



ISSN 1710-9477

Legislative Assembly
of Ontario
Second Session, 39th Parliament

Assemblée législative
de l'Ontario
Deuxième session, 39^e législature

Official Report of Debates (Hansard)

Monday 17 May 2010

Journal des débats (Hansard)

Lundi 17 mai 2010

**Standing Committee on
Social Policy**

Retirement Homes Act, 2010

**Comité permanent de
la politique sociale**

Loi de 2010 sur les maisons
de retraite

Chair: Shafiq Qadri
Clerk: Katch Koch

Président : Shafiq Qadri
Greffier : Katch Koch

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Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



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

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
SOCIAL POLICY**

**COMITÉ PERMANENT DE
LA POLITIQUE SOCIALE**

Monday 17 May 2010

Lundi 17 mai 2010

The committee met at 1407 in committee room 1.

RETIREMENT HOMES ACT, 2010
LOI DE 2010 SUR LES MAISONS
DE RETRAITE

Consideration of Bill 21, An Act to regulate retirement homes / Projet de loi 21, Loi réglementant les maisons de retraite.

The Chair (Mr. Shafiq Qaadri): Colleagues, I call this meeting to order. As you know, we're here for clause-by-clause consideration of Bill 21, An Act to regulate retirement homes.

Mr. Vic Dhillon: On a point of order, Chair.

The Chair (Mr. Shafiq Qaadri): A point of order, Mr. Dhillon, then Mr. Miller.

Mr. Vic Dhillon: Chair, I'm asking the committee to grant an approximately 25-minute delay in the start of the proceedings because of some—

The Chair (Mr. Shafiq Qaadri): Twenty-five minutes?

Mr. Vic Dhillon: Twenty-five minutes, because of some unexpected difficulties and problems that we've had in putting together all the material.

The Chair (Mr. Shafiq Qaadri): All I can do is ask the committee if that's their will. I don't know if you're going to need to—

Mr. Paul Miller: Are we going to have time to do all of the amendments if we delay 25 minutes?

The Chair (Mr. Shafiq Qaadri): If we don't finish today, we come back tomorrow my clerk is telling me.

Mr. Vic Dhillon: Chair, I'm proposing we start at, say, 2:30.

The Chair (Mr. Shafiq Qaadri): Did you want to bring your point of order? Was that the vote?

Mr. Paul Miller: Yes. My point of order was simply that I want all votes recorded.

The Chair (Mr. Shafiq Qaadri): Okay. So acknowledged and we'll encode that. Whenever we convene, all votes will be recorded, period.

Mr. Gerry Martiniuk: Excuse me. If we don't finish today, when?

The Clerk of the Committee (Mr. Katch Koch): Tomorrow afternoon. The committee may seek—

Mr. Gerry Martiniuk: Is that in the—

The Clerk of the Committee (Mr. Katch Koch): When the House is sitting, this committee may meet on

Monday and Tuesday afternoons. On Tuesday, we can start as early as 4 o'clock or after routine proceedings in the House.

Mr. Gerry Martiniuk: Tuesday, you'd start at 4 o'clock in the afternoon?

The Clerk of the Committee (Mr. Katch Koch): Yes.

The Chair (Mr. Shafiq Qaadri): All I can do is seek the will of the committee. Is it the will of the committee that we delay?

Mr. Paul Miller: I'm on another committee tomorrow all day. Are we going to get it done today?

Mr. Khalil Ramal: We'll do our best.

Mr. Paul Miller: We have about 39 amendments.

The Chair (Mr. Shafiq Qaadri): I understand there are 102 in total, by the way.

Mr. Paul Miller: I've only got 39 in front of me any-ways.

Mr. Gerry Martiniuk: I've only got eight. How much has the government got?

Interjection.

Mr. Paul Miller: Okay. All right.

The Chair (Mr. Shafiq Qaadri): As the clerk is just pointing out to me that though the number goes up to 39, there are many decimals—39.1, 39.2 and so on.

Mr. Paul Miller: I just want to say how efficient the NDP and opposition party are.

The Chair (Mr. Shafiq Qaadri): Which we have known for many years. Thank you, Mr. Miller.

Is it the will of the committee that we recess for 25 minutes? Is that acceptable to everyone?

Interjection: Agreed.

The Chair (Mr. Shafiq Qaadri): All right. Agreed. It is now 2:07, so approximately 25 minutes from now. The committee is recessed.

The committee recessed from 1409 to 1434.

The Chair (Mr. Shafiq Qaadri): Thank you, colleagues, for accepting that recess. If there's no further business, we'll move immediately to consideration of clause-by-clause. As was requested by Mr. Miller of the NDP, all votes will be recorded. That's standing for the entire session here.

I now call upon the NDP to present motion 1. I should also just mention that there's a series and flurry of amendments, so I guess the committee apologizes if there's some reordering, resequencing etc. I think several were received just momentarily, so hopefully we'll be able to work through it diligently.

Whatever is the first motion, somebody please present it. I think it's the NDP, motion 1.

Mr. Paul Miller: I move that the bill be amended by striking out “resident,” “residents” and “residents” wherever those expressions appear in the following sections and substituting in each case “tenant,” “tenants” and “tenants” respectively: sections 1, 2, 5, 9, 16, 24, 35, 44, 49 to 51, 53 to 63, 65 to 72, 74, 75, 77 to 79, 85, 98, 101, 105, 106, 110, 115, 121, 123, 124 and 125.

For a short explanation, the Residential Tenancies Act uses the word “tenant” and “care home,” while Bill 21 refers to “resident” and “retirement home.” The language needs to be changed to ensure consistency, but it also should be changed to emphasize the tenancy aspect of the relationship. These are not health care facilities.

That's the explanation, and the member would like to say something too.

M^{me} France Gélinas: You will see that we come with major changes and a lot of motions to try to bring changes to this bill. We strongly believe that this bill, as it is, will do serious harm, and one of the great possibilities for that harm to be done is that we are not clear. Those people are tenants. They have to be referred to as such, and introducing, of all names, the name “residents,” which is what is commonly used in the long-term-care system, will just make a very bad bill terribly wrong with the possibilities to do terrible harm for a lot of vulnerable seniors. This is not a resident in a consumer relationship; this is a tenant relationship that comes with safeguards and with regulations and that has to be respected throughout this bill.

I realize that not everybody who lives in a retirement home is vulnerable, but there is too much of a critical mass of them that are vulnerable to be allowed to have a bill that goes forward that introduces language that could be used against them, that could be used against their care and that could be used, really, in setting up the possibility of abuse.

There are some big issues in the residential care system that have not been tackled that are not part of this bill. We see, all the time, people in residential care who are not getting the care they deserve, and the bill doesn't set any limits on the type of care that you can receive in a residential home. What it basically does is it opens up the door for a parallel service that will be for-profit and unregulated. How can you have hundreds of pages of care regulations in a long-term-care home and have an identical patient with identical needs and no care standard whatsoever? Let's call it the way it is: Those people are tenants, and if we have any chance of rescuing this bill, we have to call them what they are. They are tenants, they are not residents.

The Chair (Mr. Shafiq Qadri): Merci, madame Gélinas. Mr. Dhillon.

Mr. Vic Dhillon: We will be voting against this. As we've set out in section 52, nothing in the Retirement Homes Act takes away from the Residential Tenancies Act. The purpose of this bill is to deal with care and safety, not tenancy, so “resident” is the appropriate terminology, not “tenant.” We have consulted with muni-

cipal affairs and housing on this point, and they as well are in agreement with our approach.

1440

The Chair (Mr. Shafiq Qadri): Further comments? If none, we'll proceed—yes, Mr. Martiniuk.

Mr. Gerry Martiniuk: Firstly, Chair, for your own guidance, I have no objection, if there are no amendments, to you taking that group rather than individually, from my standpoint.

I would think that we would have to be very careful to ensure that the Residential Tenancies Act applies, and all of a sudden, we have residential tenancies, individuals, who are no longer tenants; they're now residents. I can see, as a former lawyer, a great difficulty that the courts are going to have with that down the road. You are using a different word that describes a different situation. If you have different words in two different bills then there must be some way to distinguish them. I'm concerned that their rights as tenants could dissipate or be amended in a manner that the drafters of this bill did not foresee. Under those circumstances, I would support the motion for amendment.

The Chair (Mr. Shafiq Qadri): If there are no further comments, we'll proceed to the recorded vote.

Ayes

Martiniuk, Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qadri): NDP amendment 1 is defeated.

Shall section 1 carry? Carried.

We'll proceed now to section 2: NDP amendment 1.1.

Mr. Paul Miller: I move that the definitions of “authority” and “board” in subsection 2(1) of the bill be struck out.

We're amending this bill to have the Ministry of Municipal Affairs and Housing oversee the regulation of retirement homes. The references to the third party regulatory authority have to be removed throughout this bill. It's pretty obvious what's going on here. Not to support this, as Mr. Martiniuk pointed out, is going to be a big disaster down the road. So I caution the committee on not supporting this.

The Chair (Mr. Shafiq Qadri): Mr. Dhillon.

Mr. Vic Dhillon: This is inconsistent with the act's intent to create an arm's-length regulatory body. This proposed amendment would reflect a change that we do not support: changing the authority from being an arm's-length regulatory authority to being part of the government.

The Chair (Mr. Shafiq Qadri): Further comments? Madame Gélinas.

M^{me} France Gélinas: If you bring in the self-regulation, as you have it in your bill right now, what you

are doing—I know that you have said, and I will quote you, “We have told the industry that we’re looking for board members who understand the industry but are not there representing the industry.” Nobody believes that.

All I can tell you is that the retirement home industry has demonstrated that they don’t have the credibility necessary to vest responsibility for regulations solely upon them. I know that you will be appointing a minority of the people to stand on the board. This is not enough. We have seen, right now, that the industry itself mans the crisis line. They have done an abysmal job of it.

When we call upon the industry to do something, they have let the clients down, they have let the ministry down, they have let the people of Ontario down, and you are about to give them self-regulation for a critical mass of vulnerable people of Ontario. This has the possibility to do so much harm. If you pass this bill as it is, we will be reading headlines of catastrophe. We will be reading more about people who are taken advantage of, people who are not being well looked after, people whose finances have not been well looked after, if you pass this bill the way you have it now.

You can’t go forward with this. You owe it to the people of Ontario who are vulnerable to offer them some protection. Protection won’t come from agency-dominated boards, and this is what you’re doing right now: You are sending the fox to look after the henhouse.

The Chair (Mr. Shafiq Qaadri): We’ll proceed, then, to the vote on NDP motion 1.1. Recorded vote.

Ayes

Martiniuk, Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 1.1 is defeated.

NDP motion 2, please.

Mr. Paul Miller: I move that the definition of “care service” in subsection 2(1) of the bill be amended by adding the following clause:

“(h.1) assistance to promote mental health or to support cognitive health.”

The explanation for this: This comes from the Alzheimer Society of Ontario. Although the act specifically calls for staff to be trained in mental health issues—including caring for a person with dementia—and behavioural management, there is no provision for these services in the definition of care services. This amendment corrects that. The Alzheimer Society of Ontario is supporting this amendment, so I don’t know why you wouldn’t support it. It certainly is an important part of the care of elderly people in this province.

The Chair (Mr. Shafiq Qaadri): Any further comments?

Mr. Vic Dhillon: Again, we will not be supporting this motion. There is the ability in the bill to prescribe

another service as a care service by regulation. We are interested in engaging with stakeholders on this issue to determine whether it should be a prescribed health care service or another prescribed service.

This bill recognizes the importance of mental health issues and would require training in this area for direct care staff. It’s not consistent policy to single out one specific health care service.

The Chair (Mr. Shafiq Qaadri): Further comments?

M^{me} France Gélinas: Maybe the members of the McGuinty Liberals have forgotten to read the papers for the last five years. There is what they call a tsunami of dementia coming to Ontario. The Alzheimer Society put out their report. They put it nice and clear: The number of people who will develop dementia in Ontario will overwhelm our system if we don’t do anything about it. It has to be recognized because it is the reality that Ontario will be facing. To leave it to, “Oh, maybe sometime, if we get to it, we will do something about it,” is to not recognize the body of evidence that has been presented at many tables to this government that shows the need of the elderly: Up to 20% of them will develop dementia and will need support. We are creating a new bill; we are creating a new law. Let’s put a new law into place that will be cognizant of the reality of what Ontario’s future will be all about, and that means changes at many levels. That means changes at the level of this bill also, to recognize what we will be facing.

There are ways to support all of the people of Ontario who will be developing dementia. This bill has to be part of this support. Otherwise, you are letting all of those people and their families down.

The Chair (Mr. Shafiq Qaadri): We’ll proceed now to the vote.

Ayes

Martiniuk, Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): NDP motion 2 is defeated.

PC motion 3: Mr. Martiniuk.

Mr. Gerry Martiniuk: I move that clause (i) of the definition of “care service” in subsection 2(1) of the bill be struck out and the following substituted:

“(i) provision of a meal, except if the meal is provided in an area of a retirement home to which all residents have access, or”

1450

The concern is very simple. I have a real concern, in addition to the individuals raising the problem—what is a meal? Let’s take, possibly, Tim Hortons. Let’s say it’s a large building—and we have a number of high-rise buildings in Cambridge that house seniors that are not presently retirement homes. However, they may have a

snack bar or possibly a store which sells chocolate bars and goodies of that kind. The latter may not constitute a meal, but it's incumbent on us as legislators to make sure we've done everything to clarify this.

The concern raised by individuals is either you say "provides meals and two services" when you define a retirement home, which is a subsequent motion to this, or let's nail down what we mean by "the provision of meals." Does that mean that it's available to all the tenants or just a select group? All I'm trying to do in these cases is—I'm just concerned that the way that section is drawn at the present time, that section could be misinterpreted and it's incumbent on us to try to avoid that.

That is the intent of it. As I say, later on there's one that deals with the same subject, and what it says is, let's not worry about how we define meals if there is a doubt as to whether meals are doing—let's take two services plus the meal rather than one service. So I've given an alternative.

However, I think there's a real ambiguity there. We're talking about lots of money, because all of a sudden you're going to regulate, and a private business or a government may not want to be regulated because the services they feel they're providing do not fall under the act.

I think it's a walking lawsuit, I honestly believe that, and it could cost the Ontario government and a private enterprise or other governments a considerable amount of money in coming to the right answer.

What I'd like to clarify is what kind of meal. If we define it broadly, then there's not a problem—and this, I think, defines it broadly, that a meal is for all people—or if we can't define it broadly, then we throw two services in rather than one. I'd be interested in the comments of the parliamentary assistant.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Martiniuk. Just for clarification for the committee, we'll be having recorded votes, unless I'm directed otherwise, just for the NDP amendments.

Any further comments?

Mr. Paul Miller: In reference to this particular amendment, we feel that this excludes meals served in a common dining area from the definition of "care service."

This is likely responding to the issues raised by retirement homes that are predominantly high-end apartments and provide very few care services. Retirement homes have to provide two care services in order to be considered retirement homes. This will narrow the definition of "retirement home," therefore we can't support this.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller. Mr. Dhillon.

Mr. Vic Dhillon: Again, we will not be supporting this motion. Provision of a meal is a critical aspect of resident health and care and as such warrants regulation as a care service, whether provided in a resident's room or in a communal part of the home. It would encompass dietary needs, for example, if diabetic, or food preparation, and ensuring food is able to be digested.

Provision of a meal would not in and of itself trigger a retirement home licensure as the definition applies where the operator of the home makes at least two listed care services available directly or indirectly to residents.

The Chair (Mr. Shafiq Qaadri): If there are no further comments, we'll proceed in a non-recorded vote. Those in favour of PC motion 3? Those opposed? PC motion 3 is defeated.

NDP motion 3.1.

Mr. Paul Miller: I move that the definition of "complaints review officer" in subsection 2(1) of the bill be amended by striking out "of the authority".

This refers to an explanation back in 1.1. As we explained before in 1.1—the same reasoning for that.

The Chair (Mr. Shafiq Qaadri): Further comments?

M^{me} France Gélinas: Basically, nobody disagreed that you should have a chance to have your complaint reviewed and that there should be somebody, call them an officer or another title, who will do that review. That's not where the issue lies. The issue is really that this person will only be contacted after the authority, which is dominated by the service providers, gives it the okay. This is not acceptable. People should have a clear, easy-to-use, easy-to-understand complaint process. They should have an opportunity to review any copy of any report created as part of an investigation. They shouldn't have to go through an industry-dominated process in order to get there. If you want transparency, if you want accountability, you cannot go through an industry-dominated process. It makes no sense.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: Again, this is inconsistent with the act's intent to create an arm's-length regulatory body. This regulatory body is appropriate to regulate a sector the government doesn't fund.

The Chair (Mr. Shafiq Qaadri): Further comments? Seeing none, a recorded vote on NDP motion 3.1

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.
NDP motion 3.2: Mr. Miller.

Mr. Paul Miller: I move that the definition of "fund" in subsection 2(1) of the bill be struck out and the following substituted:

"'Fund' means the retirement homes emergency fund established under subsection 27(1); ('Fonds')"

The explanation on this one is once again back to 1.1, the same reasoning for this. We hope you support it.

The Chair (Mr. Shafiq Qaadri): Further comments?

M^{me} France Gélinas: This bill is not clean on its use of language. When you talk about a tenant, call it a tenant. When you talk about care, call it care. When you

use the same term to mean two different things within the same bill—I'm not a lawyer, but I know what will happen: It will bring confusion. You need to clean this bill up, and that's what this motion sets out to do.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: Again, we will not be supporting this for the same reason: This is inconsistent with the act's intent to create an arm's-length regulatory body. The regulatory framework is appropriate to regulate a sector the government doesn't fund.

The Chair (Mr. Shafiq Qaadri): Further comments? Seeing none, we'll proceed to the vote.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.
PC motion 4: Mr. Martiniuk.

Mr. Gerry Martiniuk: I move that the definition of “minister” in subsection 2(1) of the bill be amended by striking out “the minister responsible for seniors” and substituting “the Minister of Health and Long-Term Care”.

If we're going to provide a long-term-care-lite facility, surely to goodness it should be responsible to the same minister. By degrading the responsibility and separating the responsibility—I assume that we're talking about continuous care: An individual goes into a retirement home because they happen to be a senior and they're in relatively good health, and then they're eventually going to move to a long-term-care facility. Surely, both organizations should be under the same supervision of the minister. That minister can only be the Minister of Health and Long-Term Care, and I therefore made the motion in that regard.

The Chair (Mr. Shafiq Qaadri): Further comments? Mr. Miller.

Mr. Paul Miller: We will be supporting this amendment.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

1500

Mr. Vic Dhillon: We will not be voting for this amendment. This is already addressed in the proposed legislation. The definition of “minister” allows responsibility to be assigned or transferred to a different minister under the Executive Council Act. There was no consensus from stakeholders as to which ministry this should eventually reside in, including the Ministry of Tourism and Culture, the Ministry of Community and Social Services, the Ministry of Health and Long-Term Care and the Ministry of Consumer Services. Retirement homes are distinct from government-funded long-term-care homes, so the Ministry of Health and Long-Term Care may not be the appropriate ministry.

The Chair (Mr. Shafiq Qaadri): Madame Gélinas.

M^{me} France Gélinas: One of the big issues I have pushed for for three years—since I've been here, actually—is to have regulations for retirement homes. One of the main reasons we need clarity is that we need to know where in the continuum of care a retirement home fits in. This bill does nothing to bring clarity. What it does do, though, is open the door to have a parallel process that will be for-profit, unregulated, and that has no cap on care. It could offer the same care that is in a long-term-care home, that is in complex continuing care. As long as you have the bucks to pay, this bill will allow you to buy care.

So we're moving away from a health care system that is there to give care based on need, and you are developing a parallel system that will basically have care based on ability to pay. By refusing to put it within the continuum of care, you are saying that you're okay with a parallel system for people who can afford to pay for unregulated care, no matter how much the needs are. This amendment needs to stand.

The Chair (Mr. Shafiq Qaadri): Further comments? Seeing none, we'll proceed now to the vote. Those in favour of PC motion 4? Those opposed? PC motion 4 is defeated.

We'll now proceed to NDP motion 4.1.

Mr. Paul Miller: I move that the definitions of “registrar” and “risk officer” in subsection 2(1) of the bill be amended by striking out “of the authority” wherever that expression appears.

Once again, we will refer to amendment 1.1.

The Chair (Mr. Shafiq Qaadri): Madame Gélinas?

M^{me} France Gélinas: I will continue to be on record as saying that an authority that is dominated by an industry that has as poor a record as the industry that we have here in Ontario is a risk that this government cannot afford to put on to such vulnerable Ontarians. You cannot have your registrar and your risk officer directly dependent upon an industry-dominated authority. It makes no sense. It is dangerous. We owe it to the people using those services to give them better than that.

The Chair (Mr. Shafiq Qaadri): Further comments.

Mr. Vic Dhillon: Again, for the same reason, we won't be supporting this. This is inconsistent with the act's intent to create an arm's-length regulatory body. This regulatory framework is appropriate to regulating a sector the government doesn't fund.

The Chair (Mr. Shafiq Qaadri): Thank you.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.
NDP motion 4.2.

Mr. Paul Miller: I move that the definition of “resident” in subsection 2(1) of the bill be struck out.

The Chair (Mr. Shafiq Qaadri): Madame Gélinas?

M^{me} France Gélinas: When it walks like a duck and it quacks like a duck, it is a duck. When you go into a long-term-care home, the people there are called the residents of a long-term-care home. If you walk into a retirement home and you call them residents, you have just created confusion between two pieces of what looks like is going to be parallel but what I would hope would be a continuum of care. If you call them residents, you invite confusion with the long-term-care system. If what you’re trying to do is put forward two tiers, one for people who can afford to pay and one for people who cannot afford to pay, then go ahead and call them residents. But if you want residential retirement homes to have a spot within the continuum of care, you cannot call them residents, because that is the name that is currently utilized in Ontario to define somebody who lives in a long-term-care home. By bringing confusion, you open the door to all sorts of problems on a very critical mass of vulnerable Ontarians.

The Chair (Mr. Shafiq Qaadri): Further comments? Mr. Dhillon.

Mr. Vic Dhillon: We will not be supporting this. Nothing in the Retirement Homes Act takes away from the Residential Tenancies Act. The purpose of the bill is to deal with care and safety, not tenancies, so “resident” is the appropriate terminology, not “tenant.” We have consulted with the Ministry of Municipal Affairs and Housing on this issue, and they are in agreement with this approach.

The Chair (Mr. Shafiq Qaadri): Those in favour of NDP motion 4.2?

Ayes

Martiniuk, Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

PC motion 5: Mr. Martiniuk.

Mr. Gerry Martiniuk: I move that the definition of “retirement home” in subsection 2(1) of the bill be amended by striking out the portion before clause (a) and substituting the following:

“‘retirement home’ means a residential complex or the part of a residential complex, including a housing project operated by a local housing corporation under the Social Housing Reform Act, 2000,”

The concern has been raised by a number of individuals making representations that social housing would not be captured by the act and therefore would not be regulated pursuant to the act. That was their major concern.

I would appreciate hearing from the parliamentary assistant as to his legal interpretation or his staff’s legal

interpretation regarding the capturing of social housing within the confines of the Retirement Homes Act.

The Chair (Mr. Shafiq Qaadri): Further comments? Mr. Miller.

Mr. Paul Miller: We will be supporting this.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: We will not be supporting this, because the focus of this legislation is regulating an active and growing sector that is currently not regulated. We’re opposing this proposed amendment because we do not want to be in conflict with the regulatory regime of another act.

The Chair (Mr. Shafiq Qaadri): We’ll proceed to the vote. Those in favour of PC motion 5? Those opposed? PC motion 5 is defeated.

NDP motion 6.

Mr. Paul Miller: I move that clause (b) of the definition of “retirement home” in subsection 2(1) of the bill be struck out and the following substituted:

“(b) in which at least two persons reside, and”

The reason for that is that Bill 21 leaves the number of persons to regulation, although we believe it will be set at six persons. ACE strongly believes that even retirement homes with two persons need to have the same regulations as those with six or more. It absolutely does not make any sense that you wouldn’t regulate for two people—it doesn’t matter if it’s one person—as for six. The regulations should cover all people, all vulnerable citizens, all seniors. It doesn’t matter what setting they’re in, the rules should be the same for everybody. You can’t cap it at a certain level, and the people below are out of luck and the ones above it are okay. It’s absolute nonsense.

The Chair (Mr. Shafiq Qaadri): Further comments? Mr. Dhillon.

Mr. Vic Dhillon: We will be voting against this. After consulting seniors’ groups, the industry and our government partners, it is our intent to set the minimum number of residents at six by regulation if the legislation passes. By having this in regulation, the government would have the flexibility to change the minimum number of residents if necessary.

1510

The Chair (Mr. Shafiq Qaadri): Any further comments? Madame Gélinas.

M^{me} France Gélinas: I want everybody to remember the case of Sarah Eisemann. Sarah was in a very small, private retirement home in Orillia. She was malnourished, she had stage 4 bedsores and she had been restrained.

If you enter into a money relationship to look after vulnerable clients, there has to be some protection. This is what we were hoping for when we were asking for regulations for retirement homes. Abuse can take place if there are two people there; it doesn’t have to be a big group. There’s so little in this bill. I don’t understand why we would want to set the number at six. I want you to consider northern Ontario, where the population is aging and where there will be mainly small homes, most of them below six. That means you will have a territory

the size of France where none of those residents will have protection.

The Chair (Mr. Shafiq Qaadri): Further comments? We'll proceed to the vote.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

Government motion 7: Mr. Dhillon.

Mr. Vic Dhillon: I move that clause (b) of the definition of "retirement home" in subsection 2(1) of the bill be struck out and the following substituted:

"(b) that is occupied or intended to be occupied by at least the prescribed number of persons who are not related to the operator of the home, and"

We're proposing this amendment because it clarifies the definition to capture retirement homes that are occupied or intended to be occupied by the prescribed number of residents. This will mean that where a home has a vacancy that results in the home having fewer than the prescribed number of residents, the home will still be captured by the definition of "retirement home."

The Chair (Mr. Shafiq Qaadri): Further comments?

All those in favour of government motion 7? Those opposed? Motion 7 is carried.

PC motion 8: Mr. Martiniuk.

Mr. Gerry Martiniuk: I move that clause (c) of the definition of "retirement home" in subsection 2(1) of the bill be struck out and the following substituted:

"(c) where the operator of the home makes available, directly or indirectly, to the residents, at least two care services in addition to meals, but not including care services provided by an external care provider,"

I've already explained that, so I won't trouble you once again.

The Chair (Mr. Shafiq Qaadri): Any comments on PC motion 8? Madame Gélinas.

M^{me} France Gélinas: It has to be clear in people's minds what is and what is not a retirement home. The way we will do this is by saying there has to be a minimum number of care elements. If meals and external care are included, then it does what the rest of this bill does: It just brings confusion and opportunity for people to use the same words but mean different things. We can't support this.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: This motion would potentially remove from coverage of the bill a lot of homes that provide meals and a single care service. It is our position that homes providing this level of care should be regulated. It is not the intent to capture homes that do not make any care service available to their residents, but we are concerned that the reference to external care pro-

viders in this motion could unintentionally provide a loophole to homes to avoid being regulated by contracting out the provision of care to non-arm's-length providers, for which reasons we will not be supporting this.

The Chair (Mr. Shafiq Qaadri): Further comments on PC motion 8? We'll proceed to the vote. Those in favour of PC motion 8? Those opposed? Defeated.

Government motion 9.

Mr. Vic Dhillon: I move that clause (d) of the definition of "retirement home" in subsection 2(1) of the bill be amended by striking out the portion before subclause (i) and the following substituted:

"(d) premises or parts of premises that are governed by or funded under,"

The reasoning for this is this proposed amendment clarifies the definition to ensure that where there is a mixed-use facility, only those portions of the premises that are funded or governed by the acts listed in paragraph (d) are excluded from the definition of "retirement home." This way, the parts of the premises that are not governed or funded under other statutory regimes will remain subject to the retirement homes legislation.

The Chair (Mr. Shafiq Qaadri): Are there any further comments on government—Mr. Martiniuk and then Mr. Miller.

Mr. Gerry Martiniuk: Can I have an example of that?

Mr. Alan Ernst: Alan Ernst from the Ontario Seniors' Secretariat. An example of this is set out in the legislation where we list the number of services. One example could be where there's a home that is intended to have eight or nine residents, and a few beds are funded under, for example, domiciliary hostel legislation or long-term-care home legislation, or where there's a long-term-care home on one floor and a retirement home on another.

The Chair (Mr. Shafiq Qaadri): Are there further questions you'd like to have addressed, Mr. Martiniuk?

Mr. Gerry Martiniuk: No, thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Miller.

Mr. Paul Miller: Yes, I'd like further clarification. It may be a positive step; I'm not quite sure yet. We're told that ALC patients who are transferred to retirement homes occupy a part of the premises that is governed by the LTC Homes Act. Therefore, does this mean that retirement homes that accept ALC patients will not be able to be defined as a retirement home?

Mr. Alan Ernst: Sorry, could you repeat the question? I got the first half, but not the second half.

Mr. Paul Miller: We are told that the ALC patients who are transferred to retirement homes occupy a part of the premises that is governed by the LTC Homes Act. Therefore, does this mean that retirement homes that accept ALC patients will not be able to be defined as a retirement home?

Ms. Bethany Simons: My name is Bethany Simons. I'm counsel to the Ontario Seniors' Secretariat. The purpose behind the two motions to amend that have been

discussed, including the previous one, which talks about “occupied by at least the prescribed number” or “intended to be occupied,” relates to that point in that if a home is intended to be occupied by the prescribed number, but because of fluctuating populations, at some stage they fall below the prescribed level—it’s meant to address that issue.

Mr. Paul Miller: Does that include ALC patients?

Ms. Bethany Simons: Yes.

Mr. Paul Miller: It does.

Ms. Bethany Simons: Yes. They will continue be governed under the Long-Term Care Homes Act, those beds.

M^{me} France Gélinas: You just said the opposite, though—that the home will continue to be labelled a retirement home.

Ms. Bethany Simons: That’s right, but those particular beds will continue to be required to comply with long-term-care homes—

M^{me} France Gélinas: But the nomination of those beds—the home will continue to be considered a retirement home. It doesn’t matter if they happen to have all of their beds occupied by long-term-care patients, they will still be considered a retirement home.

1520

Mr. Paul Miller: Whoops.

M^{me} France Gélinas: I like your hesitation, because this bill is full of this. It could mean this or it could mean that, but we don’t really know. We are a Legislature, and we are putting forward a bill that we don’t even understand ourselves. This is going to wreak havoc in the field. You’d better come up with a very good, clear answer; this is a “yes” or a “no.”

Mr. Paul Miller: It’s pretty straightforward and you’re very foggy on your answer.

Ms. Bethany Simons: I think that the answer is yes with respect to both questions, in that, depending on the circumstances, the beds that are designated as ALC beds will remain governed under long-term-care-homes legislation and those requirements. The home itself—it’s a question of whether or not it meets the definition of “retirement home” under this legislation.

Mr. Paul Miller: If the home does not meet the definition under the act, as you’ve just pointed out, where does that leave the first part of your answer? Where does that leave those patients? If they don’t meet the criteria required under the act to govern those ALC patients, then how can you say that the ALC patients—I’m confused with that.

Ms. Bethany Simons: I’m sorry, I don’t have a further answer for you.

M^{me} France Gélinas: We’ll try that again. You have a retirement home that meets all of the criteria. It is a retirement home; it pays the money to the authority, the whole nine yards; it operates as a retirement home. All of a sudden, the hospital is in crisis. They use some of their beds for ALC patients. Patients are looked after under the Long-Term Care Homes Act, but they are within this

building. Is the home a retirement home or a long-term-care home?

Mr. Paul Miller: What’s the designation of that building?

Ms. Bethany Simons: I think that you’d have to refer to the definition of “retirement home” and see if the home fits the definition. If it does, it’s governed by the retirement homes legislation, and those beds that are designated for ALC residents would be governed by long-term-homes legislation.

The Chair (Mr. Shafiq Qadri): If I may just inter-vene, the legislative counsel would like to say something.

Mr. Michael Wood: Michael Wood, legislative counsel. It appears from the answer given by the ministry counsel that the intent is that you not look specifically at the building per se, but you look at the parts of the building according to its function. So if you found out that certain beds had to be governed by the Long-Term Care Homes Act, that act would apply to those beds, and the beds which are not governed by that act would still be covered by this act, the Retirement Homes Act. Would you agree with that?

Ms. Bethany Simons: I would agree.

Mr. Paul Miller: How do you distinguish between the two? Are they going to have little signs on each bed? Are they going to have a sign over the bed, that this bed is under this requirement? How are you going to designate? Wouldn’t there be some confusion in the home as to what it falls under, if it’s not spelled out? How are you going to regulate that?

Mr. Gerry Martiniuk: Colour-code it.

Mr. Paul Miller: Colour-code it?

Mrs. Elizabeth Witmer: On the nose.

M^{me} France Gélinas: This is a prime example of why this bill is so poorly done.

I’m shopping for a home for my grandfather right now. I go into a retirement home—“Meadow Haven Retirement Home”—but half of the beds are taken up by long-term care, and I see 24-7 nurses in there. They have all sorts of personal support workers working in there, but on the front, it’s a retirement home. It’s beautiful; I can bring grandpa there. There will be a 24-hour nurse on call, there will be PSWs, there will be three hours of hands-on care for my grandfather—none of that is true. The sign on the building will say “Retirement Home.” The confusion in the community will be there. You are building a law that will bring confusion rather than bring clarity to a sector that has needed it for years.

Mr. Michael Wood: I’m, of course, going to defer to what the ministry says, but I just point out as a point of information that maybe you can address that problem with sections 54 and 55 of the act. You can make regulations there to set out what has to be included in the package of information that’s given to every resident in the home before the resident commences the tenancy. In section 55, that package is part of the material that has to be made available to the public, so you certainly could use regulations to require that the issue be addressed in the package of information.

Mr. Paul Miller: Is that in there?

Mr. Michael Wood: As I say, you'd have to use the regulations specifically—

Mr. Paul Miller: But is it in there? That suggestion you've said: Is there an amendment covering that here, or is it in the actual body of the bill? What you've just explained—

Mr. Michael Wood: Right now, that requirement, as far as I am aware—I might be wrong on this—

Mr. Paul Miller: But you may be reading into it the way you see it.

Mr. Michael Wood: I just point out that this is an avenue that the government could use to address that issue.

Mr. Paul Miller: Have they addressed it?

Mr. Michael Wood: You don't do the regulations until you first pass the act.

Mr. Paul Miller: Why wouldn't you have a good idea of what regulations you'd want in the act before you do the act?

Mr. Michael Wood: The government would have to answer that. They could—

Mr. Paul Miller: It's called "preparation."

Mr. Michael Wood: They could very well have that idea. In fact, the bill does not come into force until a date proclaimed by the Lieutenant Governor.

Mr. Paul Miller: Yes, but you want to come forward with your regulations to coincide with the bill. You don't want to add all this stuff after. Why wouldn't you do it before?

Mr. Michael Wood: I'll have to let the government answer at some point on this, but there is a government motion to require that the public be consulted before regulations are initially made under the bill when passed.

Ms. Bethany Simons: Just to be clear, this requirement of sending out what care services are being offered is to be contained in the information package that's provided to every resident before they commence residency in the home.

Mr. Paul Miller: We hope so.

M^{me} France Gélinas: I can't let that go by. You get a piece of paper that tells you what you're going to get, but you go there and you visit and you see with your eyes that there are 24-hour nurses on care—your eyes tell you something and then a piece of paper photocopied in a package of information tells you something completely different. What are you going to believe? What you saw with your own eyes.

Mr. Paul Miller: Read the fine print.

The Chair (Mr. Shafiq Qadri): I think we have some comments from Ms. Witmer and then Mr. Martiniuk.

Mrs. Elizabeth Witmer: I certainly share the concerns of my NDP colleagues. I'm somewhat disappointed that the ministry isn't able to have responded to the question that was asked. I think it becomes more obvious every day that much of the reason for this legislation is to, in essence, stop building long-term-care beds and start putting the residents who in the past would have required long-term care into these retirement homes. I see that the retirement homes are going to have a dual function.

That's fine, but I think the government needs to be honest.

The government also needs to clearly understand what is going on, because for the public—they're going to be extremely confused if you have people within a home who are subject to two different acts. I'm greatly concerned about what's happening here because up until now, the government has never had a plan for building more long-term-care beds, and we've got 25,000 people waiting, and I'm not sure that this attempt to force them to pay for that themselves and put them into retirement homes is the answer.

It's regrettable that we're debating this bill when the government isn't in a position to offer more clarification, when a question is asked, to respond. I feel sorry for people, because if we're having trouble getting answers, I feel sorry for the family that's looking for a home for their elderly relative. Look at the mass confusion that we've just experienced here. So I would just encourage the government to find some answers to the questions they're being asked. If there aren't answers to the questions, then you'd better delay passing this piece of legislation.

The Chair (Mr. Shafiq Qadri): We have a request for a recorded vote on this by Mr. Miller, and we have a comment by Mr. Martiniuk.

Mr. Gerry Martiniuk: Yes, I have a further question. Is it possible to have retirement home individuals located in a long-term-care facility?

The Chair (Mr. Shafiq Qadri): A question before the committee. Those who feel empowered to answer, please do so.

Mr. Vic Dhillon: The answer to that question is no.
1530

Mr. Gerry Martiniuk: You cannot have seven individuals happen to be in a long-term-care facility, but they are not long-term care and are not subsidized by this government? Is there any reason they cannot be there?

Mr. Vic Dhillon: The answer is no.

Mr. Gerry Martiniuk: No what?

Mr. Vic Dhillon: You cannot have both in one—

Mr. Gerry Martiniuk: We just were told we can. We've got a mixed bag. We've got retirement patients and we've long-term care in the same building. That's the whole point of that motion about part of the premise. I'm sorry. I just asked the reverse. You said you can have long-term-care residents in a retirement home. You even count them as part of the retirement home. I understand that.

I've asked the reverse. If you can have that, why can't you have retirement home residents in a long-term-care facility?

Ms. Bethany Simons: I think the question is how care is regulated. As legislative counsel pointed out, the building itself is not the issue; it's the activities that take place. It may be that there is a complex that contains multiple uses. One would be licensed under long-term-care-homes legislation, and another part of the complex could be governed under the Retirement Homes Act.

Mr. Gerry Martiniuk: So you're saying they can't be in the same room?

Ms. Bethany Simons: Potentially, they could be in the same complex.

Mr. Gerry Martiniuk: In the same building but in different rooms—separate?

Ms. Bethany Simons: Yes.

Mr. Gerry Martiniuk: Yes?

Ms. Bethany Simons: Yes.

Mr. Gerry Martiniuk: So you could have a retirement home with different floors. One floor could be a long-term-care facility and the rest would be a retirement home?

Ms. Bethany Simons: That's a possibility.

Mr. Gerry Martiniuk: That's a possibility. Now, can I also have a long-term-care facility which is seven storeys high and can I have a retirement home in that building on its own separate floor?

Ms. Bethany Simons: If it meets the definition of a "retirement home," that's a possibility.

Mr. Gerry Martiniuk: That's a possibility too. So is there any reason that this government—when I first looked at this bill, it sounded like a good idea, and then I realized that this government is not building long-term-care facilities anymore in this province. All of a sudden you've just told me that not only can they not build long-term-care facilities; they're going to start throwing patients out of long-term care and making them retirement homes because that's where the bucks are today, and this government is worried about the bucks.

We have only 73,000 long-term-care residents. We have 40,000 retirement, and if this bill passes, I can see they're just going to go the opposite. That 73,000 will start to decline because the bucks are made in the retirement homes, not in the long-term-care facilities anymore. The subsidies of \$40,000 or \$43,000 a year, if I remember correctly, are paid for long-term-care patients.

I'm just concerned—it's worse than I expected. I expected that new development would be retirement homes shifting the balance. It's called privatization of our health care system. That's what it is, and now I find out that it's even worse than I expected. We're not talking about the new buildings; we're talking about the possibility of old buildings being used as retirement homes rather than long-term-care facilities.

Wow. Is that what you guys are doing? You ought to be embarrassed if that's what the scheme is, because something about this isn't right. It truly is not right.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: Mr. Martiniuk is making some ridiculous suggestions. It's kind of rich for him to be talking about privatization in this way. We're talking about retirement homes. This is being taken totally out of context, and it's not acceptable. We're talking about the regulation of retirement homes, and he's bringing in all these other things that have nothing to do with this bill. It's a big waste of time.

Interjection.

Mr. Vic Dhillon: Yes, what?

Mr. Paul Miller: You've got to be kidding.

Mr. Vic Dhillon: No, you've got to be kidding.

Interjection.

The Chair (Mr. Shafiq Qaadri): I think, as the Honourable Steve Peters often suggests, we might want to keep the decorum, or at least take it outside, as the case may be.

M^{me} Gélinas, je passe la parole à vous.

M^{me} France Gélinas: I found the conversation about one wing quite interesting. Are you telling me that if you presently have a couple in a retirement home and she gets admitted into the hospital, becomes an ALC patient and is returned to the retirement home under the aging at home strategy under a long-term-care designation, she cannot go back to her unit?

Mr. Vic Dhillon: We could make up all kinds of individual situations, and I don't think it serves any purpose to be—

Mr. Gerry Martiniuk: Yes, it helps me because I can understand—

Mr. Vic Dhillon: Well, you're not helping the committee at all. I think we should be talking about what the gist of this bill is.

Mr. Gerry Martiniuk: You're just trying to cover up this mess that you presented to us.

Mr. Vic Dhillon: The mess that you guys left, absolutely. It's a little bit disturbing that you talk about privatization.

M^{me} France Gélinas: Can I have an answer to my question? I asked a legitimate question. We've established that ALC patients could be transferred into a retirement home. They would be under the Long-Term Care Homes Act and looked after under the long-term-care home requirement. Does that mean that they could not be in the same unit as their spouse, who happens to be in the same retirement home but not needing ALC, not receiving the aging at home money, not looked after under the long-term care? You said that it could be under the same roof. You've talked about wings, you've talked about floors. I want to bring it a step further. Can I have a yes or a no on this?

The Chair (Mr. Shafiq Qaadri): Before I allow the proceedings to go forward, I would just invite everyone to re-establish parliamentary language. The Chair is empowered to call security. At the very least, I'd ask you all to do a quick check of your blood pressure etc.

Now we'll move forward to—

Mr. Paul Miller: You're a doctor; you can take our blood pressure.

The Chair (Mr. Shafiq Qaadri): I could. If you want to adjourn for that, that's fine.

Are there any further comments before we proceed?

Mr. Vic Dhillon: From my end, there are no comments.

Mr. Paul Miller: Of course. We're agitating him.

I have a question.

Interjection.

Mr. Paul Miller: We don't like to rush through, Vic; we like to do it properly, okay? You might be in a hurry, but we're not.

Mr. Gerry Martiniuk: Excuse me; you're complaining about time when we made no objection to you getting a full half hour. I didn't hear you say anything then, and now you're sitting there complaining about time? What kind of inconsistent—you can't suck and blow here, mister. The lady asked a question and she's not getting an answer. You want to rush on to it. Do you want us to talk here for 20 minutes each? We can do that too, you know.

Mr. Paul Miller: Anyways, getting back to my question—

The Chair (Mr. Shafiq Qadri): Mr. Miller has the floor.

Mr. Paul Miller: Just a question. I know for a fact that my wife's parents were in a facility where one floor was a lockdown division down below for people with Alzheimer's, the next floor was for long-term care and the two top floors were for retired individuals. Completely different services required completely different procedures, and they all had different requirements. In some you had to punch out to get out because it was a lockdown facility, you had to have a pass number—whatever. They were all different. What we're trying to establish here, without trying to get angry, is, what are the rules governing these types of multi-use buildings for different levels of care for different patients? That's all my original question about ALC people was, and I did not get an answer, and then everybody got defensive. I'm just trying to clarify what they mean by this.

With all due respect, if Mr. Martiniuk's upset that we're not getting an answer, that's understandable. If you're bringing a bill forward and we're discussing this bill and we're trying to establish in committee to pass on for the next phase, then you certainly want to know and have answers for us. We did do due diligence by giving you a 25-minute extension because you weren't prepared. We were flexible. Now you're angry because we may have touched a hot button or cornered you and you haven't got an answer: very unprofessional.

1540

I think we should establish that, Mr. Chair, and get back to what you suggested, that we have some decorum and protocol here. Don't get mad if you don't have an answer; just tell us.

Mr. Vic Dhillon: It may seem to you that I'm getting mad, but that's not the case. I think we should be discussing what the bill in front of us is. We shouldn't be getting into Ministry of Health issues. This is about regulating retirement homes. I don't think that bringing up scenarios that intertwine with other ministries serves the purpose of this committee at all. Bringing up—

Mr. Paul Miller: Mr. Chair.

The Chair (Mr. Shafiq Qadri): Let him finish.

Mr. Vic Dhillon: I'm finished.

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Dhillon. Mr. Miller.

Mr. Paul Miller: With all due respect, any type of legislation is intertwined. Take pension legislation: You've got the feds, who take care of the Bankruptcy and Insolvency Act, and it overlaps with Ontario. All bills have some tendency to lean toward other documentation

or other coverage. All bills are intertwined. For you to say they're not, and just single it out and not deal with any precarious situations that may crop up is absolutely having blinders on. We want to do it right the first time. You just want to do A to B, and that's it. The world doesn't function like that.

The Chair (Mr. Shafiq Qadri): La parole est à vous, Mme Gélinas.

M^{me} France Gélinas: Merci. The reason I have asked in the House for regulation of retirement homes for the last three years is that we live in an environment where hospitals are overwhelmed with ALC patients, where more and more of them have been transferred to retirement homes where we've had a fire and four people died, where the cry for legislation is so loud out in the field. You're coming with a bill as if those homes were on the moon, as if the hospitals in Ontario do not have 25% of their beds occupied by long-term care, as if there was not extra capacity within the retirement home system that the hospitals were looking at to discharge their long-term-care and ALC patients.

To say that we're mixing it up; we are not. We're bringing you reality. Go anywhere. Come to Sudbury, go to Cornwall, go to any of your ridings and you will see retirement homes that have welcomed long-term-care patients who were ALC patients in your hospitals.

The bill doesn't clarify anything; it makes matters worse. It is not clear. It does not use language that clarifies; it uses language that muddies the water. It makes it worse. In French we call this "de la bouillie pour les chats." This is what this bill does, and it's not helpful.

The Chair (M. Shafiq Qadri): Merci, Mme Gélinas. M. Lalonde?

Mr. Jean-Marc Lalonde: This bill is definitely just to regulate retirement homes. At the present time, we don't have anything for retirement homes. I happen to have about 36 of them in my riding. Let me tell you that what my friend Mr. Miller was saying—yes, if you have three floors, you could have three floors with different qualifications or requirements. But on the floor you have for long-term care, you've got to have full-time nurses on staff. I don't see anybody having six long-term-care beds being able to meet the bills at the end of the month. At the present time, we have nursing homes, which are long-term-care homes that have a few extra beds. You can have people in the hospital who are transferred there. They call them "lits de répit"—I don't know the name is in English—

Ms. Helena Jaczek: Respite.

Mr. Jean-Marc Lalonde: Respite—and they don't get the same amount of money they would get if it was long-term care. Really, only a CCAC could tell you, when you have to move out of the hospital, that you are a patient for long-term care and not for a retirement home. This way, they've got to find a place. We know what happened in Ottawa. The hospital sent someone to a retirement home, and we know what happened. It's really either the hospital or the operator of the retirement home who should be blamed for that. Definitely, we have

regulations at the present time for long-term care, but we don't have any for retirement homes.

The Chair (Mr. Shafiq Qaadri): Merci pour vos remarques, monsieur Lalonde. Are there any further comments or questions before we proceed to the recorded vote? Going once? No.

Ayes

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

Nays

Martiniuk, Paul Miller.

The Chair (Mr. Shafiq Qaadri): Government motion 9 carries.

Shall section 2, as amended, carry? Carried.

If there are no objections, we'll do a block vote—since we've received, I think, no amendments to date—for sections 3 to 8. Shall they carry ensemble? Carried.

We'll proceed now to section 9. NDP motion 9.1: Mr. Miller.

Mr. Paul Miller: The NDP would submit and recommend that we're voting against sections 9 to 19.

The Chair (Mr. Shafiq Qaadri): Thank you. Is there any further debate, comments or questions with reference to this NDP notice? Fine. Shall section 9 carry? Oh, Madame Gélinas.

M^{me} France Gélinas: This creation of an arm's-length authority could work, I suppose, if you have to, but not in its present form, with industry domination. Forget it. You are putting people at risk. This is not like if you buy a trip and we say that all of the travel agencies are regulating themselves. This is a one-time purchase. If you've done wrong, we will give you a pile of money and things will go away. This is not the case in a retirement home. This is their home. There's no amount of money that could fix some of the wrong that can be done to those vulnerable people. You cannot have self-regulation of that industry. It is not acceptable. It is bringing the fox into the hen-house. It is dangerous, and it has to be taken away.

The Chair (Mr. Shafiq Qaadri): Further comments? Seeing none, shall section 9 carry? Carried.

Interjection.

The Chair (Mr. Shafiq Qaadri): I'm sorry. Okay, a recorded vote on section—

Mr. Gerry Martiniuk: Sections 9 to 19.

The Chair (Mr. Shafiq Qaadri): Fair enough.

Interjection.

The Chair (Mr. Shafiq Qaadri): I understand that we're going to be considering it a little bit individually because there are many motions, for example, with reference to section 12.

Let's proceed with section 9. Shall section 9 carry? Recorded vote.

Ayes

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

Nays

Paul Miller.

The Chair (Mr. Shafiq Qaadri): Section 9 carries.

Block consideration, if the committee will allow it, of sections 10 and 11: again, a recorded vote. Those in favour of sections 10 and 11?

Interjection.

The Chair (Mr. Shafiq Qaadri): Any debate or comments? Okay, to the vote.

Ayes

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

Nays

Paul Miller.

The Chair (Mr. Shafiq Qaadri): Sections 10 and 11 carried.

We now have individual amendments coming forward for section 12. NDP motion 10: Mr. Miller.

Mr. Paul Miller: I move that subsections 12(4) and (5) of the bill be struck out and the following substituted:

“Appointment of directors

“(4) The Lieutenant Governor in Council shall appoint each of the directors to the board for a term of two years.

“Limit on re-appointment

“(5) A director shall not be appointed to the board for more than three successive terms.”

The reason for this is that we're assuming the government will vote against our motion to eliminate regulatory authority, so we are looking for ways to bring more transparency to the regulatory authority board. Without this motion, the act is silent on the length of terms and the numbers of terms that directors can serve. Basically, with a regulatory authority that may be dominated by industry people, they could set up quite a little monopoly there over a period of time with no set terms and no way of challenging them on their terms. So we're very concerned about a monopoly by the industry of their people on this regulatory authority, so we'd like to see some limitations.

1550

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon?

Mr. Vic Dhillon: We will not be supporting this. The arm's-length regulatory model that has been created is appropriate to regulate a sector the government doesn't fund. The Lieutenant Governor in Council does not appoint a majority in this model.

In the initial start-up of the regulatory authority it is important to have flexibility in terms of the length of terms of directors and the number of terms a director may serve. The availability of board expertise will be an important factor in determining the terms of appointees.

The government has heard and responded to concerns about industry dominance on the board by proposing to

add new provisions requiring the board to make a bylaw, subject to the minister's approval, as to who can serve as a director, and authorizing the minister to make rules as to who can serve as a director.

These provisions, combined with the existing accountability features in the bill, will ensure that the board does not become dominated by any sector, including long-standing industry representatives.

The Chair (Mr. Shafiq Qaadri): Mr. Miller.

Mr. Paul Miller: I'm confused by your statement. You're saying that they can regulate and govern in certain instances, but as far as the length of time that a governor can stand or be in office—you can limit some things, according to your statement, but this one you're not touching. I'm a little confused. Why wouldn't that fall under the same regulatory system that you're setting out for this particular authority? Why is it only good for some things and not others? I'm confused. Maybe you can help me out.

Mr. Vic Dhillon: Chair, I'm going to ask someone from the ministry to respond to that.

Mr. Michael Dougherty: Hi, I'm Mike Dougherty, from the ministry. Sorry, could you just repeat your question, Mr. Miller?

Mr. Paul Miller: Yes.

The Chair (Mr. Shafiq Qaadri): Sorry, could you just identify yourself again, a little louder?

Mr. Michael Dougherty: I'm Mike Dougherty, from the Ontario Seniors' Secretariat.

Mr. Paul Miller: The parliamentary assistant stated that there would be some regulation that would be set forth from the ministry over the authority, for their criteria to function and to run. Our amendment is also to allow the minister or ministry to set the length of time that that individual can spend as a governor.

He's saying they're an arm's-length authority, yet he just stated that the ministry would give out certain types of regulations. Why would they cut it off and not include the period or length of time that you serve on the board or authority? You know what I'm saying? If you can set out rules for certain things, why can't you set out rules for that? It seems to have been left out.

Mr. Michael Dougherty: Actually, there's going to be a government motion in about three or four that does address it. We've added the length of term and whether they can be re-elected.

Mr. Paul Miller: Well, I stand corrected. We haven't got to that yet.

Mr. Michael Dougherty: No, we haven't.

Mr. Paul Miller: Thank you, Mike.

The Chair (Mr. Shafiq Qaadri): If there are no further comments, we'll proceed to the recorded vote on NDP motion 10.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

PC motion 11: Mr. Martiniuk.

Mr. Gerry Martiniuk: I move that subsection 12(5) of the bill be amended by striking out "do not".

What this does is ensure that a majority of the board would be, in fact, appointees of the government at that time.

This organization is not an organization of professionals such as physicians, teachers or lawyers, where the majority in those situations are in fact professionals. This is an amalgamation of businesses, or a group of businesses, that do not fit within that category, and I think it's only fair that the public have a majority on the board of directors in governing the actions of this authority.

The Chair (Mr. Shafiq Qaadri): Mr. Miller?

Mr. Paul Miller: Thanks, Mr. Martiniuk. I'd just like to ask you a question on this. It seems that Bill 21 stipulates that the majority of directors are not appointed by the LGIC. This reverses that. Is that what you're doing here? Thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: We will not be supporting this. The arm's-length regulatory model that has been created is appropriate to regulate a sector the government doesn't fund. This proposed amendment would turn the arm's-length regulatory authority into a government agency.

The Chair (Mr. Shafiq Qaadri): Those in favour of PC motion 11? Those opposed? PC motion 11 is defeated.

NDP motion 11.1.

Mr. Paul Miller: I move that subsection 12(6) of the bill be amended by adding "and shall include at least one person who represents,

"(a) seniors who are residents of a retirement home;

"(b) unions representing staff who provide direct care to residents of a retirement home;

"(c) advocacy organizations for seniors; or

"(d) a member of a college of a health profession set out in schedule 1 to the Regulated Health Professions Act, 1991."

All of these groups, other than consumers, were not previously included. This will ensure broader representation and expertise in their individual fields. We feel that this is a win-win for any type of bill.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: We will not be supporting this. The arm's-length regulatory model that has been created is appropriate to regulate a sector the government doesn't fund. A competency-based board would ensure that members have the appropriate skills, experience and knowledge to provide effective, responsible governance. A competency-based approach for board selection is also the recommended best practice for contemporary board governance.

The government has heard concerns about the need for representation on the board from seniors, unions, advocates and health professionals on the board and has responded by adding new provisions requiring the board to make a bylaw, subject to the minister's approval, as to who can serve as a director and authorizing the minister to make rules as to who can serve as a director. These provisions, combined with the existing accountability features in the bill, will ensure that the board does not become dominated by any particular part of the sector.

The Chair (Mr. Shafiq Qaadri): Further comments?

Mr. Paul Miller: The minister says he doesn't want anyone to be dominated on the board. Why are there five representatives from the industry and four others? Is that not domination? Does that not have a majority? It's almost like sitting on committee five to three. What's the answer to that?

Mr. Alan Ernst: We should note, with respect to the five appointees who aren't appointed by the LGIC, that the intent is that these appointments are to be based on competencies consistent with contemporary governance. There is certainly nothing in here that says that they would be industry appointees. It would be based on a range of competencies. The legislation enables the minister to set qualifications by order. Those provisions should enable those five board members to be based on that range of competencies which could, in theory, range from knowledge of the seniors' community to governance, administration and so on. Again, qualifications could be set out in the future, but the intent is that this is a competency-based board. There's nothing here that says it would be an industry-based board.

Mr. Paul Miller: Well, there's nothing that says it isn't, either. You can get five members on that board who may be very competent but they could be from the industry, and if the minister decided to appoint them for whatever reason, and they are leaders in their industry, it could be for-profit leaders in their industry who could be sitting there—that's within reason; that could happen—based on their competencies, based on their knowledge, based on their experience. All those could come into play also, but it could go that way, couldn't it? And the other four members—listen, all I know is, I'm from Missouri; if you've got five people from one area and you've got four others and you vote, you could lose every one. Is that not a fair statement?

1600

Mr. Alan Ernst: I should note that there are a number of accountability features that we'll be getting to as we go through the rest of this bill dealing with MOU, the minister's ability to set policy directions, the authority to appoint an administrator when it's in the public interest to do so. There are a number of features in the act.

Mr. Paul Miller: I sat here the other day and heard them in presentations, and it was my understanding that the deputy minister and the minister said they could overrule any decisions on board appointees. If someone came forth and they decided, for whatever reason—whether it's industry-dominated or whatever—they sat

here and told me that the deputy minister and the minister could overrule. So if they wanted to play into the hands of private industry, they could. Is that a fair statement?

Ms. Bethany Simons: I might just add, in terms of upcoming government motions, that there are two that deal with the issue of who may serve on the board, and there is a proposed motion to amend with respect to section 12, which deals with the minister's order-making power; that the minister may order, with respect to the rules, who can serve as directors elected to the board, the criteria for their nomination, the process for their election, the length of their term and whether they can be re-elected.

Mr. Paul Miller: So the answer to my question is: Yes, the minister can overrule?

Ms. Bethany Simons: The minister has the power and the ability to make an order. There is also another proposed motion to amend with respect to bylaws of the authority, requiring the authority to make bylaws in the areas that I've just touched upon, and those bylaws must be approved by the minister. So it allows oversight of the government.

Mr. Paul Miller: So the minister can overrule the bylaws; he can overrule the personnel involved in this authority. It sounds like the minister can do just about anything he wants, from what I can read.

Ayes

Paul Miller.

Nays

Dhillon, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.
PC motion 12: Mr. Martiniuk.

Mr. Gerry Martiniuk: I move that subsection 12(6) of the bill be struck out and the following substituted:

“Representation

“(6) The directors appointed by the Lieutenant Governor in Council shall consist of consumers or representatives of consumers.”

I think that's self-explanatory.

Mr. Paul Miller: Recorded vote, please.

Ayes

Martiniuk, Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): PC motion 12 defeated.

NDP motion 13: Mr. Miller.

Mr. Paul Miller: I move that subsection 12(7) of the bill be struck out.

We're removing the right of directors to elect new board members because of fears that it will allow the board to soon become only a representative of industry. It appears that our amendments are moving in that direction. I'll reiterate what I had just asked before: my concerns about a dominated representation of industry, and it appears in the amendments that we're moving in that direction. We want an explanation, and the one I got was what I thought, so this is basically down the same lines.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: We will not be supporting this. The arm's-length regulatory model that has been created is appropriate to regulate a sector the government doesn't fund. This proposed amendment would turn the arm's-length regulatory authority into a government agency.

The Chair (Mr. Shafiq Qaadri): Recorded vote.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.
Government motion 14.

Mr. Vic Dhillon: I move that section 12 of the bill be amended by adding the following subsection:

"Representation, etc.

"(8.1) The minister may, by order, establish rules regarding who can serve as directors elected to the board, the criteria for their nomination"—

Mr. Gerry Martiniuk: It's 13.

Mr. Vic Dhillon: No, 14.

The Chair (Mr. Shafiq Qaadri): Actually, technically we're on 14R so—

Mr. Vic Dhillon: Are we on the same—

The Chair (Mr. Shafiq Qaadri): I'm on 14R.

Mr. Vic Dhillon: Yeah, that's the one. Should I start?

Mr. Paul Miller: You've gone to 14R. There's 14, and you're amending 14R for 14?

The Clerk of the Committee (Mr. Katch Koch): We have two motions: 14 is the original motion filed; 14R is the replacement motion. So it's up to Mr. Dhillon to move whichever one he wants to move.

Mr. Paul Miller: Which one are we doing?

Mr. Vic Dhillon: I'll start all over again, Chair.

I move that section 12 of the bill be amended by adding the following subsection:

"Representation, etc.

"(8.1) The minister may, by order, establish rules regarding who can serve as directors elected to the board, the criteria for their nomination, the process for their election, the length of their term and whether they can be re-elected; an order made under this subsection prevails over a bylaw made under subsection 14(1.1) in the case of conflict."

The explanation for this is that we heard concerns that the board could be dominated by directors from a particular sector. Transparency, accountability and appropriate government oversight of the authority are important provisions in this act. If the minister is dissatisfied with the board's bylaw development process outlined in the proposed amendment to section 14(1.1), this proposed amendment would give the minister the power to establish rules regarding who can serve as directors elected to the board, the criteria for the nomination and the process for the election of directors.

The Chair (Mr. Shafiq Qaadri): Thank you.

Mr. Paul Miller: Well, we think it's moving in the right direction and we'd like to support this, but I'm a little concerned about the wording "the minister may." Why doesn't it say, "the minister will"? I mean, is it that he doesn't want to, or he's going to do it some day down the road, or until somebody complains? Why would you use the word "may"? "The minister may"—that doesn't do anything. I think that's a real problem. This is a waste of paper if it just says "may." I'm looking for an answer. Why would you use the word "may"? This means nothing; it's not worth the paper it's written on. Is he going—"shall" or "will"?

Mr. Michael Dougherty: This is tied into 14(1.1), so—

Mr. Paul Miller: I'm aware, but both of them are the same.

Mr. Michael Dougherty: The way it's set up is, if the minister is not happy with the board, the minister must review the board's bylaws—

Mr. Paul Miller: Where does it say "must"?

Mr. Michael Dougherty: In 14(1.1); it's about three motions down the road here. It's just the way that the bill was set up. We had to do this one first, but logically it should be that the board will do the bylaw and the minister must review it; if the minister is not happy, then the minister may—

Mr. Paul Miller: Can I ask you a question?

Mr. Michael Dougherty: Sure.

Mr. Paul Miller: Why don't you just withdraw these and go with the one that's further down the road? This one is dead in the water as soon as you use the word "may."

1610

Mr. Michael Dougherty: It's "may" only because he has "must" for the other piece. This is just the safety valve that he has. If he's not happy with—

Mr. Paul Miller: This is an out. It's not a safety valve. The word "may" is not the proper word.

Mr. Michael Dougherty: Well, it is in this case because if he's happy with the bylaw, he doesn't have to do an order. Whereas if he's not happy with the bylaw, he is going to do—

Mr. Paul Miller: It all depends on what he had for breakfast, whether he's happy or not? What is that?

Mr. Michael Dougherty: It's a safety component.

Mr. Paul Miller: That's worse than going to court.

Interjection.

Mr. Paul Miller: No, the word “may” is useless.

Mr. Michael Dougherty: It indicates that the minister doesn’t have to if he is happy with the bylaw that the board has developed in the same area. This is just as an extra—

Mr. Paul Miller: I can’t support that.

The Chair (Mr. Shafiq Qaadri): We’ll proceed to the vote. Those in favour of—

Mr. Paul Miller: Could I have a recorded vote, please?

The Chair (Mr. Shafiq Qaadri): A recorded vote on government motion 14R.

Ayes

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

Nays

Paul Miller.

The Chair (Mr. Shafiq Qaadri): Defeated.

Mr. Vic Dhillon: Is that defeated or—

The Chair (Mr. Shafiq Qaadri): Carried.
Government motion 15.

Mr. Vic Dhillon: Chair, I suggest you get a coffee.

The Chair (Mr. Shafiq Qaadri): I’ve got two and they don’t seem to be working, Mr. Dhillon.

Mr. Vic Dhillon: I move that subsection 12(9) of the bill be amended by striking out “(3) or (8)” wherever that expression appears and substituting in each case “(3), (8) or (8.1)”.

The justification for this is that subsection 12(9) provides that a minister’s order must be made readily available to the public on and after the date it is made, and that the orders must remain readily available to the public. This proposed amendment is technical and reflects the proposed amendment to add subsection 12(8.1), which is the power of the minister to make and order establishing rules regarding election of directors.

The Chair (Mr. Shafiq Qaadri): Comments on government motion 15? Those in favour of government motion 15? Those opposed? Motion 15 carries.

Shall section 12, as amended, carry? Carried.

Shall section 13 carry? Carried.

NDP motion 16: Mr. Miller.

Mr. Paul Miller: I move that subsection 14(1) of the bill be amended by adding “After consulting with the public in the manner that the board determines” at the beginning.

Basically, this obligates the board to consult with the public when they are determining the bylaws for the authority.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Vic Dhillon: We will not be supporting this. Governance structure is created to allow deregulatory authority flexibility in operational decisions. Accountability for bylaws will be built into the memorandum of understanding between the minister and the board. There

is nothing preventing the authority from consulting publicly on its bylaws as an arm’s-length body. This type of governance decision is most appropriately left to the authority itself.

The Chair (Mr. Shafiq Qaadri): Further comments?

M^{me} France Gélinas: This is a section of activity that needed regulation. You acknowledged this because you brought forward that bill. Part of the reason why we want this is so that we have clear accountability and we have more transparency and we know what we’re talking about. One of the ways to do this is to make sure that the board has to invite public consultation.

Right now, basically the board is permitted to make bylaws respecting the management and administration of the authority and 30 days after drafting the bylaws they must make them available for public inspection. We’re not that far apart. We’re saying do your consultation upfront so you make sure that the public has a chance to be heard. This is basic transparency principles. Why wait until after it’s done and have them react? They will have a chance to look at them. Give them a chance to be involved upfront. That’s all we’re asking for, and it goes with good transparency principles.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments on NDP motion 16? Seeing none, to the vote.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

Government motion 17R.

Mr. Vic Dhillon: Thank you, Chair. I move that section 14 be amended by adding the following subsections:

“Same, elected directors

“(1.1) The board shall make a bylaw regarding who can serve as directors elected to the board, the criteria for their nomination, the process for their election, the length of their term and whether they can be re-elected.

“Minister’s approval required

“(1.2) The board may make a bylaw described in subsection (1.1) only with the approval in writing of the minister.”

The justification for this is that we heard concerns that the board would be dominated by the directors from a particular sector. Transparency, accountability and appropriate government oversight of the authority are important provisions in this act. This proposed amendment requires the board to make a bylaw regarding who can serve as an elected director, the criteria for their nomination and the process for their election. In order to ensure accountability and the appropriate level of government oversight, this bylaw must be approved by the minister.

The Chair (Mr. Shafiq Qaadri): Thank you. Comments? Mr. Miller.

Mr. Paul Miller: Thank you, Mr. Chairman. This makes the board even more unaccountable. This is a terrible amendment that will allow the board to set the criteria and process of nomination for new directors of the board. This seems to be a step backwards in accountability. The fact that the minister must approve these is little consolation. I really, really think this is a terrible amendment.

The Chair (Mr. Shafiq Qadri): Those in favour of the government motion?

Mr. Paul Miller: Can I have a recorded vote, please?

The Chair (Mr. Shafiq Qadri): Recorded vote.

Ayes

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

Nays

Paul Miller.

The Chair (Mr. Shafiq Qadri): The motion carries.

Shall section 14, as amended, carry? Carried.

Shall sections 15 to 19, inclusive, carry? Carried.

Section 20: NDP motion 17.1: Mr. Miller.

Mr. Paul Miller: Thank you, Mr. Chairman. I move that section 21 of the bill be struck out and the following substituted:

“Fees

“21(1) The minister may, by order, set and charge a fee in relation to anything that the minister does in administering this act and the regulations or anything that the registrar does under this act and the regulations.

“Legislation Act, 2006, part III”—

The Chair (Mr. Shafiq Qadri): Mr. Miller, I’d invite you to read NDP motion 17.1.

Mr. Paul Miller: Motion 17.2?

M^{me} France Gélinas: Motion 17.1.

Mr. Paul Miller: Okay—here. I’m sorry. We’ll get back to it. It’s the little one here.

I move that section 20 of the bill be struck out and the following substituted:

“Forms

“20. In connection with administering this act and the regulations, the minister may require the use of forms that the minister develops.”

The Chair (Mr. Shafiq Qadri): Thank you. Comments? Seeing none, we’ll proceed to the vote.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qadri): Defeated.

Shall section 20 carry? Carried.

Section 21. NDP motion 17.2: Mr. Miller.

Mr. Paul Miller: Thank you. Okay, here we go.

I move that section 21 of the bill be struck out and the following substituted:

“Fees

“21(1) The minister may, by order, set and charge a fee in relation to anything that the minister does in administering this act and the regulations or anything that the registrar does under this act and the regulations.

“Legislation Act, 2006, part III

“(2) Part III (Regulations) of the Legislation Act, 2006 does not apply to an order made by the minister under subsection (1).

“Amount

“(3) A fee under subsection (1) may be set by specifying its amount or by specifying the method of determining its amount.

“Collection

“(4) The minister may,

“(a) set the time and manner of payment of each fee charged under subsection (1); and

“(b) require the payment of interest and other penalties, including payment of collection costs, when a fee charged under subsection (1) is unpaid or is paid after the due date.”

This is amending the collection fees section so responsibility lies with the minister rather than the regulatory authority.

1620

The Chair (Mr. Shafiq Qadri): Thank you. Comments? Mr. Dhillon.

Mr. Vic Dhillon: We will not be supporting this. This is inconsistent with the act’s intent to create an arm’s-length regulatory body. The regulatory framework is appropriate to regulate a sector the government doesn’t fund. The bill already provides the minister would have the authority to approve the processes and criteria by which the authority charges and sets fees.

M^{me} France Gélinas: How does the minister have this authority?

Mr. Vic Dhillon: I believe it’s in section 21.

Ms. Bethany Simons: Section 21 of the bill provides that “the authority may set and charge a fee in relation to anything that the authority does in administering this act and the regulations or anything that the registrar does under this act and the regulations, if the decision to charge the fee is made, and the fee is set, in accordance with processes and criteria that the authority establishes and that the minister approves.”

The Chair (Mr. Shafiq Qadri): Further comments?

M^{me} France Gélinas: I would say his explanation was a little bit off.

The Chair (Mr. Shafiq Qadri): Legislative counsel?

Mr. Michael Wood: I agree with the ministry explanation, but to make it a little clearer, focus on the last three or four words of subsection 21(1). The minister has to approve the processes and criteria that are used when the authority sets the fees.

M^{me} France G linas: Yes, but that doesn't mean the minister will approve the charging of interest or going after fees that are unpaid.

Let's say this thing turns out like we think it will turn out, where it will be a bunch of industry leaders who will set their own bylaws, who will enforce them when they feel like it, to the people they feel like. The ministry won't have any recourse. If somebody is found in contravention of the bylaws, but this authority decides not to go and collect—the ministry might have approval of the bylaws all they want, but it still won't be collected.

The Chair (Mr. Shafiq Qaadri): If there are no further comments, we'll proceed to the recorded vote. Those in favour of NDP motion 17.2?

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated. NDP motion 17.3.

Mr. Paul Miller: I move that section 21 of the bill be amended by adding the following subsection:

“Exception

“(2) The authority shall not set or charge a fee payable by a person for making a complaint described in subsection 83(1) to the registrar.”

It specifies that the authority cannot charge a fee for lodging a complaint about an alleged contravention of the act. That's what this is all about.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon?

Mr. Vic Dhillon: We will be supporting this motion, so be nice.

Mr. Paul Miller: I need water. Did I hear that? It's hot in here. Thank you.

The Chair (Mr. Shafiq Qaadri): Those in favour of NDP motion 17.3—recorded.

Ayes

Dhillon, Jaczek, Johnson, Lalonde, Paul Miller, Ramal.

The Chair (Mr. Shafiq Qaadri): Wait. Legislative counsel?

Mr. Michael Wood: I appreciate that the committee has just passed this motion but—

The Chair (Mr. Shafiq Qaadri): Actually, they haven't. I haven't officially acknowledged it. Go ahead.

Mr. Michael Wood: I have to have a minute to consider the numbering problem, because we already have a subsection 21(2) here, I realize. I think perhaps this subsection should be renumbered as 1.1, because the intention is not, as I gather, to strike out the existing subsection 21(2).

The Chair (Mr. Shafiq Qaadri): Is that both suitable and comprehensible?

Interjection.

Mr. Michael Wood: No, it cannot be done editorially. The committee has to be voting on it as a new subsection, 1.1.

The Chair (Mr. Shafiq Qaadri): All right. Katch, would you like to summarize what's going on, please?

Mr. Paul Miller: What's the title, 21(1)?

Mr. Michael Wood: What is in brackets will be 1.1 instead of 2.

The Clerk of the Committee (Mr. Katch Koch): It's 1.1 instead of 2.

The Chair (Mr. Shafiq Qaadri): All those in favour of this particular amendment, as amended? Recorded vote.

Ayes

Dhillon, Jaczek, Johnson, Lalonde, Paul Miller, Ramal.

The Chair (Mr. Shafiq Qaadri): Carried. Shall section 21, as amended, carry? Carried. Section 22: NDP motion 17.4.

Mr. Paul Miller: Could we put in notice that we'll be voting against section 22?

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller.

Shall section 22 carry? Recorded vote, I presume?

Mr. Paul Miller: Yes, please.

Ayes

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

Nays

Paul Miller.

The Chair (Mr. Shafiq Qaadri): Section 22 is carried.

Section 23. NDP motion 17.5: Mr. Miller.

Mr. Paul Miller: I move that subsection 23(1) of the bill be struck out and the following substituted:

“Registrar

“23(1) The minister shall appoint a registrar who shall perform the duties assigned to the registrar under this act and by the minister.”

This one, we believe, makes the minister responsible for appointing the registrar, instead of the board. I think it's basically a housekeeping situation.

Maybe I can get two for two.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: We will not be supporting this.

Mr. Paul Miller: Ah.

Mr. Vic Dhillon: We'll see how you behave.

The arm's-length regulatory model that has been created is appropriate to regulate a sector the government

doesn't fund. The proposed amendment would reflect a change that we do not support, changing the authority from being an arm's-length regulatory authority to being part of the government.

The Chair (Mr. Shafiq Qaadri): Recorded vote on NDP motion 17.5.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall section 23 carry? Carried.

Section 24: NDP motion 17.6.

Mr. Paul Miller: I move that subsections 24(1) and (2) of the bill be struck out and the following substituted:

“Risk officer

“24(1) The minister shall appoint a risk officer.”

The minister, not the board, should appoint this risk officer.

The Chair (Mr. Shafiq Qaadri): Further comments?

Mr. Paul Miller: The fact is that we feel it would be better for the minister because of the fear, once again, of a board dominated by the industry and assigning the risk officer. He may be favourable to their decisions, and we're very concerned about that. We'd like to see an open and accountable process. We'd like to see the minister appoint the risk officer from arm's length.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: Again, we'll be voting against this. The arm's-length regulatory model that has been created is appropriate to regulate a sector the government doesn't fund.

This proposed amendment would reflect a change that we do not support, changing the authority from being an arm's-length regulatory authority to being part of government.

The Acting Chair (Mr. Khalil Ramal): Any further debate? Recorded vote.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde.

The Acting Chair (Mr. Khalil Ramal): I declare the motion lost. Sorry.

NDP motion 17.7.

1630

Mr. Paul Miller: I move that subsection 24(3) of the bill be amended by striking out “authority” wherever that

expression appears and substituting in each case “minister”.

It's the same situation. It strikes out “authority” and replaces it with “minister” wherever it appears in this section.

The Acting Chair (Mr. Khalil Ramal): Any further debate? Mr. Dhillon.

Mr. Vic Dhillon: We will not be in support of this, again for the same reason. The arm's-length regulatory model that has been created is appropriate to regulate the sector that the government doesn't fund. This proposed amendment would reflect a change that we do not support, changing the authority from being an arm's-length regulatory authority to being part of government.

The Acting Chair (Mr. Khalil Ramal): Any further debate? Recorded vote.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde.

The Acting Chair (Mr. Khalil Ramal): I declare NDP motion 17.7 lost.

Motion 17.8: NDP.

Mr. Paul Miller: I move that subsections 24(4) to (9) of the bill be struck out and the following substituted:

“Required reports

“(4) The risk officer shall,

“(a) prepare and give the minister an annual report about the minister's activities and proposed activities mentioned in subsection (3);

“(b) prepare and give the minister the other reports that the minister requests.

“Optional reports

“(5) The risk officer may prepare and give the minister a report on any matter related to the minister's activities or proposed activities mentioned in subsection (3), at the times that the officer considers it in the public interest to do so.

“Access to records and information

“(6) When the risk officer performs a duty under subsection (3) or prepares a report under subsection (4) or (5), the minister shall give the officer access to all records and other information that the officer believes to be necessary in order to perform that duty or prepare that report.

“Minister to review and disclose other reports

“(7) Within one year after receiving a report”—what's wrong?

Mr. Michael Wood: There is a replacement motion for 17.8, which I believe you would prefer to move, which is “within three months.”

Mr. Paul Miller: Do you want me to read 17.8R then?

Mr. Michael Wood: Yes.

Mr. Paul Miller: I move that subsections 24(4) to (9) of the bill be struck out and the following substituted:

“Required reports

“(4) The risk officer shall,

“(a) prepare and give the minister an annual report about the minister’s activities and proposed activities mentioned in subsection (3);

“(b) prepare and give the minister the other reports that the minister requests.

“Optional reports

“(5) The risk officer may prepare and give the minister a report on any matter related to the minister’s activities or proposed activities mentioned in subsection (3), at the times that the officer considers it in the public interest to do so.

“Access to records and information

“(6) When the risk officer performs a duty under subsection (3) or prepares a report under subsection (4) or (5), the minister shall give the officer access to all records and other information that the officer believes to be necessary in order to perform that duty or prepare that report.

“Minister to review and disclose other reports

“(7) Within three months after receiving a report prepared by the risk officer under subsection (4) or (5), the minister shall review the report and make it available for public inspection.”

This is a series of reforms that change the reference from “the board” to “the minister” as per other motions, as well as to change the amount of time that reports must be released to the public. It’s simply another level of accountability, and government certainly wants to be accountable to the public, and I think this just strengthens the risk officer’s position to be able to do his due diligence and also not to get up against red tape or bogged down at the ministry level when he requires information to do his report.

I don’t know why anyone would be against this. It’s simply more accountability. The government certainly is touting more accountability, so I would think that you would support this and allow the risk officer to do his job without any interference from the ministry or the board. It’s a no-brainer.

The Chair (Mr. Shafiq Qaadri): Madame G  linas and then Mr. Dhillon.

M^{me} France G  linas: We are especially concerned about the fact that the risk officer may prepare reports, as requested by the minister or on his or her own initiative, if it is in the public’s interest to do so, regarding the effectiveness of the authority’s administration of the act.

So the way the bill reads right now, these types of reports must be reviewed by the minister and the board, and made available to the public within one year of receipt.

What we’re asking is that if it is of public interest, which is the criteria the risk officer must meet before he or she puts out those reports, why is it that he or she is preparing a report in the public’s interest but we won’t make it available to the public for 12 months? That is not

reasonable. We don’t have any problem with the minister and the board reviewing it. But if it has been generated because of public interest, make it available to the public within three months, maximum.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: We’ll be voting against this because this amendment would reflect a change we do not support, changing the authority from being an arm’s-length regulatory authority to being part of the government.

The Chair (Mr. Shafiq Qaadri): Madame G  linas?

M^{me} France G  linas: That answer makes no sense whatsoever. We are not changing it to be part of the ministry. We’re telling you that we are looking at a risk officer who needs to report back to the public within three months.

The Chair (Mr. Shafiq Qaadri): Mr. Miller.

Mr. Paul Miller: This risk officer is to be able to move freely between the ministry and the board without encumbrances. That’s what this amendment allows the risk officer to do. What you’re doing is encumbering his ability to go after proper documentation from the ministry to complete his report. You call it arm’s length. This is exactly what he would be: arm’s length from either one of them and able to function as a separate entity. Why would you not support that? I don’t understand that.

Mr. Vic Dhillon: We support the intent, and we have a further government motion coming up to address this.

Mr. Paul Miller: To correct it?

Mr. Vic Dhillon: To address this.

Mr. Paul Miller: Okay. I’ll be waiting with bated breath.

The Chair (Mr. Shafiq Qaadri): Those in favour of NDP motion 17.8R? Recorded vote.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.
NDP motion 18.

Mr. Paul Miller: I move that subsections 24(8) and (9) of the bill be amended by striking out “one year” wherever that expression appears and substituting in each case “three months”.

It obligates that reports that are given to the ministry be released to the public within three months instead of one year. A lot of things can happen in one year, and a lot of dust can collect on a report in one year. We’re figuring that three months after a complaint is dealt with, the public is going to be upset about the fact that they can’t get it quicker.

At the best of times, governments are bogged down and the government machine is very slow, so it would

certainly improve consumer confidence in the government if we sped up this process.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Vic Dhillon: Again, we support the intention of this motion—I will introduce an amendment to reduce the period to six months—but we will be voting against this.

The Chair (Mr. Shafiq Qaadri): Those in favour of NDP motion 18? Recorded vote.

Ayes

Martiniuk, Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

Continuing with section 24, government motion 18.0.1.

1640

Mr. Vic Dhillon: I move that subsections 24(8) and (9) of the bill be amended by striking out “one year” wherever that expression appears and substituting in each case “six months”.

We’re reducing the period to six months. This policy decision can be reviewed during the five-year review of the act under section 120(1).

Mr. Paul Miller: Recorded vote, please.

Ayes

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Carried.

Shall section 24, as amended, carry? Carried.

Section 25: NDP motion 18.1.

Mr. Paul Miller: I move that section 25 of the bill be struck out and the following substituted:

“Complaints review officer

“25. The minister shall appoint a complaints review officer.”

Once again, the minister instead of the board shall appoint a complaints review officer. We think that that’s a good move that the minister appoint one. That way, it’s not an industry-dominated appointment, the minister can work at arm’s length and appoint a review officer who can report to him immediately as well as to the board and give him the ability to move back and forth between the two bodies.

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Dhillon.

Mr. Vic Dhillon: We will not be supporting this. The arm’s-length regulatory model that has been created is appropriate to regulate a sector the government doesn’t fund. This proposed amendment would reflect a change that we do not support, changing the authority from being

an arm’s-length regulatory authority to being part of the government.

The Chair (Mr. Shafiq Qaadri): Thank you.

Ayes

Paul Miller.

Nays

Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall section 25 carry? Carried.

Section 26: NDP motion 18.2.

Mr. Paul Miller: I move that section 26 of the bill—

Mr. Michael Wood: Wait a minute. Mr. Miller, do you intend to move motion 18.2R, which is intended to be a replacement for 18.2? There’s a slight difference between them.

Mr. Paul Miller: Thank you. Sorry. It’s always one page behind, there. I’ve got to put the Rs on top.

The Chair (Mr. Shafiq Qaadri): Mr. Miller, you have the floor for 18.2R.

Mr. Paul Miller: I move that section 26 of the bill be struck out and the following substituted:

“Code of ethics

“26. The minister,

“(a) shall establish a code of ethics that includes rules respecting conflicts of interest, political activity and disclosure of wrongdoing;

“(b) shall ensure that the code of ethics is complied with by every inspector and every other person employed, retained or appointed by the minister; and

“(c) shall ensure that the code of ethics is available for public inspection.”

I think this basically speaks for itself. We certainly want to move in the direction of accountability, as the government states on a regular basis. This tightens up - things and would allow the inspectors to follow a code. If they get themselves in a bit of trouble or heat and didn’t follow the code, then the minister has an ability to take what disciplinary action he feels is required in that particular incident. If you don’t do that, it leaves too much leeway for people who are serving in this particular situation with no guidelines. We think that that’s wrong.

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Dhillon.

Mr. Vic Dhillon: We won’t be supporting this as this amendment would not reflect a change. We do not support changing the authority from being an arm’s-length regulatory authority to being part of the government.

The Chair (Mr. Shafiq Qaadri): Any further comments?

Mr. Paul Miller: I’m a little confused because a code of ethics—doctors have codes of ethics, lawyers have codes of ethics. Why wouldn’t you want this body to have a code of ethics and report to the ministry so the

minister is able to act on the act and the code? It doesn't make sense that you are allowing them to float around in purgatory.

Mr. Vic Dhillon: If you look in the act itself, the code of ethics is in the act.

Mr. Paul Miller: Governed by the authority.

Mr. Vic Dhillon: Yes, the authority.

Mr. Paul Miller: Okay, once again, I'm trying to establish the fact that a potentially industry-dominated board has their own code of ethics. That's like the fox guarding the chicken house. Do you agree?

Mr. Vic Dhillon: It's within the minister's realm. The minister has to approve the code of ethics.

Mr. Paul Miller: Then why would you have any problem with the inspectors or the other people having that code? If he approves it, is it going to fall under his auspices or the governing body of the authority? Who's going to have the last say on the code of ethics?

Mr. Vic Dhillon: The minister would, I'm told. The minister would have the final say.

Mr. Paul Miller: Okay.

The Chair (Mr. Shafiq Qadri): Further comments? Seeing none, recorded vote on NDP motion 18.2R.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qadri): Defeated.

Shall section 26 carry? Carried.

NDP motion 18.3 in the next section: Mr. Miller.

Mr. Paul Miller: I move that section 27 of the bill be struck out and the following substituted:

"Emergency fund

"27(1) A fund is established under the name retirement homes emergency fund in English and fonds d'urgence des maisons de retraite in French."

How did I do? Not bad?

M^{me} France Gélinas: Terrible.

Mr. Paul Miller: Thank you.

"Same

"(2) The minister shall make payments into the fund, hold the property of the fund in trust, make payments out of the fund, require repayment to the fund and otherwise administer and manage the fund in accordance with the regulations."

Basically, it makes the minister responsible for the emergency fund.

The Chair (Mr. Shafiq Qadri): Mr. Ramal.

Mr. Khalil Ramal: Thank you very much, Mr. Miller. The government is not going to support this motion because it doesn't reflect our mission. Here we're regulating entities not funded by the government, so there would be a conflict.

The Chair (Mr. Shafiq Qadri): Further comments? Seeing none—legislative counsel.

Mr. Michael Wood: I just have to point out to the committee that if this motion passes, to be consistent we have to go back and make a small housekeeping change to the definitions in subsection 2(1) of the bill, where "fund" is defined right now as "'fund' means the retirement homes regulatory authority emergency fund established under subsection 27(1)." If this motion on section 27 passes, we will have to amend the definition of "fund" in subsection 2(1) of the bill to be consistent with that new name, to say "'fund' means the retirement homes emergency fund"—in other words, drop the two words "regulatory authority."

The Chair (Mr. Shafiq Qadri): Thank you, legislative counsel. If the motion passes, we will do so. Recorded vote, NDP motion 18.3.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qadri): NDP motion 18.3 defeated; legislative counsel concern nullified.

Mr. Michael Wood: No, it's not nullified. It's defeated?

Interjection: Yes.

Mr. Michael Wood: I thought you carried it. Okay, then it's fine. Thank you. Sorry.

Interjections.

The Chair (Mr. Shafiq Qadri): I once again advise all members who are attending this committee to do a quick self-blood-pressure check. We will now move forward.

Mr. Paul Miller: Mr. Chairman, I have another notice: "The NDP recommends voting against sections 28 and 29."

The Chair (Mr. Shafiq Qadri): Thank you, Mr. Miller.

Shall section 28 carry? I presume you'd like a recorded vote.

Mr. Paul Miller: Recorded vote, please.

The Chair (Mr. Shafiq Qadri): Shall section 28 carry?

Ayes

Jaczek, Johnson, Lalonde, Ramal.

Nays

Paul Miller.

The Chair (Mr. Shafiq Qadri): Section 28 carries. Section 29: Those in favour? Carried, unless there's an objection.

Section 30: NDP motion 18.5.

1650

Mr. Paul Miller: I move that section 30 of the bill be struck out and the following substituted:

“No crown liability

“30. No action or other proceeding shall be instituted against the minister, the crown, or any employee of the crown for any act or omission of the minister, an inspector or any other person employed, retained or appointed by the minister.”

This basically removes references to the authority.

The Chair (Mr. Shafiq Qaadri): Mr. Ramal.

Mr. Khalil Ramal: We’re not supporting this motion because we believe our regulatory body model, which we created, would be suitable for such direction, especially when those arm’s-length regulatory models are not funded by the government.

The Chair (Mr. Shafiq Qaadri): Further comments? We’ll proceed, then, to the vote.

Ayes

Paul Miller.

Nays

Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall section 30 carry? Carried.

NDP motion 18.6: Mr. Miller.

Mr. Paul Miller: I move that section 31 of the bill be struck out and the following substituted:

“Minister’s annual report

“31(1) By July 1 in each year, the minister shall prepare an annual report about the minister’s activities and financial affairs in respect of administering this act in the year ending on the preceding March 31.

“Available to the public

“(2) The minister shall make the report available for public inspection.”

Once again, this motion removes any reference to the authority.

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Ramal.

Mr. Khalil Ramal: I guess it’s the same argument, because the arm’s-length regulatory model that has been created is appropriate to regulate the sector. The government does not fund it. That’s why we’re not going to support it.

The Chair (Mr. Shafiq Qaadri): Comments? We’ll proceed to the vote.

Ayes

Paul Miller.

Nays

Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall section 31 carry? Carried.

Section 32: NDP notice of motion: 18.7.

Mr. Paul Miller: The NDP recommends voting against section 32.

The Chair (Mr. Shafiq Qaadri): Shall section 32 carry? Carried.

Shall section 33 carry? Carried.

Mr. Paul Miller: Could we get a recorded vote on that? I want a recorded vote on all our NDP—on 32. The NDP recommended voting against 32—

Interjection: That’s not a motion.

Mr. Paul Miller: You don’t have to vote on notice?

The Chair (Mr. Shafiq Qaadri): No.

Mr. Paul Miller: Okay. Fine.

The Chair (Mr. Shafiq Qaadri): Section 34. NDP motion 18.8: Mr. Miller.

Mr. Paul Miller: I move that section 34 be amended by adding the following subsection:

“Notice to public

“(2) Upon receiving an application for a licence, the registrar shall give notice of the application to the public in the manner that the registrar determines and give members of the public the opportunity to make written submission with respect to the application in the manner and at the time that the registrar determines.”

The purpose of this: It obliges information about application for a retirement home licence to be available to the public. It also allows the public to provide written submissions regarding the application.

The Chair (Mr. Shafiq Qaadri): Comments? Mr. Dhillon.

Mr. Vic Dhillon: We will not be supporting this. We do not feel this proposed amendment is necessary for a number of reasons. Under the bill, information on licence applications would be made through the authority’s public registrar, which will include details about the applicant, the care services it proposes to provide and the status of applications. In assessing licence applications, the registrar has the power to conduct inquiries and investigations, and request information from any person who has information that is relevant to the licence application. These powers will ensure that the registrar has access to all relevant information in the licence application process. If the registrar receives any information from the public on an application, the registrar would be free to utilize that information in assessing whether to issue a licence.

The Chair (Mr. Shafiq Qaadri): Further comments on 18.8? Those in favour?

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde.

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall section 34 carry? Carried.

Shall section 35 carry? Carried.

Section 36: NDP motion 18.9.

Mr. Paul Miller: I move that section 36 of the bill be struck out and the following substituted:

“Refusal to issue licence

“36. Subject to section 40, the registrar shall refuse to issue a licence to an applicant if, in the opinion of the registrar,

“(a) the applicant has not complied with section 34 or the criteria set out in paragraphs 1 to 4 of section 35 have not been met; or

“(b) the level of care services that will be available to residents in the retirement home that the applicant proposes to operate under the licence is such that it is more appropriate that the premises be governed by or funded under one of the acts listed in clause (d) of the definition of ‘care service’ in subsection 2(1).”

Our argument here is that the fundamental problem in the retirement homes is they will be able to provide the same level of care services as the long-term-care homes, but will be totally unregulated. Without this amendment, there’s nothing in the bill to prevent a retirement home from acting like a long-term-care home, with no regulations on what health care services are provided by whom and how.

This needs to be addressed. It’s very serious. If anything, this is a fundamental question of how we define a retirement home, but the government ignored this for some unknown reason. I don’t know why they ignored it. This issue must be addressed in order to protect Ontarians.

The Chair (Mr. Shafiq Qaadri): Madame Gélinas?

M^{me} France Gélinas: We’ve been wanting retirement home legislation for a long time. The government has an obligation to define, in the continuum of care, the role that we want retirement homes to play. Right now, if we don’t set a cap as to what level of care people can purchase, then we are opening the door to this parallel system where, in reality, retirement homes will provide any level of care as long as you pay. Not only will we be setting up a private and more than likely for-profit parallel system, not only will we be getting the government off the hook of making sure that we have adequate long-term-care homes to service the needs of Ontarians, but we will do this with absolutely no definition of care and no regulation of care. There is a reason why there’s a book that thick that regulates long-term-care homes: because those people are frail and need to be protected. Without those amendments, frail people who should be looked after in long-term-care homes will continue to live in retirement homes; will continue to pay for more and more complex care as long as they have the money to do this, with absolutely no regulation on the care level and the quality of care that is being delivered.

This is awful. What we are doing here today is terrible. At least make sure that you put a cap on the provision of care. The disaster stories, the headlines, will hit us within weeks of this bill becoming law in Ontario. Long-term-

care providers are chomping at the bit to become retirement homes: “Let’s get rid of the 300 regulations that we have to live under, charge whatever we want to people who have money, and be free of all of the care standards that exist.” If we don’t put a cap on it, be ready for the headlines. You will be responsible for all of the abuse that the vulnerable people of Ontario will live through in our retirement homes.

The bill that you are bringing forward is dangerous. We were better off without legislation than with what you are bringing forward right now. I don’t agree with most of this bill.

You have a chance to at least limit the damage. How do you do this? You limit the amount of care that will be delivered by those unregulated providers.

I hope you do the right thing.

The Chair (Mr. Shafiq Qaadri): Merci, madame Gélinas, pour vos commentaires.

Are there any further comments?

1700

Mr. Vic Dhillon: We will not be supporting this. This legislation establishes a regulatory framework for an existing sector that provides a wide range of services. Right now, seniors living anywhere in Ontario can hire outside personal support workers, nurses and other non-physician health professionals to provide the care they want or need in their home, be that a retirement home, a long-term-care home or their own personal home.

The proposed legislation does not purport to limit the freedom of seniors to continue to access such services, but is about making that reality safer for those seniors who choose to receive care services from a retirement home. The bill already requires applicants for licences to satisfy the registrar that they would be able to meet the regulatory authority care and safety standards for the services being provided and will not operate the home in a manner that is prejudicial to the health, safety or welfare of its residents.

The Chair (Mr. Shafiq Qaadri): Further comments on 18.9? A recorded vote.

Ayes

Martiniuk, Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde.

The Chair (Mr. Shafiq Qaadri): Motion 18.9 defeated.

Shall section 36 carry? Carried.

Shall section 37 carry? Carried.

Section 38: NDP motion 18.10.

Mr. Paul Miller: I move that section 38 of the bill be amended by striking out “authority” and substituting “minister”.

The Chair (Mr. Shafiq Qaadri): If there are no comments, we'll proceed to the recorded vote.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde.

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall section 38 carry? Carried.

Section 39: 18.11. Mr. Miller.

Mr. Paul Miller: I move that section 39 of the bill be amended by adding the following subsection:

“Condition of operating

“(2) It is a condition of a licence that the licensee not admit or maintain, as a resident in the retirement home, a person who requires a level of care services in the home that is more appropriate to be provided at premises that are governed by or funded under one of the acts listed in clause (d) of the definition of ‘care services’ in subsection 2(1).”

This is exactly what Mr. Lalonde was talking about—what happened in Ottawa. We believe that certain homes are not equipped to deal with some people who are sent there from the hospital. This is simply to protect those people and make sure that the hospital and the home provider make sure they make the right decision on where they transport this individual for proper care so that there aren't life-threatening situations, as have happened. I think this is an excellent recommendation, and I don't see why anyone would oppose protecting our seniors.

The Chair (Mr. Shafiq Qaadri): Mr. Dhillon.

Mr. Vic Dhillon: We will not be supporting this. Right now seniors can and do purchase a range of care services to provide the care they want or need in their homes, including retirement homes. This act makes this reality safer for retirement home residents who receive care from a retirement home.

The Chair (Mr. Shafiq Qaadri): Mr. Miller.

Mr. Paul Miller: No one is questioning that we all want the proper care for our elderly people in this province, but this is an admission thing: Are you going to admit this person to a home that's not able to deal with the situation that is at hand? You're just talking about how they're going to do what they do, but I'm talking about from when the person is transported to the hospital to the residence that they're sent to. You're not protecting them here. You're just simply saying, “Well, the home offers this and offers that,” but sometimes they get sent to the wrong institution because of lack of communication between the homeowners and the hospital. That's what this is doing here. What you've said is simply, “The home does this and the home does that; this home does that and does that,” but it doesn't communicate that during the transportation, by the paramedics or whoever is transporting that individual from a hospital

setting to a facility, they should know ahead of time that that is the proper facility with the proper equipment to deal with that person's situation. That's exactly what happened in Ottawa. You are not doing anything to clean up that situation. You're leaving it the same. I have grave concerns, Mr. Chairman.

The Chair (Mr. Shafiq Qaadri): Further comments?

Mr. Jean-Marc Lalonde: Just a comment on that: I know what happened in Ottawa and it's not really the retirement home that was to blame in this case; it was the hospital that has taken the wrong decision. This bill will regulate this. They're not supposed to send those people to retirement homes that are not equipped and don't have adequate services to serve those people.

Mr. Paul Miller: Where does it say that in the bill? Why would we be putting this amendment in if you covered that? It doesn't make sense to me why we'd even put the amendment in. It doesn't cover it in the bill. I tend to disagree with that statement. We wouldn't require this amendment if it was there.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments? I'll proceed to the recorded vote on NDP motion 18.11.

Ayes

Martiniuk, Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall section 39 carry? Carried.

With the committee's will, we'll do block consideration of sections 40 to 48, inclusive, having received no amendments to date. Shall those sections so named carry? Carried.

We'll proceed now to section 49. NDP motion 19: Mr. Miller.

Mr. Paul Miller: I move that clauses 49(1)(a) and (b) of the bill be struck out and the following substituted:

“(a) has given the registrar a transition plan that complies with the prescribed requirements, at least 120 days before the home ceases to be operated as a retirement home;

“(b) has delivered directly to each tenant a written notice indicating the date the home will cease to be operated as a retirement home, at least 120 days before the home ceases to be operated as a retirement home, as the case may be;”

This defines the number of days, 120 days' notice, that tenants must receive before closure of a home. I think this is more than reasonable because these people are in a situation where they might not have the ability to address their situation.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments on NDP motion 19? Mr. Dhillon and Madame Gélinas après. One of you proceed.

M^{me} France G elinas: Do I? Okay. We have to realize that for one reason or another, some of the retirement homes will wish to cease operations. In many parts of Ontario, those people will have a very tough time finding suitable accommodation. The last thing we want is for all of those people to become homeless. That is not going to help anybody. Asking for 120 days before ceasing operations is just one more step to provide for what could be a critical mass of very vulnerable Ontarians.

The Chair (Mr. Shafiq Qaadri): Thank you. Mr. Dhillon.

Mr. Vic Dhillon: We will not be supporting this. The amount of notice that must be given in the event of a home ceasing to operate as a retirement home is to be set in regulation to allow for further policy development on this issue. During the development of the regulations, we will be working with stakeholders to determine the appropriate period and process for this notice.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Dhillon. Mr. Miller.

Mr. Paul Miller: Just a quick statement: You will be working with stakeholders? Why didn't you do it before the bill was drafted? I don't understand that. That's like you put the cart before the horse.

Mr. Khalil Ramal: No, we do the regulations after passing the act.

Mr. Jean-Marc Lalonde: Always regulations after.

Mr. Khalil Ramal: Come on, Paul, you've been here for a while.

Mr. Paul Miller: Whatever. Okay.

M^{me} France G elinas: The point is, we want it in the law to make sure that the authority does not make it shorter. For one reason or another, if one of those operators wants to do a fly-by-night, get all of them out because he has an opportunity to rent it to somebody who will pay way more for his room and throw all of those people out on the street within 30 days, I wouldn't want that to happen. Having it in the law at a minimum of 120 days gives protection to people for whom it could be really hard to find alternate accommodation.

The Chair (Mr. Shafiq Qaadri): Thank you. Monsieur Lalonde.

1710

Mr. Jean-Marc Lalonde: Just to comment on Mrs. G elinas's comment for 120 days, from my own point of view, I know I have quite a few—and I've discussed this in the past. I don't think 120 days will be enough. It's only the equivalent of four months. Whoever is in one of those retirement homes at the present time—that does not meet the requirements. It takes longer than 120 days to fix the structure or the facility sometimes to meet the new requirement that will be established by the regulations.

M^{me} France G elinas: Then I'm glad that we agreed. We said at least 120 days. What are we saying? They can set it for a longer period of time, but the bill will prohibit them from setting it at less than 120 days. I think we both agree; we both said the same thing. They will still set it in regulation, they can set it for whatever they want to be reasonable, as the conversation you've had in your riding, but it cannot be under 120 days.

Mr. Jean-Marc Lalonde: I don't want to start a debate, but I definitely will be meeting with the stakeholder to discuss that issue.

The Chair (Mr. Shafiq Qaadri): We shall proceed, then, to the recorded vote on NDP motion 19.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.

Shall section 49 carry? Carried.

By the way, just to alert committee members, we'll adjourn for 10 minutes, I guess, with that vote remaining.

Section 50: government motion 20R.

Mr. Vic Dhillon: I move that section 50 of the bill be amended by adding the following subsection:

"Interpretation, restraints

"(2) The following shall not constitute restraints for the purposes of this part:

"1. The use of a physical device from which a resident is both physically and cognitively able to release oneself.

"2. The use of a personal assistance services device permitted by section 69.

"3. The administration of a drug to a resident as part of the resident's treatment as provided for in the resident's plan of care if the restraining effect of the drug is not the primary purpose for its administration.

"4. Confinement to a secure unit as permitted by section 68 or 70."

The reasoning is that in response to concerns we have heard from stakeholders at committee regarding restraints, we have proposed this amendment to help clarify the definition of restraints. As you will see in our motion to amend subsection 68(1), we have made clear that restraints are prohibited except in accordance with the common law duty to restrain where immediate action is necessary to prevent serious harm to the person or others.

The Chair (Mr. Shafiq Qaadri): Thank you. Mr. Miller, then Mr. Martiniuk.

Mr. Paul Miller: This seems quite shocking and disturbing. Motion 20R goes further than 20 in that it defines "confinement to a secure unit" as not a restraint. How they came up with that lulu I don't know, but I'm definitely opposed to this.

The Chair (Mr. Shafiq Qaadri): Mr. Martiniuk and then Madame G elinas.

Mr. Gerry Martiniuk: I think this just proves the point. What is a person who is violent, incapable of controlling themselves and who could do harm to others and to themselves doing in a retirement home? I have no idea. I thought that person would be in a long-term-care facility. It sounds like a person in high need. Yet for some reason, we're going to have individuals who may or may not be trained to handle a person in an agitated, violent state—so violent that they have to be restrained.

First of all, I have a question. Are we talking about what type of restraint we use on a violent person who is a resident or a tenant in a retirement home? And who would administer it? I just don't understand.

All of a sudden, we have a high-needs person—what is the rationale? What's the government's rationale for having this in the act, number one? And what type of physical device—what is it? A puzzle to push a button to get out of a restraint of some kind? Perhaps you could explain to me what type of restraint we have to use on a tenant in a retirement home.

Mr. Vic Dhillon: I already made my explanation.

Mr. Gerry Martiniuk: You made your—I have a question: I'm asking, very simply, why do we need this section at all? Why do we need a section to control, physically or by drugs, an individual in a retirement home, and who would be administering it? Is there a nurse? Is there a person trained in a psychiatric unit to handle people who are violent? I don't comprehend what this section is doing in a retirement home bill. I would like an answer, and if you don't want to give it to me, then you've just proven my concerns that, in effect, what you're doing is creating a long-term-care facility that the public has to pay for instead of the government. I'm not going to get an answer? Is that basically what you're saying?

Well, I have the following questions in my own mind: Number one, what is a person who requires this section 50 doing in a retirement home? I mean, did they just walk in off the street, perhaps? You mean they're not supposed to be there? Why are they there?

“The use of a physical device from which a resident is both physically and cognitively able to release” themselves. I always remember all the horror pictures, and it seems that this government is bringing the horror pictures back to the public, where one couldn't get out of it. You didn't need a physical device. One sat in a rubber room. I always remember those pictures. I've seen some, too, in a prison that I visited—as a customer, not as a user. But I don't understand what type of restraint—physical device. If it's not restraining, so that the resident is “physically and cognitively able to release oneself,” then isn't it an oxymoron to call it a restraint?

Then we have a “personal assistance services device permitted by section 69,” and I have no idea what that is.

And we have “administration of a drug to a resident as part of the resident's treatment as provided for in the resident's plan of care”—I don't know when the plan of care took place, if this person is of a violent nature—“if the restraining effect of the drug is not the primary purpose for its administration.” I don't understand that.

Perhaps I could ask legislative counsel. Firstly, could you describe to me a physical device that would restrain an individual?

Mr. Michael Wood: It's not really appropriate for me to comment on the policy in the bill, but I can say something about the drafting structure, and that is that a lot of what is in this motion under the new subsection 50(2) is really moved from what presently is in 68(1) and

68(2) of the act. So there is no change in policy. I'd have to leave it to the ministry to explain what the policy is.

But to answer another one of your specific questions: What is a personal assistance services device? There is a definition of that in section 50 of the bill.

1720

Mr. Gerry Martiniuk: Thank you, counsel.

Section 50, “personal assistance services device” means a device that is intended to assist a resident with a routine activity of living if the device has the effect of limiting or inhibiting the resident's freedom of movement and the resident is not able, either physically or cognitively to release oneself from the device.”

Does that mean that an individual has to be a Houdini? Is that what happens in this retirement home? They put individuals in a restraint of some kind and, like Houdini, they dislocate a shoulder and somehow wiggle out of the restraint? Is that what we're talking about?

Mr. Michael Wood: Well, I could give you some idea as to what I think it means, and the ministry could comment further on it.

Mr. Gerry Martiniuk: I'm not asking for policy; I'm asking for a definition.

Mr. Michael Wood: I could give you an example that occurs to me. If somebody has difficulty, say, walking or moving around, and it's possible to put that person in a device that allows the person to walk, that would be an example here. The person wouldn't ordinarily be able to release himself or herself from the device because of the physical disability. Or maybe the disability is a cognitive disability. That person just doesn't have the dexterity or the mental awareness to be able to get released from it, but it's a device which is beneficial to the person to be able to move around and perform activities of daily living.

Mr. Gerry Martiniuk: You've just described a walker.

Mr. Michael Wood: As long as you can't release yourself from it, but I think it's more—

Mr. Gerry Martiniuk: I'm really confused. I really do need some help, I honestly do.

Mr. Vic Dhillon: We could maybe have Mr. Martiniuk's concerns addressed by officials from the ministry.

Mr. Alan Ernst: Section 50 sets out the legal definition of a personal assistant service device, but the kind of example that we were envisioning is something like a feeding tray or a temporary support strap while an individual is attempting to have a meal. It's not intended to be a restraint, and it's something that would only be used in conjunction—if you go to section 69 of the act, it's only used for the purpose of assisting the resident with a routine activity of living. That section of the act also illustrates the limits and restrictions on the use of such a device.

Mr. Gerry Martiniuk: Okay, so what you're saying is this not a case where the person is, in some manner, violent? This is just to assist that person in either movement or feeding themselves. I guess the other example is a walker of some kind or physical restraints so they can sit up in a chair.

Mr. Alan Ernst: Yes. For a routine activity of living, as set out in the legislation.

Mr. Gerry Martiniuk: And it's not because they've violent; it's because they're physically or cognitively incapable of carrying on ordinary duties by themselves?

Mr. Alan Ernst: Yes. It's subject to the restrictions that are set out in the legislation.

Mr. Gerry Martiniuk: Okay. That explains something. It doesn't explain the confinement.

Could we go to the confinement, sections 68 and 70? Why would we confine an individual in a retirement home? He's a tenant. Usually tenants don't want people intruding on them, but here we're going to lock somebody away, it sounds like. That's what confinement means, isn't it?

Mr. Vic Dhillon: I think the intent of that would be to care for someone who has Alzheimer's or dementia so that they don't wander away from the premises.

Mr. Gerry Martiniuk: Yes.

Mr. Vic Dhillon: So that's the intent. It isn't for violent people or anything like that. It's just to make sure that people are safe with those conditions.

Mr. Gerry Martiniuk: Hey, there's nothing wrong with that. I've been in long-term-care facilities where they do just that. But that's not what this section says, unfortunately. It doesn't talk about, for instance, in the confinement to a secure unit; it doesn't talk about necessarily—it just doesn't say that the reason for this is cognitive impairment. Is that what the section is for? If so, why aren't we saying that? I have no problem with that.

Mr. Vic Dhillon: That is in the section, so—

Ms. Bethany Simons: If I can assist in putting the pieces together?

Mr. Gerry Martiniuk: Sure. Thank you.

Ms. Bethany Simons: The sections that deal with restraints, personal assistance services devices and confinement to a secure unit are set out a bit later in this part, in sections 68 to 71. Section 68 of the act makes clear that restraints are prohibited. The motion to amend that we're discussing now is just being clear that when we say that restraints are prohibited, except in accordance with common law, the things that are being identified in section 50 in the interpretation section don't fall into what is characterized as a restraint. When we get to issues of confinement to a secure unit, section 70 deals with that and all the safeguards that are in place before an individual can be confined to a secure unit—

The Chair (Mr. Shafiq Qadri): I'm just going to intervene and inform everyone that we have now 10 minutes to the vote, so the committee will be recessed until after the vote. Obviously, if you can be here expeditiously following the vote. Thank you.

The committee recessed from 1726 to 1741.

The Chair (Mr. Shafiq Qadri): We're reconvened. It's 17, 18 minutes to another vote—until we adjourn.

We have before us government motion 20R, and I invite whoever needs to, to pick up from there. I think you had the floor, Mr. Martiniuk.

Mr. Gerry Martiniuk: Yes. I have a question for counsel again, if I may. It isn't contained in here but maybe we could save some time, because I'll be bringing a motion dealing with it: Under the terms of common law, what privileges would a retirement home have to restrain or confine a tenant?

Mr. Michael Wood: I think it would be more appropriate for the ministry to answer that.

Mr. Gerry Martiniuk: Okay, fine.

Mr. Khalil Ramal: I can answer his question. If Mr. Martiniuk goes to section 69, as outlined in the bill, it explains the details of who's eligible and who's not eligible. All the details are in section 69 of the bill.

Mr. Gerry Martiniuk: Section 61 or 69?

Mr. Khalil Ramal: Section 69.

Mr. Gerry Martiniuk: Does it define "common law" for me?

Mr. Khalil Ramal: Yes.

Ms. Bethany Simons: Actually, it's subsection 71(1). It actually describes the common law duty, which is "when immediate action is necessary to prevent serious bodily harm to the person or to others." That's the common law duty to restrain or confine.

Mr. Gerry Martiniuk: Okay. But that is not the intent of all of the other sections and this particular motion brought by the government to amend section 50.

Ms. Bethany Simons: Right. Section 50 is really an interpretation section that helps make clear, when we get to the section on restraints, which is section 68—we also have a motion to amend, with respect to section 68, to make clear that restraints, as defined, are prohibited except in accordance with the common law duty.

Mr. Gerry Martiniuk: Thank you very much.

Ms. Bethany Simons: You're welcome.

The Chair (Mr. Shafiq Qadri): We will proceed to the vote, then.

Those in favour of government motion—Madame Gélinas, absolument.

M^{me} France Gélinas: I just wanted to be on record that when I hear members of the government talk about those who would be restrained, used for people with dementia or Alzheimer's in response to the member from the PC caucus, it sends shivers down my spine. This is exactly what you have in mind, isn't it? You have in mind that people with level-of-care needs that meet long-term care requirements will be in those retirement homes. It's quite clear that in your mind, there will be people with dementia, there will be people with Alzheimer's, and not only will they be there, we will be free to use the restraints as defined in section 50 and section 68.

I don't want those people to be there. This is not what a retirement home is about. If a person has dementia or suffers from Alzheimer's to the point where we're considering a restraint or we're considering a restraint unit, they shouldn't be there.

We will talk more when we get to section 68, but I want to be on record that section 50 does not need to be there. You do not need a section on restraints because

nobody in a retirement home setting should need to use a restraint. In the field, in practice, we're trying to get rid of this as much as possible. When we redrafted the Long-Term Care Act, we spent countless hours, days, weeks and months making sure that the use of restraints was going to be properly legislated, properly regulated and used as little as possible. The fact that those words are in this bill shows exactly where the government is going with retirement homes, and I don't want to go there. People who meet the needs requirements for long-term care should be in long-term care no matter their ability to pay, no matter what you want people to believe.

This is a bad bill. This is bad for Ontario. This is bad for elderly people. This is bad for any frail and vulnerable Ontarian. I'm not surprised that you have said this, but I'm really disappointed.

The Chair (Mr. Shafiq Qaadri): Thank you. Are there further comments? All right. Those in favour of government motion 20R? Those opposed? Government motion 20R carries.

Shall section 50, as amended, carry? Carried.

Section 51, NDP motion 21.1—or is it 21? It's NDP motion 21.

Mr. Paul Miller: I move that subsection 51(1) of the bill be amended by adding the following paragraphs:

“0.1 The rights of a resident set out in this act and the rights of a tenant set out in the Residential Tenancies Act, 2006.

“0.2 The right to exercise the rights of a citizen that the resident has....

“4.1 The right to be told who is responsible for and who is providing care services to the resident.

“4.2 The right not to be neglected by the licensee or the staff of the home.

“4.3 The right to be informed in writing of any law, rule or policy affecting care services provided to the resident and of the procedures for making complaints....

“5.1 The right to have any friend or advocate of his or her choice attend any meeting between the resident and the staff of the home.

“5.2 The right to have his or her personal health information kept confidential in accordance with the Personal Health Information Protection Act, 2004 and to have access to records of that information in accordance with that act....

“6.1 The right to be protected from abuse....

“11. The right to participate in the residents' council.”

This is simply allowing a resident to have human rights, allowing a resident to have the ability to voice their concerns without fear of any reprisals or any confinement. The current rights of a resident are quite narrow as they are now. This expands the rights as recommended by ACE, a major organization serving—it's a non-profit law firm serving seniors throughout Ontario. It's been around for a long time. If you see page 21 of their submission for a full explanation, they can't emphasize to me enough how much the rights of these residents are in question the way this bill has been written. They are very concerned, and trust me, they represent a large portion of our population. I'd be quite

shocked and dismayed if you do not support this recommendation. This is another no-brainer.

1750

The Chair (Mr. Shafiq Qaadri): Further comments?

Mr. Vic Dhillon: We will not be supporting this. The motion seeks to make additions to the bill of rights to add rights that, for the most part, already exist elsewhere in the act. Such changes would serve little purpose other than to possibly marginalize those rights, not highlight them.

The Chair (Mr. Shafiq Qaadri): Madame Gélinas.

M^{me} France Gélinas: When you have a tenants' bill of rights and you assume that some of the rights that come to them through other legislation will be known and understood, you're making a huge step. By limiting the amount of rights on the bill of rights, what you're saying is that we're not too sure anymore if those other rights apply. Remember? This bill is bringing in confusion. We won't know who's covered by long-term care, who's covered by residential care. They're all going to be one big happy family, unregulated.

This is not right. When something is not put in writing, there is a tendency to think that it is not part of it. To put things in there such as the tenant has the right to have an advocate—in the field right now, it happens all the time. The landlord has all the cards. They know how much money they have because, chances are, they get their cheque every month. They know what their health care needs are; they have a plan of care. They know everything about the tenant and the tenant has very little to defend themselves with. Not only does the bill not specify the rights the tenant has, it says that the tenants may enforce their rights, but there is no concrete enforcement mechanism that is included in the bill.

So you have a vulnerable person without access to an advocate who is dependent upon the landlord for his day-to-day survival, who may enforce their rights. Who are we kidding here? The stack is levelled against them. You have to bring a little bit of equity between the two parties. What we're putting forward are recommendations that will bring a little bit of equity.

You're right; some of this already exists. What's the harm in putting it there so that the family knows that they cannot tell a family member they cannot sit in on a meeting, that they cannot tell a family member that they cannot put in a complaint? Put it in writing. What harm is it going to do? It's going to level the playing field a little bit.

I don't understand why we're setting out such a bad bill.

The Chair (Mr. Shafiq Qaadri): Thank you. If there are no further comments, we'll proceed to the vote.

Interjection: Recorded vote.

Ayes

Martiniuk, Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qaadri): Defeated.
NDP motion 21.1.

Mr. Gerry Martiniuk: I have no objection if my motion stands down to the identical motion to be brought by the government, and yours, number 23.

The Chair (Mr. Shafiq Qadri): Mr. Martiniuk, we're on 21.1.

Mr. Gerry Martiniuk: Isn't that the same one?

The Chair (Mr. Shafiq Qadri): You're doing a premature motion.

Mr. Gerry Martiniuk: Sorry.

The Chair (Mr. Shafiq Qadri): It's 21.1. Mr. Miller.

Mr. Paul Miller: I move that paragraph 6 of subsection 51(1) of the bill be struck out and the following substituted:

"6. The right not to be detained or restrained except in accordance with the common law."

Very straightforward—

Mr. Gerry Martiniuk: But the three are identical. It's what I said.

Mr. Paul Miller: Follow the law.

Mr. Gerry Martiniuk: I was suggesting that 24 go first, because it's the government. Let them have a win.

Interjection.

Mr. Gerry Martiniuk: Is it the same?

Mr. Paul Miller: Let them have a win? Let us have a win.

The Chair (Mr. Shafiq Qadri): Comments on 21.1, as read.

Mr. Rick Johnson: What was it again?

Mr. Gerry Martiniuk: I apologize, Chair. I screwed it up for you.

The Chair (Mr. Shafiq Qadri): It's 21.1. Mr. Miller, why don't you just read it again, please.

Mr. Paul Miller: Mr. Johnson, do you want to hear it again?

Mr. Rick Johnson: Please.

Mr. Paul Miller: Are you ready? Okay.

I move that paragraph 6 of subsection 51(1) of the bill be struck out and the following substituted:

"6. The right not to be detained or restrained except in accordance with the common law."

The Chair (Mr. Shafiq Qadri): Comments? Madame Gélinas?

M^{me} France Gélinas: I cannot, in my wildest imagination, come to think as to why we would detain a person in a retirement home. It is against the law to detain people. I know that we're going to be coming to it,

but I'm letting you know what's coming. You cannot detain people. It's against the law.

The Chair (Mr. Shafiq Qadri): Further comments? We'll proceed now to the vote on NDP motion 21.1, as read into the record twice now by Mr. Miller.

Ayes

Paul Miller.

Nays

Dhillon, Jaczek, Johnson, Lalonde, Ramal.

The Chair (Mr. Shafiq Qadri): NDP motion 21.1 defeated.

PC motion 22: Mr. Martiniuk.

Mr. Gerry Martiniuk: I'll defer to the parliamentary assistant, who has an identical motion.

The Chair (Mr. Shafiq Qadri): The PC motion is, I understand, officially withdrawn, then?

Mr. Gerry Martiniuk: Yes.

The Chair (Mr. Shafiq Qadri): Fine. Government motion 23: Mr. Dhillon.

Mr. Vic Dhillon: I move that paragraph 6 of subsection 51(1) of the bill be struck out and the following substituted:

"6. The right not to be restrained except in accordance with the common law."

This is in response to concerns we heard regarding restraints. We have proposed this amendment to make it clear that restraints are prohibited except in accordance with the common law: duty to restrain where immediate action is necessary to prevent serious harm to the person or others.

The Chair (Mr. Shafiq Qadri): Comments? Seeing none, we'll proceed to the vote. Those in favour of government motion 23? Those opposed? Motion 23 carried.

We're now once again—

Interjection.

The Chair (Mr. Shafiq Qadri): I'm informed that NDP motion 24 is out of order, and thus annihilated.

We are now at the 10-minute window, so the committee is once again recessed.

Interjection.

The Chair (Mr. Shafiq Qadri): Are we done for the day? Oh, even better. We're adjourned for the day until 4 p.m. tomorrow. Bonsoir.

The committee adjourned at 1759.

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Mr. Khalil Ramal (London–Fanshawe L)
Mrs. Elizabeth Witmer (Kitchener–Waterloo PC)

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Ms. Helena Jaczek (Oak Ridges–Markham L)
Mr. Gerry Martiniuk (Cambridge PC)
Mr. Paul Miller (Hamilton East–Stoney Creek / Hamilton-Est–Stoney Creek ND)

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Mr. Alan Ernst, manager, Ontario Seniors' Secretariat
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Mr. Michael Wood, legislative counsel