislation should have thorough public consultation across the province.

Too often, these trade deals are about deregulation and making it easier for private interests to reap the benefits of potential business and prevent governments from acting in the public interest. It robs their space, whether it's our public not-for-profit health care system, or child care, or protecting our environment.

Two quick examples: Canada's ban on the gasoline additive MMT was reversed in the face of a NAFTA challenge. Under NAFTA, Dow has challenged Quebec's ban on the harmful substance 2,4-D. Both bans were implemented to protect public health.

We count on our government to act in the public interest, providing us with health care, education, essential services, and protecting us from harm. By opening

the door to deregulation, trade agreements shift power away from the public interest and toward the private interests of individual investors and profit-seekers.

Nurses, and most Canadians, do not want regulations governing the practice of health professionals reduced to the lowest common denominator, but we are concerned that Bill 175 pushes exactly in that direction.

Proponents of Bill 175 describe it as a tool to enhance labour mobility between Ontario and other provinces and territories. The RNAO supports the free movement of persons within Canada and the right of qualified persons to work in their chosen profession across Canada. But Canadians already enjoy the constitutional right to live and work where they want. They don't need this bill for that.

By guaranteeing the right to have one's credentials recognized in other Canadian provinces or territories, Bill 175 is the beginning of a slippery slope, one that can undermine the capacity of the college—in our case, the College of Nurses of Ontario—to regulate professions. In our view, it's more than a slippery slope; it's reality if this bill is passed.

In fact, Bill 175 applies to nurses, and the patients we serve, in a very direct way. Section 33 specifically amends the Regulated Health Professions Act, 1991, to eliminate any barriers established by the college that may prevent someone with equivalent qualifications from working in Ontario.

1010

As we read this provision, we were shocked by its implications for RN preparation in Ontario. As we understand it, if an RN without a baccalaureate degree from another jurisdiction—like, for example, Manitoba—applies to the College of Nurses of Ontario and is not accepted, she or he would be able to complain to her own provincial or territorial government. That government could, in turn, challenge the Ontario government and, if the complaint is upheld, the government of Ontario could be liable for a penalty of, we understand, up to \$5 million. Then, the government will be able, in turn, to recoup the amount of that penalty from the college itself.

What this means, *de facto*, is that the College of Nurses would be paralyzed, because of prohibitively large penalties—and perhaps that's the intension of the bill—from doing their legislated mandate of protecting the public. Faced with not being able to afford the economic consequences, the CNO will feel obliged to accept all applicants from other jurisdictions. RN credentials from other jurisdictions would be then accepted whether or not they met the Ontario baccalaureate entry-to-practice requirement. This is a serious concern.

As you know, based on strong evidence of improved client outcomes, the Ontario Conservative government introduced the baccalaureate requirement in 2001, with our absolute support, and the evidence continues to mount in favour of this requirement. Nursing is a knowledge profession, and it's about time we realized that. This bill actually puts that in question, and it's very offensive. Nurses have the knowledge, competencies and

skills ever in demand when caring for patients with increasingly complex and acute needs. The ramifications are serious and damaging to the public.

If out-of-province RNs were able to enter Ontario without meeting provincial entry-to-practice standards—they can move, but currently must meet Ontario standards, as you know—this would undermine Ontario's move to baccalaureate entry to practice. This would dilute the share of Ontario RNs who were baccalaureate-prepared and also provide a perverse incentive for some nursing students to get their credentials in jurisdictions with the least-demanding educational requirements—again, damaging our patients. The real effect would be a downward harmonization of educational standards to the lowest common denominator, which would compromise the quality of care Ontarians receive from RNs. There is no doubt about that. Ontario RN students would be held to a higher educational standard than some of their non-Ontario counterparts. This also speaks to fairness, or the lack of it. This would be a huge step backwards. This is not the time to relax professional entry-to-practice requirements, and we ask you not to support it.

I wish to emphasize that nursing students, in general, recognize the advantage to their practice in being degree-prepared RNs and would accordingly choose this educational route anyway—at least here in Ontario—but the pressure to harmonize standards downwards cannot help but have some impact on overall standards. What we will see, though, is a decline in applicants to nursing programs, as many women and men interested in a baccalaureate-level education will look to other university-prepared professions and careers. And, in fact, that happened. When we got the baccalaureate, we had a huge increase in applicants to the profession, much against the myth that was out there.

We are also concerned that Bill 175 is an unnecessarily blunt instrument. Are barriers to labour mobility so significant that such a strong instrument is required? We say no. Apparently, there have been 26 complaints under the AIT about barriers to mobility in the 13 years since 1996, and 23 of the 26 have been withdrawn. That does not suggest an urgent need for a legislative hammer. No. What is the hurry? We want to know the truth of this, not just that there's a barrier to mobility.

There are several other problems that have not been worked out. Monitoring out-of-province standards is much more difficult to do than monitoring in-province standards. How will the public be protected if credentials from all jurisdictions must be accepted when the local credentialing body cannot easily verify the quality of training in other jurisdictions?

With the onus of monitoring and assessing qualifications falling on the regulatory bodies—the colleges—the bill imposes the additional burden of large fines and penalties for non-compliance. With the limited resources of the colleges, we ask: Who will end up paying, in the end? The answer is: individual members of each college.

Given the fundamental flaws in Bill 175, RNAO has the following recommendations:

(1) that the government withdraw Bill 175 for the purpose of full and comprehensive public consultations with adequate notice of hearings across the province;

(2) amend section 33 of Bill 175 to explicitly preserve the right of health profession colleges to maintain and/or create standards, and place the burden of proof of unreasonable mobility barriers on the party challenging the standards. In particular, the bill must preserve the baccalaureate entry-to-practice requirement for all RNs entering Ontario;

(3) continue to promote mutual recognition agreements between jurisdictions; and

(4) severely limit the liability that regulatory authorities have to fines and penalties for deemed non-compliance with the act.

We wish to thank the members of the standing committee for their invitation to present here today, and we ask you to absolutely re-look at this bill because not only will it be damaging for the professionals who work with the public; at the end of the day, it will be damaging to the public, and that's unacceptable to us. Thank you very much.

The Chair (Mr. Lorenzo Berardinetti): Thank you for your presentation. That leaves about three minutes for questions. We'll start with the NDP; Mr. Marchese.

Mr. Rosario Marchese: Thank you, Doris and Rob. The government is committed to passing this bill, so your suggestion in number 1 is simply not going to happen. They said, before you were here, that this bill has been out there since May. My problem with that is that 99.9.9% of the public doesn't even know the bill was in the Legislature, so to simply say that it was out there doesn't mean anything. The debate is pretty well restricted. On Monday, we had a closure motion on this bill and on Thursday we have hearings. You heard about it because somebody called you; otherwise this government would not have been able to let you know because we haven't advertised. We haven't had the chance to advertise; that's how bad this has been.

I want to tell you that your presentation has been one of the best because you give practical examples of how this would affect the profession and the safety of patients. That clearly illustrates to me and hopefully to the government members how difficult and dangerous this can be, because they haven't seen such clear examples of how standards would be affected. While there's section 9 that says that you can oppose it in a number of ways, section 12 says, "Every ... regulatory authority shall... take steps to reconcile differences between occupational standards."

It is your obligation to reconcile differences. You, with the higher standard, have to reconcile differences. We find it objectionable. I find it objectionable; I'm sure you do. I find the \$5 million objectionable. No other province has done that. I don't know why Ontario is keen on doing that.

Ms. Doris Grinspun: We had—

The Chair (Mr. Lorenzo Berardinetti): I'm sorry. We have to move on. We only have one minute per party.

Mr. Rosario Marchese: Oh, sorry.

Ms. Doris Grinspun: May I answer?

The Chair (Mr. Lorenzo Berardinetti): Maybe through the question to Mr. Flynn. He has a minute himself.

Mr. Kevin Daniel Flynn: I'll ask you a question; you can answer Rosario's question instead. First of all, thank you for the presentation. The entry-to-practice requirement is something that is interesting and something that I need to understand a little bit better. During the exemption period, we exempted the registered practical nurses for some very good reasons. This is obviously aimed at people who want to move around the country to work, and in your case specifically, nurses who would like to move from province to province to work. I'm a patient and I move around the country. You're saying that Ontario may attract people who don't meet Ontario's standards. Whereabouts in Canada, if I had to go into hospital, would I meet a lower standing in nursing, for example? Is it in Nova Scotia or—

Ms. Doris Grinspun: I would suggest to you: in any jurisdiction that has not adopted or has moved away from baccalaureate entry to practice. You need to understand that your own party supported the Conservative government—

Mr. Kevin Daniel Flynn: Right. I understand that—

Ms. Doris Grinspun: —when we moved to baccalaureate entry to practice, and it was done based on the evidence that there is. There is plenty of evidence in home care, in hospital care, that—

Mr. Kevin Daniel Flynn: I don't think there's any argument about that, but where should I be concerned as a patient?

Ms. Doris Grinspun: I think that you need to go to places, if you are lucky enough to choose, where the requirement for nurses is baccalaureate entry to practice. This is what this province decided, and in fact, it was voted unanimously by all parties, that this is what the patients in this province need.

To undo that is absolutely outrageous; it's the only thing I can say. I am astonished that the college, which is the regulatory body—we're the professional body—actually will need to pay back to the government if the government is challenged by a province like Manitoba or any other—Quebec—that doesn't have a baccalaureate entry to practice. I'm astonished—

The Chair (Mr. Lorenzo Berardinetti): Okay, we're going to have to move on, because—

Ms. Doris Grinspun: It paralyzes the college.

The Chair (Mr. Lorenzo Berardinetti): Sorry. Mr. Bailey?

Mr. Robert Bailey: Thank you for your presentation today. The entry-to-practice issue that you've raised is something the government will maybe take a look at in amendments, and hopefully we can do something there. I also agree that the penalties, as Mr. Marchese brought up, are going to be very difficult in those challenges. I also agree that we should have public hearings—we've been into this before. We should have more notice of public

hearings outside of Queen's Park, so that we could hear from all the hospitals and the nurses across the province. Thank you.

The Chair (Mr. Lorenzo Berardinetti): Thank you for your time. The committee is now recessed until 2 p.m.

The committee recessed from 1020 to 1402.

COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO

The Chair (Mr. Lorenzo Berardinetti): I'd like to call the Standing Committee on Justice Policy back into session. Our 2 o'clock deputation is the College of Physicians and Surgeons of Ontario, if they would like to come forward. We're allotting 15 minutes per group or deputation. Before you begin, if you could identify who you are and your titles just for the sake of Hansard, as we keep records of all this information. Good afternoon and welcome.

Dr. Jack Mandel: Thank you for this opportunity to appear before the committee. I'm Jack Mandel, the president of the college. I'm a family physician and I've practised for 36 years here in Toronto. With me today are Rocco Gerace, our registrar; Louise Verity, the director of policy and communications; and Amy Block, our counsel.

I wish to start by stating unequivocally that the college supports labour mobility, including national mobility, for physicians. However, I want to be very clear: An immediate move to full mobility for all physicians will put patients at risk and compromise their safety. In my presentation today I will explain why an implementation strategy is needed for full mobility to protect patients against the risk of unnecessary harm; convey the college's commitment to mobility; and present our recommendations to amend the bill.

Why do we need an implementation strategy? As you know, Bill 175 will generally entitle physicians with a practice licence in any Canadian province to obtain an Ontario licence. Currently, graduates of Canadian medical schools already have this national mobility. Ontario has historically welcomed international graduates through competency screening. This step ensures that they are able to meet the same standards as graduates of Canadian medical schools and are able to practise safely and effectively. Under this system, many internationally trained physicians have obtained their Ontario licence. In fact, about 25% of Ontario's doctors received their medical education outside of Canada and for the past five years more licences have been issued to international graduates than Ontario graduates.

Bill 175 will remove the college's ability to screen applicants trained outside Canada if they have a full licence in another province. This is concerning because a few provinces in Canada have lowered their entry standards to recruit physicians. There is data to support our concern that some internationally trained physicians are not practice-ready. For example, in Saskatchewan it is possible to get a temporary licence without meeting the

criteria that provincial medical regulators are proposing be the new Canadian standard. As part of the move into permanent practice, these doctors undergo a competency assessment after one year in the community. Results from a recent cohort of 172 physicians showed that only 8%, or 14, were found to be practising at an acceptable level. The majority could be brought up to appropriate standards through further education, but 7%, or 12, had their licences terminated.

In our competency screening program in Ontario, called registration through practice assessment, we look at the practices of physicians with full licences in other jurisdictions who wish to come to Ontario but do not meet our requirements. We have found that approximately 14% of them—that's one in seven—were so substandard that no amount of training was considered sufficient to guarantee that they would practise medicine safely. Again, that's one in seven. One example was Dr. X, a physician who was practising in New Brunswick and who would not meet our proposed new Canadian standard. Our screening found that this physician did not listen to patients, had difficulty understanding clinical issues, kept grossly inadequate charts and failed to adequately follow up with critically ill and vulnerable patients. We declined to license this physician. However, under AIT and Bill 175, we would be required to license this physician and would not be permitted to place any special precautions, such as supervision.

CPSO commitment to mobility: In May 2009, the college applied to the government for a limited two-year exception to the AIT, but only for the very small number of applicants who fall below the proposed new Canadian standard. The exception we have requested would apply to applicants who have not successfully completed the appropriate medical council exams, which is a requirement for all graduates of Canadian medical schools who have not completed an approved residency program. The exception would expire once the national standard was implemented or after two years, whichever came first. We're still awaiting a formal response from the government to our application.

1410

In addition, the college supported a request of the national association of medical regulators, FMRAC, for a two-year moratorium for AIT implementation for physicians to accommodate the implementation of a new Canadian standard. The college is actively participating in the FMRAC group that has now developed a proposal for this new Canadian standard.

I would now like to outline amendments to Bill 175 sought by the college and explain our rationale for requesting these changes.

First, we recommend that the bill be amended by adding a new provision that would permit the Lieutenant Governor in Council to make a regulation exempting a regulatory college if the college and its counterparts in other provinces have agreed to develop common certification requirements. This regulation would be automatically repealed after two years. The amendment

would allow the government to pass a regulation exempting this or any other college for a short period of time. It represents a transitional step to protect public safety, ensure immediate mobility for the vast majority of physicians and extend mobility to all remaining physicians who are registered in any Canadian province within two years. Physicians who would not qualify for mobility could still obtain an Ontario medical licence during this period through the existing assessment process.

Second, we seek amendments to subsection 21(1) to clarify that the Ontario government's right to recover any penalties it has to pay for non-compliance with the AIT from a regulatory college is limited only to cases where the college has acted in bad faith. The amendment reflects what the government has already advised the colleges its policy would be on recouping penalties from regulators. This merely sets it out in the legislation.

Third, we recommend additional wording under subsection 22.18(5) to clarify in the act that the college is not precluded from continuing its current practice of requesting a certificate of good standing from the regulatory authority in every jurisdiction where the applicant has previously practised or trained, not just the jurisdiction in which the applicant currently holds a licence. To help ensure public protection, the college needs to obtain information about an applicant's past and present competency and conduct.

Finally, we recommend additional wording under subsection 22.18(7) to clarify in the act that the college may refuse to issue a certificate or may impose limitations on a certificate based on non-exemptible registration requirements and any information that comes to the college's attention.

The specific wording and reasoning behind the amendments we are recommending are set out in the appendix.

Thank you very much for this opportunity to make this submission to the committee. We would be pleased to answer questions that you may have.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We have about two minutes per party. We'll start with the Liberal Party. Mr. Flynn.

Mr. Kevin Daniel Flynn: Thank you for your presentation. That was one of the better presentations I've heard before any committee this year. I think it was balanced. I think you made your point very, very clearly.

During the process that led to this, we had 67 proposals come forward from organizations that thought they should receive either an exemption or an exception, and you were part of that process, I assume. Is that right?

Dr. Rocco Gerace: That's correct, yes.

Mr. Kevin Daniel Flynn: Okay, good. Why you're here today is to say that you haven't received an exemption yet or you haven't received an exception yet, but you wanted the committee to be fully cognizant of the reasons why you should and what impact it may have on the people in the province.

Dr. Rocco Gerace: That's part of our submission. Other parts of our submission, as you see, relate to other changes we think would be relevant to Bill 175.

Mr. Kevin Daniel Flynn: Okay. As I said, I found the presentation very enlightening. The part about Saskatchewan I found a little distressing. That's something I'm going to look into a little bit further. I did want to thank you, and I wanted you to understand that certainly I heard what you were saying. I understood what you were saying. I think you make a very good case.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We'll move on to Mr. Bailey.

Mr. Robert Bailey: Thank you for the presentation today as well. We'll certainly look at these, our party, especially the amendments and the suggestions you put forward. My concern as to what you're saying—I think it's reasonable to ask for the two-year rollout so you are able to adapt your organization. It certainly doesn't look very good when the doctors themselves are scared of some of the other physicians who could be foisted upon us by this bill. I would have a concern personally, or for my family and for anyone else's family. I'm sure it's a small minority, it's not a big number, but still, one would be too many. So we'll do whatever we can from our side to try and implement some of these amendments.

Thank you for the presentation today.

The Chair (Mr. Lorenzo Berardinetti): Thank you. Mr. Marchese?

Mr. Rosario Marchese: Thank you very much. I found your presentation as good as many others that we've heard this morning. It's as balanced as most of the others.

The registered nurses talked about the same problem in terms of the potential to harmonize downward, where they argued that an RN without a baccalaureate degree from another jurisdiction like Manitoba can apply to the College of Nurses of Ontario, and if it's not accepted, she would be able to complain to her own provincial or territorial government. That government could in turn challenge the Ontario government, and if the complaint is upheld, the government of Ontario would be liable for a penalty of up to \$5 million. So they are concerned about how standards would go down as it relates to their profession. You're saying the same thing. You argue, as they did, that others could go and practise or study in another province and then come here and be able to get into the profession because those barriers would not apply. It's a problem, and I think overall it applies not just to your profession but many professions.

So we are concerned about how standards are going to be diminished, and we're concerned about the penalties. We haven't seen anything like it. This is the only province where we apply a \$5-million kind of penalty for non-compliance. Nobody else does it. Are you concerned about that as well in terms of the \$5-million penalty?

Dr. Rocco Gerace: Hugely concerned. Hugely concerned. It will drive behaviour because we simply don't have the resources to pay that kind of penalty, so it will affect how we carry out our registration responsibility.

Mr. Rosario Marchese: As I see it, we have a red seal program that applies to the trades, and it's working across Canada, with the exception of British Columbia,

which doesn't buy into it. You're trying to work on an agreement which you hope to get in two years so you have standards across Canada that you all agree to. As we do this, I wonder, why do we need this bill? Do you ask yourselves that question too?

Dr. Rocco Gerace: Yes.

Mr. Rosario Marchese: Is it a political question?

Dr. Rocco Gerace: I would just comment that we are diligently working with our counterparts across the country to develop national registration standards to which we will all subscribe. If this activity has done anything, it has driven that will to have a national standard.

I would also just re-emphasize that the vast majority of physicians in this country are fully mobile today, as we speak. This really only applies to a small percentage of physicians.

Mr. Rosario Marchese: Thanks very much.

The Chair (Mr. Lorenzo Berardinetti): Thank you for your presentation today. We appreciate it very much.

COUNCIL OF CANADIANS

The Chair (Mr. Lorenzo Berardinetti): We'll move on, then, to our next presentation, which is the Council of Canadians. I just want to welcome you here this afternoon. I'd also ask that before you begin you kindly just identify who you are so that we can put that into our Hansard record. You have up to 15 minutes.

Mr. Mark Calzavara: My name is Mark Calzavara. I'm the regional organizer in Ontario and Quebec for the Council of Canadians. Good afternoon. Thank you for allowing us to appear today.

The Council of Canadians is Canada's largest citizen advocacy organization, with 70,000 members across the country in over 70 volunteer chapters that organize in their communities to protect Canada's health and social programs, public services, water and natural resources. As the regional organizer, I work with hundreds of your constituents, who in turn work with thousands more. We encourage elected officials to take actions that strengthen communities and their local economies and preserve the high standards of regulation that Ontario has traditionally enjoyed.

Since our founding in 1985, we have pressured government to live up to their responsibility to protect the rights of Canadians. In 1998, the Council of Canadians helped defeat the multilateral agreement on investment, and we've been at the forefront of citizen opposition to similar trade and investment deals at the WTO and elsewhere. Our national chairperson, Maude Barlow, is internationally recognized for her social justice campaigning, for her critique of service privatization, and for championing the public sector.

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The Council of Canadians has just finished a nine-city speaking tour and community forum in Ontario to discuss Bill 175, as well as the Ontario-Quebec trade and co-operation agreement and the proposed Canada-EU trade agreement. Hundreds of participants at these events

expressed concern over the impact of the deregulation that will result from these initiatives. They were shocked that the Ontario government had not made public the Ontario-Quebec agreement before it came into effect, and they understand that the Canada-EU agreement will open up our public services to privatization.

At the time of the tour, we had no idea that the government would be forcing Bill 175 through this month. Given the wide-ranging public impacts, we do not believe that one day of hearings is sufficient. This committee must hear the broad, genuine public concern that exists when people learn of the impacts of Bill 175. We are forced to question the urgency with which the government is moving on Bill 175. Policy implemented without public input is bad policy. On behalf of our membership, we testify to you today that Bill 175 is a serious threat to good regulation that currently works in the public interest. Furthermore, the process of consultation on this bill has fundamentally excluded those most impacted by its proposed changes: the public at large. We suggest that one day of hearings is inadequate and we question the government's commitment to democratic transparency in implementing Bill 175.

We participated in a conference call with the Ministry of Training yesterday, where we heard the government's claim of having undertaken wide-ranging consultations this year with the associations that regulate occupational certification. This process was flawed in that it entirely excluded the most important stakeholder: the public. Certification standards and regulations exist to protect our society. The people of Ontario want to have a say in any attempt at lowering those standards in order to comply with those in other provinces. Deregulation in Ontario always raises memories of the tragedy at Walkerton.

We question the existence of a labour mobility problem in Canada. Labour mobility issues are easily addressed through interprovincial co-operation and voluntary initiatives such as the red seal program for skilled trades. It's not broken; don't fix it.

The Ontario government's closed-door approach to Bill 175 is worrisome in the context of upcoming AIT modifications and the federal government's pledge to exercise its authority if provinces don't eliminate perceived trade barriers by 2010. This causes us great concern about the negotiations on the Canada-EU agreement.

We offer that the true purpose of closing out public consultation on Bill 175 is to make it easier to impose broad constraints on the exercise of governmental and public authority under the guise of addressing trade barriers. At its core, this is an agenda to promote further privatization and deregulation, precisely the policies that have been ruinous for domestic and global economies and which have also frustrated efforts to deal with pressing environmental challenges such as climate change.

Mr. Steven Shrybman: My name is Steven Shrybman. I'm a partner in the law firm Sack Goldblatt Mitchell. I have practised public interest and international trade law for well over 20 years, and I have been retained on several occasions to give advice to the

Council of Canadians. They've asked me to attend here today on their behalf to complement the concerns that Mr. Calzavara has raised.

Mr. Chairman and members of the committee, thank you very much for giving us the opportunity to make a presentation to you.

I want to just flag the other agreement that the ministers entered into last December that is also being implemented by Bill 175: not the agreement on labour mobility, but the agreement on dispute resolution. This is chapter 17 of the Agreement on Internal Trade. While it was agreed to at the same time, last December, by the ministers, it wasn't made public. If indeed it has been made public, it was only during the last two or three weeks. The last I checked, it still wasn't a public document. I was able to get a copy about four weeks ago by phoning the secretariat in Manitoba to ask for one. But we have before us a bill that was tabled in May, which implements a dispute resolution regime that no one in the province of Ontario had the opportunity to examine or consider until very recently. That regime is truly remarkable and sets a rather astonishing precedent, because it empowers private tribunals, established in accordance with the typical modalities of arbitration, to actually impose financial penalties that must be paid by the people of Ontario for actions taken by their governments or by regulatory authorities in Ontario that are, in every respect, entirely lawful and proper under the laws of the province and the Constitution of Canada, but for an agreement entered into by a member of the executive of a government with his counterparts in other provinces.

But for Bill 175, that initiative would never have come before members of the Legislature of this province. Your views weren't sought before the minister embarked upon this project of negotiating such an agreement with his counterparts, and your imprimatur for the arrangement isn't being sought but insofar as the provisions of that dispute resolution mechanism may be engaged by Bill 175. Nevertheless, it is in place and the taxpayers of the province are liable for the consequences of their elected officials, whether municipal or provincial, breaching the broadly defined constraints of the Agreement on Internal Trade, which deal, as you know, with a great diversity of public policies and laws.

Bill 175 engenders these two agreements: the agreement on labour mobility and the agreement on dispute resolution. They have two things in common: They both engender broad and sweeping implications for the capacity of governments at all levels in this province to actually honour their mandates, and they are being proceeded with, with very little transparency. While stakeholders may be consulted along the way, the people of the province are not, and you would be very hard pressed to find any explanation by the government of the day as to why these initiatives are necessary.

When I look for them, I find press releases issued by the ministers at the meetings where they gather, but nothing further; and certainly nothing like a white paper or a green paper explaining the problem that these initiatives are intended to address and resolve.

In our view, it's a very bad way to develop public policy. Not only does it put at risk the very democratic building blocks of our society, but it also denies to policy-makers the kind of informed advice and criticism, whether you like it or not, that you get when you consult, and that often improves the product. You don't have an opportunity to do that when you don't seek people's views or give them an opportunity to offer informed advice or criticism.

Even at this late date, we would encourage the committee and this government to slow down this process so that the long-overdue opportunity to explain why this bill is needed can be offered to the people of Ontario, and then they be given the opportunity to respond.

Thank you very much.

The Chair (Mr. Lorenzo Berardinetti): That leaves us with just under five minutes for questions. We'll start with the PC Party. Mr. Bailey.

Mr. Robert Bailey: Thank you for the presentation; it was very interesting. I think a theme we've heard all day with different deputants refers to more consultation and more awareness, and that possibly a better job could have been done as far as more hearings around the province. You've echoed that.

I'd like to know a little more about dispute resolution. Do you think that part could be a charter challenge or something that, if this bill is passed and then affects somebody, someone could challenge it before the courts?

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Mr. Steven Shrybman: I think the bill raises some significant constitutional issues, and there may well be litigation, whether the dispute resolution mechanism is the focus, or an argument about the province overreaching its jurisdiction and mandate by dealing with matters that really do concern interprovincial trade, investment and labour mobility. That's a federal prerogative, not a provincial prerogative.

We think there's much more to this bill than its interprovincial dimensions, but there may be a challenge there, or for fettering the legislative prerogatives of Parliament in the way this bill will. There are serious constitutional questions that have been raised by the bill, and I don't think they've been vetted or considered by the government.

Mr. Robert Bailey: Okay. Thank you.

The Chair (Mr. Lorenzo Berardinetti): We'll move to the NDP. Mr. Marchese.

Mr. Rosario Marchese: I want to thank you both for coming, and I want to make a comment and ask a quick question. What I argued this morning is that 99.9% of the population doesn't have a clue what the AIT is all about. It was introduced in 1994, and nobody knows anything about it. The government of Ontario engaged in an agreement with Quebec, and we don't have a clue what they did. They didn't consult us; it was just done.

This bill is about to pass, and by the way, they're not going to slow it down. We're doing clause-by-clause on Monday, and if we hadn't called some of you to come, you would not have been informed about this, because

from Monday we had a debate to end discussion on this bill, and from there we moved to these hearings on Thursday. Nobody knows anything about it. I wanted, with you, to say how much I decry what this government has done. They introduced this bill as if somehow it was just eliminating barriers: “What’s the big deal? It’s all about Canadians being able to move from one place to the other.” That’s the extent of the information we get from the government.

I’ve had an opportunity to look at your paper, and I think that many have used your paper. I think it’s a great paper that you’ve done for different groups, where you make the case that we actually don’t have a problem. I think you were the one who made the case that most disputes are resolved, and so you said, “Why is it that we need this bill?”

I don’t see the need for this bill, and the \$5-million penalties are incredibly gross. I’ve never seen anything like it, and only Ontario is doing it. So there’s something else in this bill that they’re trying to get at, and that’s what they’re not speaking to. Maybe you want to comment on that.

Mr. Steven Shrybman: I think there is no evidence that there are significant interprovincial barriers to labour mobility. If you look at the record of dispute resolution under the AIT, you will find that lack of evidence. I think there has something a little over two disputes a year since the AIT labour mobility rules have been in place, by hairdressers, by trappers—it’s an interesting list—but they’ve been all been resolved but for two. So, why do we have a shotgun to deal with a problem that seems to have already been addressed effectively through voluntary interprovincial arrangements?

The Chair (Mr. Lorenzo Berardinetti): We need to move on. Mr. Flynn.

Mr. Kevin Daniel Flynn: Thank you very much for your presentation today. I want to say from the start that I’ve always held the Council of Canadians in high regard. I think Ms. Barlow has done some wonderful things for our country, which makes me wonder why you’re involved in this, right from the start. I’ve seen some of the issues you’ve involved yourselves in, in the past. I think they’ve been some really noble causes that speak to what we’re about as a country.

The intent of this act is to eliminate or reduce measures that either impair or restrict the ability of Canadians to move between provinces east-west. Some people in the past have said it’s easier to do business or it’s easier to move on a north-south axis than it sometimes is on an east-west axis in this country. The objective of this is to make it easier for ordinary Canadians to practise whatever skill or profession they have in various jurisdictions.

Now the AIT, as I understand it, was brought in under the NDP government. I could be corrected on that, but I believe it came in under the NDP. So the 99.9% you’re talking about may be a little smaller than that.

Mr. Rosario Marchese: This is a federal issue. AIT is federal.

Mr. Kevin Daniel Flynn: No, I think it’s an agreement between two provinces.

When you look around the country, is there a group of Canadians who aren’t up to Ontario standards in their skill or profession? Is there something I should be wary of that sheet metal workers in New Brunswick aren’t as good as sheet metal workers in Ontario, or is there some reason not to allow all Canadians to have the same access to make a living in their skill or trade throughout this country?

Mr. Mark Calzavara: To answer your first question, I think the reason we have engaged in this really has to do with this overarching push to take down any kind of perceived barrier to trade, regardless of its real function, and the reason there are different regulations across the country—there are fundamental reasons that have to do with those jurisdictions. They’ve made those regulations for good reason. This is a bill that will ultimately bring our regulations down. People don’t want that. People want to see the regulations, if anything, get stronger.

The other thing that happens with this is that it increases competition. People in Peterborough, for example, may be having a hard time with the unemployment rate there. Do they want other people coming in from other parts of Canada, coming from across Canada, to compete with them for their jobs there? The regulations at this point—if you’re living in Ontario and you’re practising as part of one of those trades that are regulated, then you’re qualified. So opening it up to anybody coming from anywhere across the country makes it more difficult.

The Chair (Mr. Lorenzo Berardinetti): I’m going to have to interject there—

Mr. Kevin Daniel Flynn: I’m listening hard and I’m not getting it.

The Chair (Mr. Lorenzo Berardinetti): I’m going to have to interject because we’ve gotten past our 15 minutes. I do apologize, but just in fairness to the other deputations here, I’m only following the rules that are in front of me. The 15 minutes’ time has expired. Thank you very much on behalf of the committee for being here today.

COALITION OF COMPULSORY TRADES

The Chair (Mr. Lorenzo Berardinetti): Our next deputation is the Coalition of Compulsory Trades. Good afternoon, and welcome.

Mr. Alex Lolua: Good afternoon. My name is Alex Lolua and I’m the director of government public relations for the IBEW Construction Council of Ontario. Beside me is Scott Macivor. Scott is here representing the Electrical Contractors Association of Ontario. Both of us are here on behalf of the compulsory trades coalition.

We’re going to keep our presentation brief. We prefer to get some questions from the committee members, as most of our issues have been raised. But the one thing we do want to emphasize is, again, as some of the other speakers have said, that Bill 175, in principle, doesn’t do a lot of harm to the compulsory trades. I’m sure most of you know, from the college of trades legislation, which most of you sat in on, that compulsory trades are a little bit different than other trades in the construction industry in that a licence is required to work in our trades.

On the surface, Bill 175 doesn't appear to be a problem, but, as other speakers have said, you can't look at Bill 175 on its own because it's tied in with the Agreement on Internal Trade.

One of the things that we would like to raise, though, is the purpose clause and how that emphasizes that concern. It puts the onus on the province of Ontario and all its regulatory bodies to comply with the Agreement on Internal Trade, as other speakers have said, which there wasn't a whole lot of input on. So therefore, the provisions within the AIT are just as important as those that are contained in Bill 175.

To see the potential impact that that could have on the compulsory trades, you have to look at section 707, in particular, clauses 1 and 2. Those two clauses introduce other standards than red seal for mobility for the compulsory trades across Canada. That's something that all of us within our coalition—and I guess I should go back for a moment, first of all, to explain to you who is in that coalition. I apologize for not having done that first. It's the Electrical Contractors Association, which represents the employers and the electrical industry; the International Brotherhood of Electrical Workers, which are the employees who do electrical work; the Mechanical Contractors Association of Ontario; the Ontario Pipe Trades Council; the Ontario Sheet Metal and Air Handling Group; and the Ontario Sheet Metal Workers and Roofers Conference.

To go back to the concerns we have, our industry across Canada has developed red seal as the standard for mobility, and it works. Every tradesperson in Ontario in a compulsory trade writes red seal now when they get their C of Q. So we've already got a standard that industry has developed and now we've got other people telling us that there needs to be another standard to increase mobility, and we think that's not a good thing. That's a race to the bottom and it's only going to deskill the trades. I think the doctors and the accountants and other people have explained the perils of doing so, and that's something that we'd also concur with.

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We'd also like to commend Bill 175 in that it does emphasize the province's commitment to red seal. So on one hand, we've got a bill saying, "Red seal is the be-all and end-all," and yet AIT says, "Maybe something else will do." If we're going to be committed to red seal, let's be committed to red seal. Let's work within red seal so we're going to get mobility. Let's use that standard that industry has developed and work on any other minor issues that we think curtail mobility to address that situation.

Finally, the last concern that we want to touch on is in clause 12(1)(a), where it talks about how regulatory bodies should not be making changes that could hinder mobility. With the new college of trades—we passed that bill recently. Within that, we have trade committees. So if a trade committee decides to change its curriculum, is it going to have to worry about whether those changes are going to hinder mobility? For example, in the elec-

trical industry we've developed a brand new curriculum for solar-voltaic electrical production. If we change our curriculum in Ontario, somebody who gets their electrical licence in the Yukon isn't likely to be involved in solar-voltaic electrical production because there's not enough sun to use that technology. So is the PAC going to be restricted in making changes that they need in Ontario because it may hinder mobility?

Those are the kinds of things that we have to be assured wouldn't be an indirect consequence of the amalgamation of these two agreements.

Beyond that, we would welcome any questions that you may have on the bill.

The Chair (Mr. Lorenzo Berardinetti): That leaves about 10 minutes for questions. We'll start this time with the NDP. Mr. Marchese? There are about three minutes per party.

Mr. Rosario Marchese: How many?

The Chair (Mr. Lorenzo Berardinetti): About three minutes per party.

Mr. Rosario Marchese: Alex, one of the things that worries me about this bill is, it says that, in section 12, "Every Ontario regulatory authority shall... take steps to reconcile differences between the occupational standards it has established for an occupation and occupational standards in effect with respect to the same occupation in the other provinces." It assumes that the occupation in other provinces is the same or that the standards are the same. We know they're not. Is that not the case?

Mr. Alex Lolua: No. I've served on the Ontario-Quebec monitoring body since, I think, Mrs. Witmer appointed me in 1997. In some cases, it's a dog's breakfast. I think most recently we've seen it in British Columbia, where they've deskilled a lot of trades. Again, that makes trade-matching difficult.

Mr. Rosario Marchese: And that's the problem for me, because it says that the province must reconcile those differences—meaning, "I have the responsibility to make sure that person gets employed and that no additional training should be required," is what they're saying with this bill.

Mr. Alex Lolua: Yes.

Mr. Rosario Marchese: And it worries you, I'm assuming, right?

Mr. Alex Lolua: It does. To us, to the members of the coalition, it seems to send a bad message against red seal.

Mr. Rosario Marchese: What about the fact that this bill requires \$5 million in penalties if there's no compliance? Have you heard anything like it, where you're going to be charged five million bucks if you're not complying?

Mr. Alex Lolua: Not to my knowledge. I could see where people could be concerned as part of a trade advisory committee within the college of trades. If they're going to be subject to those kinds of penalties, I'd be concerned.

Mr. Rosario Marchese: Are there stories that you've come along with that you could tell us that makes a

difference in terms of how this problem would either be good and/or bad?

Mr. Alex Lolua: What the doctor from the medical profession said is that people are worried that there's going to be a sieve somewhere; that it's going to act like a gateway.

Recently, in the Ottawa area, we've had an incident where three fellows came in from Florida with electrical licences. In Florida, the licences are given out by the county government. So they came up here, were automatically given a provisional certificate to operate as a full 309A electrician—a certified trade. The gentlemen in question, one of them, wrote the provincial exam and scored 48%. I'd like to commend the ministry because they have addressed that problem, but it just demonstrates that if one jurisdiction in Canada decides to give out, let's say, a provisional certificate for a compulsory trade, people are going to—

Mr. Rosario Marchese: Go there.

Mr. Alex Lolua: —flow to there, get that certificate and just proliferate throughout Canada. We've got a standard; it's red seal. We really believe it works.

In the work that I did on the monitoring body, in the red seal trades, it's easy to get matches. If everybody writes to that standard—and, to our credit, in Ontario, every single compulsory-trade journeyman writes to that standard. They don't have a problem going anywhere. So if we can get that agreement, we're there.

The Chair (Mr. Lorenzo Berardinetti): We need to move on. Thank you. Mr. Leal.

Mr. Jeff Leal: You talked about the red seal program and your involvement with it over many years. Section 6 says, "Nothing in this act restricts the crown from taking any action that it considers advisable in order to fulfill its ongoing commitment to the interprovincial standards red seal program referred to in article 707 of the Agreement on Internal Trade." That guarantees your red seal qualifications, as I understand, in that section of the bill.

Mr. Alex Lolua: We like that statement. I think I mentioned that in my brief.

Mr. Jeff Leal: It's not a statement; it's part of the bill.

Mr. Alex Lolua: We understand that, but in 707, 1 and 2 of the AIT say that there are things acceptable other than red seal. We're saying, that's not necessary. We have the standard. It has been developed by industry. Why would we go to something else to cause a lowering of the standard?

Mr. Jeff Leal: One further quick question: If I was investing in a business in Manitoba today and I needed an electrical contractor, would I be in jeopardy because of standards that are not the same as Ontario's?

Mr. Alex Lolua: We believe that in Ontario, we have the highest standard and we think that's what makes Ontario a great place to invest.

The Chair (Mr. Lorenzo Berardinetti): There's one minute left. Go ahead, Mr. Flynn.

Mr. Kevin Daniel Flynn: Thank you, Alex, for your presentation. It was very balanced. I think you're saying that there are things in here you like; there are things in

here you have concerns about. If you'd expand upon—in about your third paragraph you say, "In principle, Bill 175 does not appear to be detrimental to the compulsory trades." You go on: "Its impact is dependent on how the Agreement on Internal Trade is interpreted and implemented." The Agreement on Internal Trade was signed by the NDP government in 1994, as I understand it, so why has it become an issue now? Could you expand on that concern a little bit?

Mr. Alex Lolua: It's probably more of an awareness. I've been in government relations work since 1993 with the building trades in my previous life. I wasn't overly aware of the AIT, but now, I think because of awareness—because of the press and because of this bill, Bill 175, it has increased the awareness level. Again, one thing that I have learned in construction is that people who have their C of Qs are proud of what they've done. They make their money by their skills. It's not what they produce; it's the skills that they have, and I'm sure you've seen that in your new role as the parliamentary assistant to the minister. They're very fiercely loyal about what they have and they're proud of the high standard that they've achieved.

Red seal stands for something. When it appears that it's getting undermined, they get their backs up. A lot of people in the compulsory trades have their backs up, and I sense that doctors and accountants and other people who have achieved the highest standard they can in their profession feel slighted, whether rightly or wrongly, in that people or someone or their government or whoever is trying to introduce something that undermines what they've achieved.

Mr. Kevin Daniel Flynn: That's not the intent.

The Chair (Mr. Lorenzo Berardinetti): We must move on. Mr. Bailey.

Mr. Robert Bailey: Alex, Scott, thanks for the presentation. I understand your concerns. I worked in industry for over 30 years, as you know, Alex, and I worked both beside and then coordinated, or supervised, many people who belonged to the red seal program. I worked in the petrochemical industry and I know the skilled labour out there—electricians, pipefitters, every trade—so I appreciate their concern and I understand. When I sent people out, knowing that they had met those standards to qualify for the red seal program, I breathed a lot easier at night when I had people out on the job and had to be responsible for their safety. So I understand your concern.

What is something that we could do in the short term to try to—have you got some suggestions for amendments to ease your mind and both industry and the trades?

Mr. Alex Lolua: I'm not sure at this point how much you can do, in that the AIT itself won't be amended. I know in talking to some of my colleagues that the penalty and the arbitration system do cause concern because people don't know who is to be selected or how the process is going to work. In construction in particular, as many heard me say when lobbying you on other issues, it's a unique industry, so if you don't understand the

intricacies of construction—you're going to have people ruling on our industry, potentially, that don't understand it. Some of those things can have long-term impacts. Those are the kinds of things that we don't want to subject ourselves to, especially when we've developed something like red seal that's universally accepted and it works.

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Mr. Robert Bailey: Thank you.

The Chair (Mr. Lorenzo Berardinetti): Thank you for your time and thank you for your presentation.

ONTARIO COUNCIL OF HOSPITAL UNIONS

The Chair (Mr. Lorenzo Berardinetti): We'll move on to our next presentation: the Ontario Council of Hospital Unions. Good afternoon, and welcome to the committee.

Mr. Michael Hurley: Hi, Mr. Chairperson and members of the committee. Thanks so much for allowing us to make a presentation. We really appreciate the opportunity.

My name is Michael Hurley and I'm the president of the 30,000-member Ontario Council of Hospital Unions. With me today and handling the content of the bill will be Steven Shrybman, who's an international trade specialist and a lawyer with Sack, Goldblatt, Mitchell.

I'd just like to say at the outset that they have the privilege of travelling across Ontario—and you really have to ask yourself how Ontario has done under the free trade regime. Whether you live in Cornwall or Kenora or Windsor or Hamilton, we've got an economy which is staggered with job loss, as the manufacturing and resource sectors have shut down in this province as a result of what's happened under the free trade regime. I think that this legislation and the context in which it's situated is exactly the wrong policy for Ontario and exactly the opposite of the economic policy this government should be pursuing.

Mr. Steven Shrybman: Hello again, members of the committee and Mr. Chair.

You have a short presentation that has been prepared on behalf of the Ontario Council of Hospital Unions. I assisted them with that. I'll just very briefly summarize the key points and I'll try to avoid repeating some of the comments that I've heard others make before you today.

The first point is simply to question the premise for this entire exercise. There is no demonstrable problem of labour mobility that isn't being addressed or hasn't been satisfactorily resolved through voluntary measures, including the red seal program. But there are many other initiatives that have been pursued successfully over recent years.

You can go to the website maintained by the secretariat for the Agreement on Internal Trade and see all of the disputes that have been filed. There are 23 that have been filed since 1994. So you can see what the character of the

mobility disputes are and also learn there that virtually all of them have been resolved.

The second point is this whole pressure that the bill will generate to lower standards to the lowest common denominator. Ontario has often set a national benchmark for regulation. I know, having practised environmental law for 20 years, that the best standards in the country were often Ontario's standards. There were many jurisdictions that were lagging behind. Ontario's example provided the leadership that they might follow to achieve more in terms of protecting the environment.

This bill will put in place a counter-dynamic which will encourage the reduction of Ontario's higher standards to some lower common denominator. You've heard some of the argumentation. Perhaps one point you haven't heard is that under this bill, only the jurisdiction maintaining high standards can be challenged and penalized. There's no recourse for someone who is concerned about the absence of standards in a particular jurisdiction, and there is no sanction for not properly regulating a skilled trade or a profession.

By allowing people to be certified who aren't residents in Ontario, the inescapable impact of that will be to increase competition for employment in Ontario at a time when the economy is in serious decline. The run-on impact of that will be downward pressure on wages and benefits. That speaks very directly to Mr. Hurley's point about whether this is a policy that suits the economy of this province, which is now under considerable stress.

The premise of this exercise is somehow that when a regulatory body maintains a higher standard, the higher standard should be suspect; that it was established for some improper purpose. But when you step back from it and you think about the process of developing standards—and as lawmakers, you're familiar with it—governments don't act capriciously. They don't act for protectionist reasons. They are trying to protect consumers. They're trying to protect public safety. They're trying to ensure that the crane operator actually knows what he's doing and the nurse is properly trained. The onus should be on someone who seeks to challenge the validity of our regulations, not the other way around. This bill has it backwards.

One of the things you may not have heard is that the bill imposes significant resource demands on Ontario regulators. If you're the College of Physicians and Surgeons, or Nurses, or the people who certify child care workers, and you get an application from somebody who has received a certificate in Alberta, how do you know what their regulatory standards are or how effectively they are being implemented, particularly as, increasingly, private companies are being licensed to issue licences and certificates?

The Star ran a long series—I don't know whether any of you saw it—exposing that in Ontario we have real problems policing the private colleges that are turning out people with licences who aren't properly trained. And now, somehow, Ontario regulators have to keep a tab on what's happening in every other jurisdiction in the

country—very much of a demand on resources at a time when resources are scarce.

There are exceptions under the bill. This is another point you may not have heard. They're much less robust than they appear to be. If you look at the way the dispute panels under the AIT have treated the exception for legitimate objectives, you will see that they've established a standard that requires the jurisdiction seeking to rely on that exception to establish that there was no other feasible way to achieve their objective that was less restrictive of trade and thus labour mobility. It's an impossible task to meet, to prove that negative.

The last thing I want to say before I close is that the Conservative government of Stephen Harper has made the implementation of the AIT, of which labour mobility rules and the dispute resolution provisions are two key elements, a priority. He talks about it in his throne speech. He goes even further in their election platform materials, saying that if the provinces don't act to do this, the federal government will rely on its trade and commerce authority to impose those disciplines on the provinces. That would truly be a constitutional challenge, if it actually went that far.

We believe there are no demonstrable or meaningful barriers to trade, investment and labour mobility in this country, however many times the trade ministers may repeat their belief that there are such things.

What this agenda offers the Stephen Harper government is a pretext for an ideological agenda that seeks to reduce the capacity of governments to do the things we expect governments to do, which is to regulate in the public interest and provide public services such as health care.

It's not surprising, given his ideological commitment, that he would be committed to such an agenda. What's entirely puzzling to us, though, is why the province of Ontario would seek to do that bidding.

Thank you very much.

The Chair (Mr. Lorenzo Berardinetti): Thank you. That leaves us with about six minutes for questions, so two per party. This time we'll start first with the Liberal Party. Mr. Flynn.

Mr. Kevin Daniel Flynn: Thank you—

Mr. Rosario Marchese: Kevin, you can have my two minutes—so that they can engage each other. Go ahead. If you run overtime, you have my two minutes.

Mr. Kevin Daniel Flynn: Okay. Thank you, Rosie. You're a nice guy.

Mr. Rosario Marchese: That's the way I am.

Mr. Kevin Daniel Flynn: No matter what everybody else says, I like you.

It's a little like shadowboxing here, in some of your statements. I think you're saying we don't really need this, but if we had it, it would create pressure on Ontario jobs and everybody would be going to Peterborough and stealing Peterborough jobs. Surely if we didn't need it, everybody would be going to Peterborough and stealing Peterborough jobs as we speak. I'm trying to follow the logic of not needing the bill and saying we don't need it

because we have mobility, but now if we implement a bill that encourages mobility, bad things will follow.

You refer to things like lower standards. I'm just wondering, what is an example of a lower standard in Canada in a skilled trade, a profession, that I might be familiar with?

Mr. Steven Shrybman: Well, Ontario has standards, in consequence of what it learned at Walkerton, that require more of people who operate water systems than is the case in other provinces. There are provinces that do not require, as Ontario does, nurses to have university degrees. There are provinces that do not require social workers, as Ontario does, to have university degrees—something, by the way, the province did, I gather, in the early 1990s because of the concerns about bad things happening to children in care.

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I think you do know that there are jurisdictions in this country that are far less committed to regulation than is Ontario. That has historically been the case; it still is the case. Certainly, the governments of Alberta and British Columbia and other governments simply do not adhere to the same notions of the role of government in contemporary society. That becomes the benchmark against which Ontario standards are going to now be measured.

My comment about the impact on the economy was made specifically with respect to the fact that residency may no longer be required as a prerequisite for certification in Ontario. I think the inescapable conclusion of that is you're going to get many more people applying for a ticket in Ontario because they don't have to actually reside here.

I don't know how many people there will be who fall into that category, but right now that's a constraint that is permitted by provincial regulators that would be removed under this regime. Also, if you lower the bar there are just going to be that many more people who can claim qualification, even if they're not trained to the higher standards that Ontario maintains.

Mr. Kevin Daniel Flynn: Okay. On the waste water example you used, which I think is a good one, we've made an exception for that because, clearly, Ontario has developed, for good reasons that you stated, a much higher standard in that regard. That seems to me to be a sensible provision of the bill, but I keep seeing this sort of reference to—for example, “By requiring the certification of tradespersons and professionals who are trained to a lower standard...” Yet I've asked others who have presented today—so don't feel I'm picking on you—who or what is that lower standard? Where would I find somewhere in Ontario that I might be—if I had to use, let's say, a social worker, should I be concerned about that in some other province, or a nurse in some other province, or a hospital in some other province in this country? Where should I be concerned about the standards?

Mr. Steven Shrybman: I've given you a couple of examples that I know, but I'm a lawyer, not an expert in the regulatory qualifications that various provinces

maintain for various professions. But I asked the provincial officials responsible for this project where that information could be found and they told me they didn't have it. What they were doing instead was to go to the colleges and ask them to survey the Canadian landscape, identify where the problem areas existed, and then tell the people in charge for the province what standards they wish to maintain that might be assailed because other jurisdictions weren't meeting the same expectations that Ontario had in place—and then the provincial officials would tell them whether their desires were permitted under this bill.

There's been a lot of conversation taking place that most of us aren't privy to that would reveal the answer to the questions you have asked, as would committee hearings, I believe. I attended hearings in British Columbia and Saskatchewan into the trade, investment and labour mobility agreement. The committees travelled around the province; they were legislative committees. They heard from an awful lot of people who were informed about the impacts of those initiatives and advised the legislative process of them. It was a very effective process, but it's one that governments have to be open to and encourage.

The Chair (Mr. Lorenzo Berardinetti): We have to move on. Mr. Bailey.

Mr. Robert Bailey: Thank you, Chair, and thank you for the presentation. I agree with public hearings too. I think this bill, like all bills, would be better if we were able to travel and hear from individuals like yourself and other people affected.

One thing I can't understand—I haven't been here a long time, but usually when I come to these committee hearings, one deputant comes and they're strongly in favour, and then the next deputant will come in and they've got reasons why they're against it. But so far today, everybody, to different degrees, has got a lot of concerns with this bill. What I can't understand is, who helped draft this bill? How could this thing be drafted in isolation?

Most times, in my experience—Rosie, I'm sure, can tell better, and a number on the government side—usually there's one side and the other, and you have a hard time making the decision, because one deputant will come in and make a great argument, and you say, "Okay, that sounds good," and then the other guy will come and tell you how bad it is. But today, everyone seems to have big concerns about this. Can you explain—is it just me who feels that, or does everybody in the room feel that way? If you've got an answer, fine. I just don't understand this.

Mr. Steven Shrybman: If there were a real problem for this bill to solve, you would hear from the people who are aggrieved by the status quo. They're not coming forward, I believe, because they don't exist.

This will do nothing to improve the qualifications or competence of anybody working in a skilled trade or a profession in this province. No one can plausibly make that claim. But it may be of some help to somebody in the province who can't find work here and wants to move

to Alberta, if Alberta has put in place similar legislation—and by the way, I don't think it has. Not every province has followed Ontario's lead.

Mr. Rosario Marchese: And it's different. That's right.

Mr. Steven Shrybman: So the only people it's going to help are people who want to leave the province because they're that desperate to find employment that they feel they have no alternative and they're going to a jurisdiction that has done what Ontario has done. I think BC, Manitoba, Quebec and Ontario are the four. So it wouldn't help them very much in Alberta.

Mr. Robert Bailey: So, in other words, this is maybe to help outward migration; it's not really going to help anybody here in the province?

Mr. Michael Hurley: We had a series of Canadians—as one of the previous presenters indicated, we had close to a couple of thousand people out, and all of them were very concerned about this piece of legislation, about the Quebec-Ontario agreement, about other trade legislation, and it's really shameful that we're not affording people the opportunity to have a discussion about this trade regime and what its implications are.

As I said at the outset, there are a lot of people hurting, as you know, in the province of Ontario, hurting economically, hurting because of what has happened as a result of the North American free trade agreement and very concerned and alarmed about the possibility that there will be further deregulation, there will be further elimination of barriers and they're going to be the victims of that.

The Chair (Mr. Lorenzo Berardinetti): Okay. I have to stop you at that point, because the 15 minutes has been used up.

Mr. Marchese, you gave your two minutes—

Mr. Rosario Marchese: That was great.

Mr. Michael Hurley: Thank you very much for having us.

The Chair (Mr. Lorenzo Berardinetti): Thank you very much for coming out.

Just to let members of committee know, the 3 o'clock deputation is not present. What we're going to do is just skip down to the 3:30 deputation—

Mr. Rosario Marchese: Erin is here. Fine.

The Chair (Mr. Lorenzo Berardinetti):—the International Brotherhood of Electrical Workers, and then we'll hear from the United Steelworkers union after that.

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS

The Chair (Mr. Lorenzo Berardinetti): We'll go first with the International Brotherhood of Electrical Workers. Good afternoon and welcome.

Mr. Barry Stevens: Thank you. My name is Barry Stevens. I'm with the International Brotherhood of Electrical Workers. I'm the political action media strategist for Canada. I am also a licensed red seal electrician since 1968.

Before I start, I'd like to do two things: I'd just like to say, what's the rush? The other thing I'd like to say is—there's been talk about where are the lower standards? Well, I'll tell you. In the electrical industry, the lower standards are in Quebec and BC. That being said, I'll read my deputation.

The Agreement on Internal Trade presents major problems for the International Brotherhood of Electrical Workers. For many years, the electrical construction industry has promoted the red seal program as the benchmark that represented the standard of excellence. With the red seal, the worker could travel to any part of the country and ply his or her trade without further examination. The Agreement on Internal Trade appears to undermine this standard.

The negative impact of implementing the AIT labour mobility act is of great concern. Patrick Dillon, business manager of the Provincial Building and Construction Trades Council of Ontario, is on record as stating:

“There is no doubt in my mind, with what they have put in place, it allows for the lowering of standards, no matter how it is cut. The real sad part of that is that it hurts health and safety, and long-term injuries and deaths will increase in construction.”

The Ontario Federation of Labour echoes Mr. Dillon's concerns. In a letter dated October 20, 2009, and sent to Premier McGuinty, the OFL said it will impact on Ontario's ability to insist on high-quality training standards for regulated trades and professions. Wayne Samuelson, president of the OFL at that time, is concerned “that aspects of the Bill 175 (AIT) will prohibit local and municipal agencies from developing hiring practices that nurture local economies.” He goes on to state, “Bill 175 may well contribute to limiting your government's ability to implement effective economic development strategies, especially in the area of procurement.”

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The indictment against the AIT is further argued by Steven Shrybman, a lawyer representing Sack Goldblatt Mitchell. In his executive summary of Bill 175, Mr. Shrybman makes the point that under the new proposed regulations, any failure to comply with the regulations could result in penalties as high as \$5 million for each incident. These new rules would expose municipalities and non-governmental regulatory authorities to possible unfavourable consequences. The new laws would also put the proposed college of trades in Ontario under the same scrutiny.

Mr. Shrybman argues, “There is no demonstrable rationale or need for Bill 175, as virtually all significant labour mobility issues have been successfully addressed over recent years through interprovincial co-operation and other voluntary initiatives such as the red seal program for skilled trades.” He further states, “Requiring regulators to recognize occupational certifications given in other provinces with more modest standards will create pressure for them to reduce their own standards to the lowest common denominator.” He is firm in his belief that Bill 175 will do nothing to enhance the professional

skills and competency of a tradesperson; in fact, it may do the opposite.

The argument for labour mobility is an ideological one driven by the Harper Conservatives. Their argument that there are too many impediments to labour mobility is unfounded. To begin with, 20% of Canadian workers are employed in regulated trades. From this group, there have only been 23 challenges to mobility in the last 15 years, and only two of those were upheld. This legislation is not about giving workers the freedom to earn a living where they wish, but rather, it is a vehicle to drive wages and working conditions down. If the federal and provincial bodies really want to increase the ability of workers to find a place in the construction labour market, then they should allow workers to deduct relocation and travel costs from their taxes.

The Construction Council of Ontario, CCO, along with the Ontario Electrical League, OEL, and the Electrical Contractors Association of Ontario, ECAO, made a joint submission to the provincial government in May 2009. In their proposal, they raised concerns that the red seal program would be marginalized after being the standard for over 45 years. The concern is that we may get a commitment to the red seal program from every province; however, if the red seal itself is degraded, then it doesn't matter.

The problem isn't creating a national standard; it is maintaining the high standards for the authentic trades.

Four underlined positions were put forth:

(1) Nothing must be done which would diminish the role of the red seal and national standards in the construction industry. As a practical matter, that means that the specific language in article 708 must remain intact and unchanged.

(2) Industry cannot and will not accept the removal or watering down of article 708. Assurances that red seal will continue to play the same role it has played for more than 45 years are of little value if the language of article 708 is weakened or diminished in any way.

(3) Ontario's policy on internal trade should continue to support national mobility through the adoption and maintenance of national occupational standards.

(4) The amended agreement must contain the same explicit recognition of the role of the red seal, namely that the “red seal program shall be the primary method through which occupational qualifications in regulated trades are recognized.”

The CCO document presents the argument clearly and what should be the standard. The International Brotherhood of Electrical Workers supports this position, and further to that, we will be presenting deputations, in other provinces that are pushing this legislation forward, in defence of the red seal program. Thank you very much.

The Chair (Mr. Lorenzo Berardinetti): That leaves just under eight minutes for questions. We'll start with the Conservative Party, so about a couple minutes each.

Mr. Robert Bailey: Thank you for your deputation. I appreciate it.

I worked in industry—I don't know whether you were here before—and I appreciate the red seal program both

from a contractor's side and from a worker's side, the work that they did to achieve the red seal program.

I asked the last deputant this, and I don't know whether you were in the room or not: Do you know why it seems everyone that we heard today so far—unless I stand to be corrected; maybe someone's going to come in at the last minute and ride to the rescue—seems to be against this program? I'm kind of surprised. It seems like organized labour has spoken to and communicated with the ministry and the civil servants who helped draft this. People who are ordinarily pretty well-connected spoke out against it or had concerns, and yet it's still here before us. So what's the background on this bill? Why are we here, I guess?

Mr. Barry Stevens: That's a good question. I wish I had the whole answer to it. But I think I stated that it was ideologically driven in terms of the fact that there's a premise by certain parties in this country who believe that there is no labour mobility when in fact, we've had it for 45 years using the red seal program as a standard. That doesn't mean to say that if you don't have the red seal program you can't, let's say, go from Ontario out to Alberta, but you are only given a provisional licence for the period of time that you're out there. You either have to write your licence after three months or head back home. You have to meet that standard. That encourages education in the trade and maintaining a high level.

Everybody in this room wants to have an electrician as their best friend. Why? Because everybody knows that it's a highly skilled job and requires regulations. We have to work under those regulations. It doesn't happen overnight. It's not being a medical doctor—I'm not putting myself at that level—but it certainly requires a high level of education. I think the standard has been set.

All we're saying is, if you're going to adopt this bill, adopt the red seal program as the standard and ask the other provinces to come up to those standards. Yet BC has turned around and deregulated the electrical trades and many of the other licensed trades, and that pushes it down and causes a fragmentation of those occupations. Quebec has a lower standard as far as qualifying to be an electrician; the exam in Quebec is much easier and requires fewer hours to serve an apprenticeship. Ours is 9,000 hours, and 70% to get your licence gives you the red seal. Now, you either get your red seal or you fail. A pass is 70%. When I wrote my red seal, I could have gotten my licence at 60%. I didn't have to worry about 70%. I blew by 70% a long time ago. I made my living in the trade, very honestly.

That's the pressure that we're faced with: Having those two provinces with lower standards is pressure down on workers to maintain the wages that they need to live in Ontario.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We'll move on to Mr. Marchese. You've got a couple of minutes. Two minutes.

Mr. Rosario Marchese: I wanted to ask Mr. Shrybman this question, but it didn't happen, so I'm going to read this and see what you think about it. It says, in

section 6, "Nothing in this act restricts the crown from taking any action that it considers advisable in order to fulfil its ongoing commitment to the interprovincial standards red seal program...." The way I read it is that the minister could take action, because nothing prevents him from taking action, but he or she doesn't have to take any action to protect the red seal. That's how I read this. It's not a positive or affirmative statement saying that the red seal is here to stay and it's enshrined in the act and no one has to worry about it; it simply says that nothing restricts the crown from taking action. But they may or may not take any action, which means—

Mr. Barry Stevens: And in fact, Ontario may say, "Look, we want the red seal program to remain intact at the standard we want." The government of the day here in Ontario may want that, but when it goes to an AIT panel, that's when the politics are played and the standards can be pushed down. That's why this is wrong, to be going forward at this time. We have to have a commitment and an open conversation that says that the red seal program will be maintained at the high standard it's at. I don't want to see that diminished.

Mr. Rosario Marchese: And Barry, it's not just the AIT that could reverse it; any other government that has a different ideology could reverse it, or not take any action with respect to it.

I just wanted to tell you, Barry, that—

The Chair (Mr. Lorenzo Berardinetti): Last question.

Mr. Rosario Marchese: We debated this bill on Monday, and we closed the debate on this issue. On Monday, the government, by order, simply referred this bill to these hearings on Thursday. A clerk was not able to send out an ad in the Toronto Star, the Globe and the parliamentary channel so that everyone would be advised about this bill, so they could come and depute. No one knew about it except for the few people who were informed. I have never seen anything like it done by any previous government.

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Mr. Barry Stevens: I applied at approximately 4 o'clock yesterday afternoon, after getting home from another meeting I was at where I had to have my BlackBerry off and wasn't able to get my messages. I got on the computer. Pam Frache from the OFL had said, "This is where you go to apply for deputations." I stayed up last night, wrote the deputation and I'm here today.

That's what I say: What is the rush? I'm sure we would have had more deputations and a better understanding of this, given more time.

In simpler words, Steven Shrybman—I'll say it simpler, maybe, but still heartfelt. The fact is, in a democracy, what's the rush? The whole value of a democracy is to lay it out so that people can understand the argument and then be allowed to voice an opinion one way or the other.

I'm not saying that everybody here would have come in and been against it. We've reacted, but there may be people out there who would have come in and had the

opportunity to support your position. But that's democracy.

I know about democracy. I belong to a union. I've put motions on the floor, and sometimes they get defeated. You have to do your homework.

So I just find that this is rushed. You're going to start doing clause-by-clause on Monday. That's not a whole lot of time for people to put amendments forward, even. I know the work that an opposition party or a committee has to do to put those amendments in and write them up properly—

Mr. Rosario Marchese: That's right.

Mr. Barry Stevens:—so that they become a legal document. I'm not afraid of the law of the land; I just want it to be done in good conscience and properly, and not rushed.

The Chair (Mr. Lorenzo Berardinetti): Thank you. We'll move on to the Liberals. Mr. Levac.

Mr. Dave Levac: Just a quick question and I'll turn it back over to the parliamentary assistant. Thank you very much for your presentation, Mr. Stevens. I appreciate it.

I tend to want to learn things, so I'm going to ask this question in all ignorance. Is there statistical evidence to show that—you mentioned Quebec and BC. In any other organization that you're familiar with that has what you believe to be lower standards, is there a statistical correlation between them and accidents and deaths and health and safety issues, if that's available?

Red seal, if you could help me with that: Is there still an ongoing discussion between Quebec and BC and any other province to get to the red seal, or are you explaining that they're actually leaving red seal and not applying themselves to it?

Mr. Barry Stevens: There's no obligation to the red seal program in BC and Quebec. What we've done—and I'll kind of go backwards on your questions. I thought you were going to ask, "How do you do a three-way switch?" so I was going to draw it out for you.

Mr. Dave Levac: My favourite is, my auto mechanic is on my Christmas card list too.

Mr. Barry Stevens: I'll give you a card, and you can put me on yours.

Mr. Dave Levac: So be it.

Mr. Barry Stevens: But in all seriousness, in the unregulated sector, where you have workers who are casually trained in construction, and you can go to the Ontario secretariat—and I can only speak on Ontario. Those statistics would be available in BC and Quebec. I don't have a lot of time to get them to you, obviously, because you're going to deal with this thing on Monday—which isn't right.

Here in Ontario, when you're dealing with people who don't agree to the ratios and rush workers in and put unqualified workers into place, the accident rate and health and safety rate is four to one. The union's trained workers' accidents are one quarter of what untrained workers' are.

That's the risk you run when you fragment a trade. We're dealing with something here that, quite honestly,

can kill, and if it doesn't kill you, it can really hurt you, around those things.

Those statistics are available. We don't come armed with everything with us. But if you want to pose the question in writing, even after the bill is jammed through, we'd be glad to help you out as best we can around those issues. We're not afraid of our statistics; we think we can defend them.

The Chair (Mr. Lorenzo Berardinetti): Thank you for your presentation. That uses up all the time. There were others who wanted to ask questions, but I'm just sticking to the schedule here. Thank you for your presentation.

UNITED STEELWORKERS

The Chair (Mr. Lorenzo Berardinetti): We'll move on to our final presentation of this afternoon: the United Steelworkers union; Erin Weir. Good afternoon, and welcome.

Mr. Erin Weir: Thank you, Mr. Chair. The United Steelworkers union is primarily interested in the proposed Ontario Labour Mobility Act because we represent some workers in the provincially regulated trades. Of course, all of our members also rely on services provided by members of provincially regulated professions.

I greatly appreciate the opportunity to appear before this committee, but I'd also like to make an appeal for this committee to provide opportunities for more people to appear. I had an experience very similar to that of my brother from the IBEW. I found out about these hearings toward the end of the day yesterday. I understand that today is the only day of hearings on this important legislation. By comparison, I had participated in Saskatchewan's hearings in 2007 about whether or not to join the trade, investment and labour mobility agreement. In that case, we knew weeks in advance that the hearings were coming up and the hearings themselves lasted for two weeks. So I just believe it would be beneficial to the people of the province to have more extensive hearings on Bill 175.

I'll begin the substantive portion of my remarks by saying that the United Steelworkers union strongly supports labour mobility between provinces. Indeed, we believe that a very high degree of labour mobility already exists between Canadian provinces and we would be quite happy to support efforts to enhance that labour mobility by developing even higher occupational standards that would be acceptable to even more Canadian jurisdictions. However, Bill 175 is not needed to achieve labour mobility and, in fact, risks undermining Ontario's occupational certification standards.

The government has not really explained why this legislation is needed. To demonstrate that labour mobility is a significant problem for Ontario, one would need to do three things. First, one would need to show that there are shortages of workers in provincially regulated trades and professions. Second, one would need to identify barriers to labour mobility within those trades and pro-

fessions. Third, one would need to show that the labour shortages are caused by these barriers.

I'm just going to go through these three different elements. First of all, there is very little evidence of labour shortages in provincially regulated occupations. Certainly there is no overall shortage of labour in Ontario. The province currently has 669,000 officially unemployed workers; that's the largest number of unemployed workers ever in the history of Ontario.

In terms of supposed barriers, I have never seen a list of alleged barriers to labour mobility within regulated occupations. In fact, we already have many proactive programs designed to facilitate labour mobility. Of course, we have the red seal program, as has already been discussed, in the skilled trades. It has been noted that Quebec is not part of the red seal program, but Ontario already has a separate agreement with Quebec in the area of construction. By all accounts, that agreement is working very well for those skilled trades. Most regulated professions outside of the skilled trades are already subject to mutual recognition agreements whereby the various professional associations have negotiated compatible standards between different provinces.

So there are very few, if any, remaining barriers to labour mobility and there is no indication of any such barriers causing labour shortages, yet we see with the proposed Ontario Labour Mobility Act a very sweeping omnibus piece of legislation that would cover all provincially regulated occupations and contemplate financial penalties of up to \$5 million. I would characterize Bill 175 as trying to kill a fly with a sledgehammer. I would encourage the provincial government to put the sledgehammer down, draw up a list of the barriers to labour mobility that are believed to exist, and negotiate—or if necessary, legislate—specific solutions to those specific problems.

1530

My concern with this legislation is not only that it is unnecessary, but also that it threatens Ontario's existing occupational certification standards. The basic premise of the bill is that Ontario should automatically recognize credentials from other provinces. This approach is a problem where other provinces choose to train workers to lower standards or choose to require fewer qualifications to provide professional certification. This system of automatic mutual recognition fosters a race to the bottom. Essentially, the lowest standard in any province automatically becomes the minimum standard for every province.

In addition to this underlying logic of the bill, there's also a problem associated with giving legal force to the fines prescribed by the Agreement on Internal Trade's new labour mobility chapter. The bill also allows the provincial government to pass those fines along to professional associations, municipalities, and other regulators. I would submit that the possibility of such fines will have a chilling effect on regulators in Ontario. No official, whether they work directly for the provincial government or for one of these independent bodies,

wants to be the person who made a decision that leads to a fine of up to \$5 million. Under the proposed Ontario Labour Mobility Act, regulators are going to always err on the side of looser rules, and looser enforcement of those rules, in order to steer clear of these potential fines.

So, in addition to Ontario potentially having to accept lower standards enacted by other provinces, I believe there will be a more general erosion of Ontario's standards beyond that.

In conclusion, I would say that Bill 175 exposes Ontario to some risks without delivering any apparent reward. A much better approach would be to address specific problems that may exist on a case-by-case basis and to coordinate with other provincial governments in developing high, universally acceptable standards for more occupations.

Thanks again for your time.

The Chair (Mr. Lorenzo Berardinetti): Thank you very much. That leaves about two minutes each per party. This time we'll start with the NDP.

Mr. Rosario Marchese: I'm going to take one minute, and then I'm going to leave my other minute for Kevin because he's going to need it.

A quick question to you, Erin, because I asked a previous deputant—section 6 says, “Nothing in this act restricts the crown from taking any action that it considers advisable in order to fulfill its ongoing commitment to the interprovincial standards red seal program....” I was arguing that there's nothing written in stone, there's nothing that obligates the crown to make sure that the red seal program is never touched and/or affected. In fact, it can take action or it can't, based on the wording that I just read out. Is that, in your view—

Mr. Erin Weir: Yes, your reading of that provision sounds right to me. It seems as though an attempt has been made to say some of the right things about the red seal program, both in this act and in the Agreement on Internal Trade's new labour mobility chapter. The question I would ask is, if the government is really committed to the red seal program, why include the skilled trades in this bill at all? Why not just leave them out and rely on the red seal program to be the standard in Ontario and across the country?

Mr. Rosario Marchese: Kevin is going to answer that.

The Chair (Mr. Lorenzo Berardinetti): Next in the rotation, we move to the Liberal Party. Mr. Flynn.

Mr. Kevin Daniel Flynn: I've been asking previous delegations the same questions, and we're getting these very vague bogeyman type of things—that there's something out there in some other province that we should be afraid of.

Under the AIT, which was first introduced by the NDP government—what we're trying to find out is, what is it that Ontario should be afraid of? What lower standard for the steelworkers, for example? I'm just trying to understand what that fear would be. Can you point me to a province or a trade or skill or something where we should say, “Well, we don't want that in Ontario, and if this bill

passes, we'd have to take them." My understanding of the bill is something entirely different.

Mr. Erin Weir: Well, I guess the first point I'd make on the issue of unidentified bogeymen is, what are the barriers to labour mobility that this bill is supposedly needed to address? It seems to me that the burden of proof should be on the side of those who are proposing the legislation to spell out what problem it's supposed to address. So I guess I see the bogeyman on the other side of the debate, but I'll try to provide a concrete example of the harm I fear this bill could do.

I already mentioned the trade, investment and labour mobility agreement between Alberta and British Columbia, which Ontario thankfully refrained from signing on to. BC has chosen to train many tradespeople to standards below red seal, while Alberta has continued to adhere to the red seal program. But as a result of TILMA, employers in Alberta now have to accept tradespeople trained in BC below red seal standards. I think that's a fairly solid example of what can happen when provinces have different standards in different areas and you say, "Ontario has to accept every other province's standard." It just opens the floodgates to our standards being undercut by other jurisdictions.

Mr. Kevin Daniel Flynn: That's what I'm trying to identify: the other jurisdictions. Who is coming in to undercut us?

Mr. Erin Weir: Well, British Columbia would be a key example of a jurisdiction that is choosing to train many tradespeople to standards below red seal. If you want to talk about the regulated professions as well—

Mr. Kevin Daniel Flynn: My understanding is that nine out of 10 apprentices in this country would be covered off under the red seal program.

Mr. Erin Weir: Certainly the larger provinces, including notably Ontario, have been training apprentices to red seal standards, and that's a good thing. That's exactly what we want to preserve.

Mr. Kevin Daniel Flynn: Exactly.

Mr. Erin Weir: I guess I would agree with you that the existing red seal program is working well and providing high standards and fluid labour mobility. Given that that's the case, why include the skilled trades in this act at all?

The Chair (Mr. Lorenzo Berardinetti): Okay?

Mr. Kevin Daniel Flynn: Yes, I'm done.

The Chair (Mr. Lorenzo Berardinetti): Mr. Bailey.

Mr. Robert Bailey: Thank you for your presentation. I too agree that they should have had more hearings and opportunities to travel so that people in different communities—I come from Sarnia—Lambton. I said before that I was responsible for high voltage—I think there are still some electricians in the room—and you didn't send just any electrician out to do 4160. You want to make sure they were trained on high voltage and that. The red seal program would assure that, and I'm sure that with other trades—I know the pipe trade as well, and other trades.

I share your concerns that this is being rushed through with not enough consultation. Like I said, I echoed earlier that this is the first time, the first committee I've been on, where everyone who has come in has more or less been against it. I haven't seen anyone really say this is a great thing. Everyone has some concerns. So I hope the government is listening to them. I'm sure the parliamentary assistant and the government members are. I know we're all listening, and I'm sure they are too—and that they'll maybe take this into consideration when we're drafting the amendments and approving them so there's some way we can make it better.

The Chair (Mr. Lorenzo Berardinetti): Thank you.

Mr. Robert Bailey: If you want to respond—

Mr. Erin Weir: Sure. Thanks for the comment. If there are further opportunities for our union to participate in reviewing this legislation, or hopefully amending it, we'd be happy to do that.

Mr. Rosario Marchese: It's clause-by-clause on Monday, Erin. It's over.

The Chair (Mr. Lorenzo Berardinetti): Thank you very much for your presentation.

Mr. Erin Weir: Thanks for having me.

The Chair (Mr. Lorenzo Berardinetti): I just want to remind all members that the deadline for amendments, as set by the House, is 12 noon on Friday. Please submit your amendments to the clerk of the committee. Legislative counsel is Joanne Gottheil—I hope I got it correct. Clause-by-clause is Monday, starting at 2 p.m., after routine proceedings.

This meeting is now adjourned.

The committee adjourned at 1537.

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