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## Official Report of Debates (Hansard)

Thursday 19 April 2012

## Journal des débats (Hansard)

Jeudi 19 avril 2012

**Standing Committee on  
Justice Policy**

Security for Courts, Electricity  
Generating Facilities  
and Nuclear Facilities Act, 2012

**Comité permanent  
de la justice**

Loi de 2012 sur la sécurité  
des tribunaux, des centrales  
électriques et des installations  
nucléaires

Chair: Laura Albanese  
Clerk: William Short

Présidente : Laura Albanese  
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
JUSTICE POLICY**

**COMITÉ PERMANENT  
DE LA JUSTICE**

Thursday 19 April 2012

Jeudi 19 avril 2012

*The committee met at 0900 in room 1.*

**SECURITY FOR COURTS, ELECTRICITY  
GENERATING FACILITIES  
AND NUCLEAR FACILITIES ACT, 2012  
LOI DE 2012 SUR LA SÉCURITÉ  
DES TRIBUNAUX, DES CENTRALES  
ÉLECTRIQUES ET DES INSTALLATIONS  
NUCLÉAIRES**

Consideration of the following bill:

Bill 34, An Act to repeal the Public Works Protection Act, amend the Police Services Act with respect to court security and enact the Security for Electricity Generating Facilities and Nuclear Facilities Act, 2012 / Projet de loi 34, Loi abrogeant la Loi sur la protection des ouvrages publics, modifiant la Loi sur les services policiers en ce qui concerne la sécurité des tribunaux et édictant la Loi de 2012 sur la sécurité des centrales électriques et des installations nucléaires.

**The Chair (Mrs. Laura Albanese):** Good morning, everyone. I call to order this meeting of the Standing Committee on Justice Policy today. Welcome, everybody. We will be hearing deputations in regard to Bill 34, An Act to repeal the Public Works Protection Act, amend the Police Services Act with respect to court security and enact the Security for Electricity Generating Facilities and Nuclear Facilities Act, 2012. We will be hearing from deputants, and I would like to remind everyone that they will be offered 10 minutes for their presentation, and that will be followed by 10 minutes for questions from committee members.

**ONTARIO POWER GENERATION**

**The Chair (Mrs. Laura Albanese):** Having said that, we will move forward with the first deputant. From Ontario Power Generation we have Pierre Tremblay, chief nuclear operating officer; Paul Nadeau, vice-president of nuclear security; and Stanley Berger, assistant general counsel. Good morning. For the purposes of Hansard, I would ask that you fully state your name into the record, and also your title.

**Mr. Paul Nadeau:** Certainly. Good morning, Madam Chair, members of the committee. First of all, let me point out that Mr. Tremblay is not with us this morning. My name is Paul Nadeau. I am the vice-president in

charge of nuclear security for Ontario Power Generation. This morning, I am accompanied by Mr. Stan Berger, assistant general counsel for Ontario Power Generation.

**The Chair (Mrs. Laura Albanese):** You may begin anytime.

**Mr. Paul Nadeau:** Thank you. OPG is pleased to see that electricity generating facilities, and nuclear facilities in particular, continue to be recognized in Bill 34 as requiring enhanced security protection. While we support most of what is contained within the bill, we believe it could be further improved by eliminating limitations on proactive security and intelligence operations on significant portions of the electricity generating facilities.

The protection afforded to electricity generating facilities in schedule 3 appears to fall short of that which is conferred upon court facilities under schedule 2. The amendment to section 138(2) of the bill in schedule 2 would allow authorized court security officers to search without warrant persons entering or attempting to enter, or who are present on premises where court proceedings are conducted. By contrast, subsection 4(2) of schedule 3, which deals with electricity generating facilities, only permits authorized officers to search persons entering or attempting to enter, or who are present on premises, if such persons consent to a search.

We do not seek to minimize the importance of security at Ontario courthouses. We simply submit that the personnel charged with security of electricity generating facilities should be afforded the same power. Electricity generating facilities are obvious targets for persons with nefarious intent.

To provide some context, what we refer to as the "controlled area" of a nuclear generating facility comprises over 80% of the entire site property. It surrounds a site's "protected area." All persons and vehicles entering a site must enter via the controlled area. Persons who are loitering or otherwise acting in a suspicious fashion in the controlled area and who refuse to submit to a search or produce identification cannot, under the present wording of Bill 34, be held pending further investigation, unless they do not immediately leave the premises following a demand to do so. This affords an opportunity for adversarial surveillance of the generating facility without opportunity for security to ascertain identities or purpose, should the individuals simply elect to leave.

Authorized security should have the additional power to detain such persons so that those with nefarious intent

are deterred from carrying on surveillance or otherwise posing an immediate threat within the property boundaries of electricity generating facilities.

The power of arrest and prompt turnover to police where there's been a refusal to provide identification and/or submit to a search proactively reduces the risk to the security of the generating facilities without disproportionately interfering with the rights of persons.

I would like to thank the Ministry of Community Safety and Correctional Services for the consultation process they led following the government's commitment to repeal and replace the Public Works Protection Act. They did excellent work in reaching out to the electricity industry.

Finally, I would like to thank this committee for studying this legislation. We appreciate the opportunity to appear today and present our concerns and look forward to providing further input in the drafting of the regulations relating to this bill. Thank you.

**The Chair (Mrs. Laura Albanese):** Thank you very much for that presentation. This will leave about five minutes approximately for each party to ask questions. We shall begin with MPP Yakabuski.

**Mr. John Yakabuski:** Thank you very much, gentlemen, for joining us today.

Paul, in your submission you're asking for some additional powers with respect to the protection of probably most particularly nuclear sites. If someone enters the site, they do go through the controlled area, they have to be scanned. I've visited your sites and I've visited AECL in Chalk River, so I do know the protocol. I guess my concern is, what would be the justification for asking—because it sounds to me like you're asking for more control outside of that controlled area. Can you give us an instance or a circumstance under which you felt not having that has impeded your ability to protect your facility?

**Mr. Paul Nadeau:** Maybe I need to provide some clarity around the protected area and the controlled area. The controlled area surrounds the protected area. I think when you came to our facility and you went through the search equipment, you were entering the protected area.

**Mr. John Yakabuski:** Right.

**Mr. Paul Nadeau:** We have no issues with the powers that are in place in that sense. I'm talking about the outskirts of the property, not outside the property but past the protected area that's surrounding—inside the property line.

**Mr. John Yakabuski:** Okay, so still inside the fence of the facility?

**Mr. Paul Nadeau:** Correct, yes. We've had instances where we've had people come in and look at our property. Specifically at Pickering, a number of years ago when the Toronto 18 came to look at Pickering and were interested in ascertaining what type of security was in place, and I think what they saw convinced them to take that off their list of possible targets that they were creating. So that was one instance. Had we been able to—under this piece of legislation, if we'd stopped them

and they'd refused to identify themselves and submit to a search, they would have gone on their way and we would never have known the difference, frankly.

So, from time to time, we get people coming on the site involved in different types of activity, whether it be Greenpeace interested in looking at our sites—we've had vandalism on some parts of our property by different groups, those types of things. So we're unable right now, under this legislation, to insist on having their identities provided to us and searching of their vehicles etc.

**Mr. John Yakabuski:** Okay. So when the bill was being drafted in the consultative process, I would expect that OPG, given the vastness of your generating facilities here in the province of Ontario, would have been part of those discussions. Did you make that known to the ministry, that this was a concern, and if so, what was their response?

**Mr. Paul Nadeau:** Yes, we did. Frankly, we thought when it was being drafted that this would be included. We were a bit surprised when the draft was presented to us and we saw the differences between the way the court security was receiving these powers versus the electricity generating facilities. There was a difference there and we don't quite understand why the difference.

**Mr. John Yakabuski:** I'm going to ask either of my colleagues—Jack, did you have a question, or Rob?

Okay. So in your submission here it looks like you've suggested some amendments, and I'm sure we can all take a look at those and see how the bill might be improved, but I appreciate your comments today in bringing this issue forward and to our attention.

**Mr. Paul Nadeau:** Thank you.

**Mr. John Yakabuski:** Thank you.

**0910**

**The Chair (Mrs. Laura Albanese):** We'll pass to the NDP.

**Mr. Paul Miller:** I'm going to share my questions. I have one quick question. In reference to your security firm, or whoever handles your interior security, have you ever had any concerns about what level they have to go to to restrain? What's their mandate, and when does the actual police force come into action if you cannot handle the situation? Are your people at a certain level? I mean, if the police can't get there in time, what ability do your officers have? For instance, if there were weapons, what do your police—where do you draw the line on what they can do, from a liability perspective?

**Mr. Paul Nadeau:** First of all, the security that's present at OPG facilities—the nuclear facilities—are OPG employees. It's our own internal group. For a number of years, we had the Durham police in place, providing an armed presence. They actually left yesterday; we had a change-of-command ceremony at Darlington. So we've taken over that responsibility.

Our people receive 12 weeks of basic training. They're told about powers of arrest, use of force, the use-of-force continuum. If we run into instances where we end up arresting people for different circumstances, we

immediately call the police. So we work very closely with the police jurisdiction.

**Mr. Paul Miller:** Are your officers armed?

**Mr. Paul Nadeau:** Some are, yes.

**Mr. Paul Miller:** Thank you.

**Mr. Jagmeet Singh:** With respect to the controlled area versus the protected area, would the parking lot of the facility fall under the controlled area?

**Mr. Paul Nadeau:** Correct, yes.

**Mr. Jagmeet Singh:** And if there was an issue with a gas plant or a power plant that the community wanted to voice their discontent about, would they do that in the parking lot? Where would they do that?

**Mr. Paul Nadeau:** They usually do that outside the fence, actually.

**Mr. Jagmeet Singh:** Outside the fence?

**Mr. Paul Nadeau:** Yes, outside the entrance.

**Mr. Jagmeet Singh:** And it's not your position that you need any extra powers outside the fence.

**Mr. Paul Nadeau:** Absolutely not.

**Mr. Jagmeet Singh:** Okay. So your only concern is within the fence.

**Mr. Paul Nadeau:** Yes.

**Mr. Jagmeet Singh:** Okay. And within the fence, if someone is asked to leave, for whatever reason, would that suffice, if they were able to leave?

**Mr. Paul Nadeau:** Do you mean in terms of our position on this?

**Mr. Jagmeet Singh:** Yes.

**Mr. Paul Nadeau:** No.

**Mr. Jagmeet Singh:** Why is that not enough if the person leaves?

**Mr. Paul Nadeau:** We'd want to be able to identify them, we'd want to be able to search their vehicle and then we would call the police to come and handle the situation.

**Mr. Jagmeet Singh:** Now, this is only if a person is not committing any sort of offence; they're just standing, and there's something suspicious about that individual. Why is it not enough for them to just ask a suspicious individual to leave?

**Mr. Paul Nadeau:** If you're calling somebody suspicious, you've already decided that something suspicious is taking place. If you've decided that that is the situation, you should be able to identify them.

**Mr. Jagmeet Singh:** Why should you be able to?

**Mr. Paul Nadeau:** You have to be able to gather that information so you can further investigate and see what—if people are conducting surveillance on our facility, we'd like to know who they are.

**Mr. Jagmeet Singh:** The issue here is that sometimes you create laws that should be very specific so they don't overlap or create other issues. As far as you know, are there any laws against or in favour of, or that support or don't support, surveillance at electricity facilities? If that's your issue, maybe you should curtail it to surveillance.

**The Chair (Mrs. Laura Albanese):** One minute left, more or less.

**Mr. Stan Berger:** I'm Stan Berger, assistant general counsel. You could target, using the Criminal Code, but the Criminal Code powers are extremely restrictive. In our submission, what we're asking for is some deterrent. This isn't simply intelligence; it's also for deterrent purposes. You don't want people to be testing your facility by standing within the boundaries and then, when you ask them a pointed question about whether or not they have a purpose in being there and what their purpose is and who they are, they can just walk away. That's not a deterrent. What we're after is a deterrent. The Criminal Code is not a proactive piece of legislation. It deals with people who are in the midst of committing a crime.

**The Chair (Mrs. Laura Albanese):** Thank you. We will now go to Ms. Wong.

**Ms. Soo Wong:** I have a comment and a couple of questions for you, Mr. Nadeau. First, thank you very much for providing the constructive feedback on this particular proposed legislation. You make a couple of comments and suggestions in your written submission to us and also what you've presented to us. I want to ask: If we, as a government, take your suggestions and make the amendment, will that reflect the spirit of Mr. McMurry's report in terms of his recommendations?

**Mr. Paul Nadeau:** I believe so, yes.

**Ms. Soo Wong:** And pushing forward, I want to ask, with regard to your recommendation—the whole piece about controlled versus protected area for the investigation—which other jurisdictions in Canada are doing this kind of procedure?

**Mr. Paul Nadeau:** New Brunswick and the province of Quebec are the only ones, other than Ontario.

**Ms. Soo Wong:** The last question I have for you is: Am I correct in hearing that you do support the repeal of this bill and that you support this minor recommendation of change?

**Mr. Paul Nadeau:** Yes.

**Ms. Soo Wong:** Thank you.

**The Chair (Mrs. Laura Albanese):** Thank you very much for presenting to us this morning.

#### TORONTO POLICE ASSOCIATION

**The Chair (Mrs. Laura Albanese):** We will now call on the Toronto Police Association: Mr. Mike McCormack, president, and George Cowley, director, legal services.

Good morning. Again, I would ask you to state your name and title for the purposes of Hansard. You will have up to 10 minutes for your presentation, and that will be followed by questions.

**Mr. Mike McCormack:** Good morning, everybody. I'm Mike McCormack, president of the Toronto Police Association. We're quite pleased with the results of Bill 34. I'll defer to my counsel, George Cowley.

**Mr. George Cowley:** I'm George Cowley, counsel for Mike McCormack, president of the Toronto Police Association.

We're pleased with the bill the way it's written. We're pleased that the government listened to our submissions at the committee stage, where we made them to the Ministry of Community Safety and Correctional Services, and we believe that this bill provides an adequate framework for the police to do their job and to ensure that court facilities and people who are attending courts are provided that level of security. We support it.

**The Chair (Mrs. Laura Albanese):** Okay. In this round of questioning, the NDP will be starting. MPP Singh.

**Mr. Jagmeet Singh:** Good morning. I'm going to get right into it. Since the early 1970s, when there was a shooting at the Ontario Court of Appeal, is it your understanding that there's been no violence in any courthouse in Ontario?

**Mr. George Cowley:** There has been violence in court facilities.

**Mr. Jagmeet Singh:** Sorry, I should clarify. I meant, besides scuffles between two unarmed individuals, there have been no incidents of explosive devices, incendiary devices, firearms or knives being used in a courthouse?

**Mr. George Cowley:** There have been incidents where knives have been seized at court facilities, where people have been stopped as they're entering with knives.

**Mr. Jagmeet Singh:** Right. Just to clarify my question, they haven't been used in the facility. They've been seized, but there has been no incident that has been reported, as far as my research, of any violence in the courthouse—armed with a weapon, firearm, incendiary device or explosive device. Is that correct?

**Mr. George Cowley:** That's correct.

**Mr. Jagmeet Singh:** So, so far, the system as it's been in place, with searches at some court facilities, has been working?

**Mr. George Cowley:** Exactly. The searches have been working. I can tell you about an incident where I was actually present. Court facilities are probably one of the safest areas in the city because of the level of security and because of the diligence of members of the Toronto police. There was an incident in Scarborough where a gang member targeted an opposing gang member and knew that, as that gang member was leaving the court, there was no chance that he would be armed, and he shot him in the head outside the courtroom door. That shows that it's recognized that the courts are safe.

People describe courts and look at courts and compare them to airports. That's completely wrong. People who attend courts are compelled to be there. It's not a discretionary issue of, well, if you want to travel, you have to go through security. People are compelled to go to court, and we have to ensure that there is a safe environment for the people who are compelled to attend, the participants in the justice system.

**Mr. Jagmeet Singh:** Thank you, sir.

0920

**Mr. Paul Miller:** There has always been an ongoing kind of feeling between full-time police and security organizations that may be guarding facilities—private

firms or, you know, a situation like that. How is that situation? Maybe you would know, Mr. McCormack. These guys are like a rent-a-cop kind of thing, and the regular police have always had that attitude, like, "We'll handle it." When you get into a nuke situation, or a situation like that where they have their own security firms, do the police work well with these groups? How do you feel the attitude has changed in the police service?

**Mr. Mike McCormack:** What you're talking about are two different discussion points: the one surrounding this legislation, and our concerns. What we do, as far as policing the courts here in Toronto, that's done by special constables, and they're quite competent, well-trained individuals who are fully accountable.

Again, when we're talking about search, and you're talking about people's rights, it's very important that you have somebody who is competent and well trained, and that accountability issue has to be there. We have that here in Toronto. Again, I can only talk anecdotally of our experience here in Toronto with our court officers and the way they conduct searches, and the oversight. We're quite happy with it.

**Mr. Paul Miller:** I guess the reason I ask that question is because the last group said—it was a nuke facility, and they said that their officers get 12 weeks of training. Do you feel that's sufficient for an officer to be able to handle any kind of situation that may crop up?

**Mr. Mike McCormack:** When you're saying "any situation," there are always those anomalies, and we just experienced something like that with one of our uniform officers the other day, as everybody is aware. I mean, you give them the best possible training you can.

I can't speak to what private security get. I'm more in tune with what we're doing, as the Toronto Police Service and our court security, and that's where I feel that we just have a higher level of training, by having our own people trained.

**Mr. Paul Miller:** That's all I wanted to know.

**Mr. Mike McCormack:** And we make sure, again, that the accountability issue is there as well, which is a very important thing when you're talking about searches and people's rights.

**Mr. Paul Miller:** Thank you.

**Mr. Jagmeet Singh:** Right now, the way the system works is, people are not asked to identify themselves; people are not asked to provide information, the way it works in the Toronto courthouses. Is that correct?

**Mr. Mike McCormack:** That's correct.

**Mr. Jagmeet Singh:** And in terms of police powers, if there is any reasonable or probable grounds, currently the police do have the powers to search somebody or to search their car, if they had reasonable and probable grounds. Do you agree with that?

**Mr. Mike McCormack:** Well, no—I mean, your powers of search are contained within legislation, the Criminal Code and whatnot and other legislation. So when we're talking about when somebody's under arrest and what are your powers of search subsequent to the arrest or detainment, that's where you get the authorities

through the Criminal Code and other statutes. So there are, in specific situations, those powers of search. For instance—

**Mr. Jagmeet Singh:** Sorry to interrupt you. They're also proactive as well. If a police officer has any reason to believe—any reasonable grounds—they could breach someone's section 8 rights, if they had reasonable or probable grounds to search someone's vehicle, search someone's backpack—search anything, really.

**Mr. Mike McCormack:** Right, subsequent to arrest or other legislative authority.

**Mr. Jagmeet Singh:** Or even before arrest.

**Mr. Mike McCormack:** For instance, under the Trespass to Property Act—whether they're arrested and searched subsequent to arrest—detainment and search are two different provisions, right?

**Mr. Jagmeet Singh:** Certainly. But also, before arrest, if there is reason to believe—for example, people's homes are searched if there's a reasonable and probable ground as well.

**Mr. George Cowley:** The issue of searching before arrest is a very complex issue. In common law, the police have the power to search, incident to arrest, which is after the arrest. A search prior to arrest has to be either legislated or it has to be part of some ability to do so. Investigative detention allows—if you engage in investigative detention, there is a rigorous regime set out by the Supreme Court of Canada. The officer has to show that they have reasonable grounds to engage in that. At that point, it's only a pat-down search which can be done. It cannot be done on a routine basis, search prior to arrest.

**Mr. Jagmeet Singh:** Exactly. Thank you very much.

**The Chair (Mrs. Laura Albanese):** Thank you very much. We'll pass to—no questions? Okay, so we'll pass back to the PCs.

**Mr. John Yakabuski:** Thank you very much, gentlemen, for joining us this morning. Your summation was rather short, so we don't have a lot to go on there. But on some of the things you spoke about, Mr. Cowley, you talked about an incident at a courthouse. In a situation where there is a trial going on of someone who is a known gang affiliate, I expect that some pre-planning would go on and the police services would be aware that there could be a problem and are prepared in some ways for that. But in general circumstances, if John Q. Public is going to court for whatever, you have no prior expectation that there could be a problem.

I guess my question is, without having the ability to detain someone who is—I don't know if we have anybody from the ministry or not, but my understanding of the way it is written here is that it gives you the power to detain someone; it doesn't mean that people are going to be detained. And there's the ability—I don't suspect any security people have the time to detain everybody who walks through a door, but my understanding is that if there's some kind of action or behaviour that is considered to be questionable or suspicious, that's when the act would basically empower them to take some sort of action to deal with it. Is that your interpretation?

**Mr. George Cowley:** I think there are two aspects to court security, and I litigated this for the Toronto police when I was previously working for the Toronto police. There are two aspects. The first is entering a courtroom facility. Everybody who enters that courtroom facility has to be subject to some form of scrutiny and search. What you're talking about then, also, is heightened security in a particular courtroom.

**Mr. John Yakabuski:** I'm sorry, but I'm actually talking about if the courtroom is in a courthouse. You've got the actual courtroom, but then you've got a building which is much larger, in which people move about. For example, in my county, in Renfrew, we have a courthouse, which houses all kinds of different government and Attorney General facilities, and then of course there are the rooms where the actual trials or deliberations take place. But in the general building, there is, in my understanding, an expectation that security can detain someone. That's more what I'm talking about: not necessarily the room itself, but the building that houses the courtroom.

**Mr. George Cowley:** At the moment it's a patchwork quilt of various powers—powers under the Public Works Protection Act, powers under the Trespass to Property Act—which are being hobbled together to ensure court security in those facilities. This is what's so good about—

**Mr. John Yakabuski:** So how do we refine this? I guess that's my question.

**Mr. George Cowley:** It's working at the moment, but it's more by good luck than good management that courtroom security is good and we haven't had any major incidents, as Mr. Singh suggested. But what Bill 34 does is give clarity. It gives specific powers to the people who are required to provide courtroom security for people in the justice system. It gives us what we believe, from the association's perspective, is clarity. It gives some guidance to the members who are doing the work and providing court security for people.

**Mr. John Yakabuski:** You don't want to wait until something actually happens. You want to be able to be proactive.

**Mr. George Cowley:** Exactly. We want to be proactive, yes.

**Mr. John Yakabuski:** My colleague Mr. MacLaren has some questions for you.

**Mr. Jack MacLaren:** Currently I would assume you have the discretion, for security in a courtroom, to choose a policeman or a security guard. Would that be correct?

**Mr. Mike McCormack:** Again, we're talking on two different levels. One is the general court facilities, which you have to pass through. Court officers, who are special constables, are there when you go in. There's that level. If there is heightened security, as George referred to, where we have a trial and we have intelligence that there could be violence or whatever, at that point the chief may determine to put uniformed police officers there as well as court officers who are special constables. But gener-

ally, all the security within the courthouses in Toronto is done by special constables, not uniformed police officers.  
0930

**Mr. Jack MacLaren:** Thank you.

**The Chair (Mrs. Laura Albanese):** Thank you. Ms. Wong wanted a chance to say something.

**Ms. Soo Wong:** Thank you, Madam Chair. I don't have a question. I just want to say thank you to both of you for taking the time to come and speak to us in a clear and concise way. We look forward to continuing to work with the Toronto police.

**Mr. George Cowley:** Thank you.

**The Chair (Mrs. Laura Albanese):** Thank you for your submission.

#### WORLD SIKH ORGANIZATION OF CANADA

**The Chair (Mrs. Laura Albanese):** We'll now call the World Sikh Organization to come forward. We do have a vote coming up, and members will need to get to the House on time, but we'll see how much we can—

**Mr. John Yakabuski:** We're running a little ahead.

**The Chair (Mrs. Laura Albanese):** Yes. So we'll see if we can at least hear the presentation and start some of the questioning and then head upstairs. I would invite members to come back as soon as possible after the vote so that we can continue hearing our witnesses.

Good morning.

**Mr. Balpreet Singh:** Good morning.

**The Chair (Mrs. Laura Albanese):** I would ask you please to state your name and your title fully before you begin, for the purposes of Hansard. Then you will have up to 10 minutes for your presentation, which will be followed by another 10 minutes of questioning by all the parties.

**Mr. Balpreet Singh:** Thank you. My name is Balpreet Singh. I am legal counsel with the World Sikh Organization of Canada. Firstly, I'd like to thank you all for the opportunity to be here today.

I'm going to start off with a brief background about the organization. We were established in 1984, which is almost 28 years ago. We are a nationwide organization. We were set up as a human rights advocacy body that defends the rights of Canadian Sikhs but also of all individuals. We've been to the Supreme Court of Canada for the Multani case, which was of course the famous kirpan case at the Supreme Court. We've also been to the Supreme Court for a case called Anselem, which was in fact for Jewish sukkah hut owners. So we are interested in all areas of human rights.

After reviewing Bill 34, what comes to mind is that the entrance to courthouses is an important access-to-justice issue. Ensuring the security of courthouses is also of absolutely paramount importance. So what's necessary, in our opinion, is to define what a security risk is more precisely in the bill. That would mean: What sort of risks, what sort of threats in terms of personal property items and what sorts of behaviours would actually be

perceived as threats? The unwarranted removal of anyone from a courthouse would, of course, be an issue with regard to access to justice and it would be a violation of rights.

We have three or four recommendations for you. The first is, like I said, a clear definition of what "security threat" means with respect to restricted items, behaviours etc. Our second recommendation is appropriate accommodation for articles of faith, such as the kirpan, which is, of course, a Sikh article of faith, as well as assistive devices, such as canes or walkers etc. The third would be similar accommodations for religious headgear, such as hijabs, niqabs, yarmulkas or the turban. It's our suggestion that these accommodations should be provided for within the regulations.

Going to my first recommendation with respect to the kirpan, it's important that dangerous items be excluded—obviously weapons, explosives, firearms must be excluded—but a specific exclusion or accommodation for things like canes and walkers, which could be seen as blunt-force weapons, needs to be created, and that's a given.

At the same time, we would recommend an exclusion for the kirpan. The kirpan is an essential Sikh article of faith. It's worn with the other articles of faith. The word "kirpan" itself is a combination of two words: "kirpa," which means grace, and "aan," which means honour. It's a reminder to a Sikh to stand up for justice; it's not worn as a weapon, to be very clear. The Supreme Court of Canada has been very clear that the kirpan is not to be taken as a weapon; it is to be taken as an article of faith.

Currently, courthouse policies in Ontario are a mixed bag with respect to the accommodation of the kirpan. Courthouses in areas such as Peel and York currently have a blanket exclusion on the kirpan. There's no policy that specifically excludes the kirpan; it's a policy that excludes weapons. So the kirpan, by the security officers there, is considered a weapon and therefore excluded. That's despite the fact that the kirpan is, in fact, expressly accommodated at the Parliament of Canada, the Supreme Court of Canada, as well as here at the Ontario Legislature. I would point out, however, that, pursuant to an agreement reached earlier this year between the World Sikh Organization of Canada, the Ontario Human Rights Commission, the Toronto police and the Attorney General, the kirpan will be accommodated at Toronto courthouses.

As you're aware, there's no one standard right now with respect to courthouse security, so it's up to the individual police forces to deal with. It's our recommendation that, as opposed to a piecemeal approach with respect to accommodation of the kirpan in different jurisdictions in Ontario, Bill 34 is a great opportunity to make it uniform and to make a statement that the kirpan will be accommodated. Simply speaking, the fact that it has been accommodated in Toronto means that the other jurisdictions where it's not accommodated would force us to essentially approach each one and go through that tedious process; whereas here you have the opportunity to get it done right away, all in one stroke.

I'll move on to religious headgear. It's important in some circumstances, obviously, to identify individuals who wish to enter the courthouse—not necessarily in all, but I can appreciate in some. While establishing identity is absolutely important, accommodation is also necessary for individuals who wear the niqab. To be clear, the niqab is a Muslim practice; Sikhs don't wear the niqab. But in the interests of freedom of religion, we find it appropriate to create an accommodation for those Muslim women who wear the niqab, which would be as simple as having a separate screening area and having women security officers do the screening for them.

Other religious head coverings such as the yarmulke, the hijab, nuns' habits and turbans all need to be dealt with with a certain level of respect and sensitivity. For Sikhs, the turban isn't like any other article of clothing. It's not a hat that can come off and go back on. The removal of a turban is considered, for Sikhs, equivalent to a strip search. The indiscriminate touching or search of a turban would be a source of great discomfort and embarrassment.

We have some suggestions with respect to how a turban can be screened. If a Sikh does set off a metal detector, wandung can take place. If the turban needs to be searched further, it can be, with the permission of the wearer, patted down. If, in an extreme situation, further examination of the turban needs to take place, we would recommend that that take place in private and, if it needs to actually be searched, that an alternative head covering be provided and, once the turban is returned, that a mirror be provided so that the Sikh can retie the turban.

I would point out that this would be an absolutely extreme circumstance. It wouldn't be common practice for a Sikh to remove his or her turban at a security search. It doesn't happen at airports—only in extreme circumstances. I wouldn't expect it to happen at all, frankly, in entering a courtroom. Just to be on the safe side, we're pointing that out.

Those are my submissions to you, and I'm open for questions.

**The Chair (Mrs. Laura Albanese):** Thank you. This round of questioning will begin with the Liberal side, the government side, and MPP Wong.

**Ms. Soo Wong:** Thank you so much for coming to present this morning, sir. I've got a couple of questions for you. First, can I ask, is your organization supportive of the repeal of the PWPA?

**Mr. Balpreet Singh:** That's not our concern right now. We're here mainly to talk about the accommodation of the kirpan as well as articles of faith.

**Ms. Soo Wong:** Okay. So the second question is, if the government does take your recommendations, will that reflect the McMurtry report, which is part of this process of repealing the PWPA? Given your recommendations—you recognize that Mr. McMurtry's report is a very historical part of this repeal—will that reflect your understanding of the bill and your organization's requirement?

**Mr. Balpreet Singh:** To be clear, we appreciate the importance of looking at this issue, especially after the

G20 incidents. They say that an ounce of prevention is better than a pound of cure. We feel that looking at these issues is important right now during the drafting of this bill so that we don't run into instances of individuals having their rights violated subsequent to that. Our main issue right now is to identify these issues for you so that they can be incorporated into the drafting of this bill.

**0940**

**Ms. Soo Wong:** I appreciate your comments and recommendations. So what I'm hearing, just for clarity, is that you want a more clear definition of the term "security threat," and that you are asking for some kind of accommodations with respect to the kirpan and the religious headgear in the last piece dealing with any necessary accommodation, if necessary. Am I correct?

**Mr. Balpreet Singh:** Right. Those accommodations, I think, flow from a more precise definition of "security threat." Like I said, weapons would obviously be excluded, but an exception to weapons should be explicitly created for kirpans as well as assistive devices. Similarly, for identification of individuals, that should be necessary, but for individuals that are wearing religious headgear, like I said, accommodations should be made a part of the regulations.

**Mr. Shafiq Qaadri:** Pardon me for interrupting, but I don't think we want the government to fall earlier than necessary, so we might want to go and vote now.

**Mr. John Yakabuski:** No, we've got time.

**The Chair (Mrs. Laura Albanese):** Well, I was going to—we have one minute—

**Mr. John Yakabuski:** The Chair will rule that.

*Interjections.*

**The Chair (Mrs. Laura Albanese):** Excuse me. We have one minute and a half left for questioning. That was the opportunity that I was going to give to the government side and then suggest that we recess.

**Mr. John Yakabuski:** I have a couple of questions.

One, the kirpan: It's defined by the Supreme Court that it is not a weapon, and every courthouse, I would expect, in the province—and facility—could be made aware that it is to be treated as a religious item issue, not a weapons issue, which would speak to not having to define it specifically in law, because the Supreme Court has already taken care of that. Their 2006 decision made it very clear that it is not a weapon; it is an item of faith, an article of faith. I'm not sure that it would be necessary to specifically single it out.

The other thing I have a question on is your concern about the definition of behaviour. I suppose the clichéd one we always go to—and I think security personnel need to have a certain amount of flexibility—is the old saying where, "I can't tell you what pornography is, but I'll certainly know it when I see it." If you, as a security person, have to go through a checklist—"Well, as I am going through this list, does this person fall into those categories?" I think there are times, if they see somebody who is doing something that is maybe a little out of the ordinary, the wise thing to do, the prudent thing, would be to observe them to see if things go a little further, and,

if so, if it falls into a category where they, as trained personnel, say, “I’m more than a little concerned here. I think I have the right now and I think I have the responsibility to ask some questions.” If everything has to be defined, don’t you share with me that it becomes so narrow that it might actually impede someone from acting when the prudent thing to do would be to act?

**Mr. Balpreet Singh:** Answering both questions: Firstly, the kirpan decision came out in 2006. Despite that decision being fairly clear that the kirpan is not a weapon, that hasn’t trickled down to courthouses in Ontario. Like I said, York and Peel—which has one of the largest Sikh populations anywhere in Canada, for example—still exclude the kirpan. The reasons given are once again the same: that it could be used as a weapon. Once again, we’ve reached an accommodation in Toronto which opens the doors up, but, like I said, that hasn’t been the case, that it would automatically just follow from that Supreme Court decision. It is an issue right now that needs to be addressed.

With respect to your second suggestion, I would agree with you that there needs to be a certain amount of flexibility, but we have to define it to some extent because giving a free hand can create problems. There have to be some guidelines. There has to be some sort of a definition of what is a threat behaviour, what is a threat item, once again also creating some sort of flexibility for the security officer to determine if things falling outside of that might also be a problem.

**The Chair (Mrs. Laura Albanese):** Thank you very much. We will have to recess now for the vote.

**Mr. John Yakabuski:** I appreciate your time. Thank you very much.

**The Chair (Mrs. Laura Albanese):** Thank you.

*The committee recessed from 0945 to 0958.*

**The Chair (Mrs. Laura Albanese):** We’ll call Mr. Singh back.

**Mr. Shafiq Qadri:** Point of order, Madam Chair.

**The Chair (Mrs. Laura Albanese):** Can we finish the round of questioning first, please?

It’s the NDP’s turn. MPP Singh, you will have about three and a half minutes for questions. Please begin.

**Mr. Jagmeet Singh:** Just to clarify, as you indicated, though there’s been a Supreme Court decision in 2006, that has not been able to trickle down into the courtrooms and there is still a ban, or a quasi-ban, on the kirpan as it flows into the blanket of a weapon, because other court jurisdictions aren’t aware or haven’t implemented the 2006 decision in the Supreme Court?

**Mr. Balpreet Singh:** Just to be clear, the 2006 decision was with respect to, specifically, kirpans in schools; it wasn’t with respect to kirpans in courthouses. While the decision is quite favourable to the kirpan, it doesn’t specifically say the kirpan must be accommodated in courthouses, and for that reason, there hasn’t been that trickle-down effect. In fact, the Toronto policy comes after an incident in 2006, for example, where an individual complained that they weren’t allowed, as a student, to enter. It’s taken years to get to where we are,

with respect to the accommodation, in just one jurisdiction. It would, I expect, be quite cumbersome to have to do it in every jurisdiction.

**Mr. Jagmeet Singh:** That was going to be my next question. How long did it take to get the accommodation in the Toronto courthouses?

**Mr. Balpreet Singh:** Yes, 2006 to 2012—so six years of back and forth before that accommodation policy was created.

**Mr. Jagmeet Singh:** That’s the only jurisdiction that has an accommodation so far?

**Mr. Balpreet Singh:** There are informal accommodations offered in different jurisdictions—for example, I believe there are some courthouses in Hamilton—but there’s no uniform policy. So a Sikh wearing a kirpan simply doesn’t know whether they’re going to be allowed in or not.

**Mr. Jagmeet Singh:** Just to clarify, the Supreme Court of Canada, the supreme court in the land, does allow kirpans?

**1000**

**Mr. Balpreet Singh:** That’s right. Visitors to the Supreme Court of Canada as well as, obviously, lawyers are permitted to enter with their kirpans, wear their kirpans, and similarly with the Parliament of Canada.

**Mr. Jagmeet Singh:** Okay. With respect to the issue of the two other sections of Bill 34, which you haven’t testified on or commented on, I’ll just ask if you have any comments. If I ask pointedly, the requirement to identify and the requirement to provide information: Any response to that, any notion on that from a human rights aspect?

**Mr. Balpreet Singh:** As a human rights organization and personally as a lawyer, I can see issues with respect to having to provide identification for every single individual who would enter. I’m also uncomfortable with a carte blanche to question anyone who enters. There could be individuals who wish to anonymously watch proceedings. There could be any number of reasons why a person wouldn’t necessarily want to answer a number of questions about why they’re there. Obviously, they should be safe to enter with respect to not having a threat, with respect to a weapon or otherwise, but I don’t see a need, in every instance, to identify or question every entrant to a courthouse.

**Mr. Jagmeet Singh:** I have no further questions. Thank you.

**The Chair (Mrs. Laura Albanese):** Thank you, and thank you very much for being here this morning.

**Mr. Balpreet Singh:** Thank you.

**The Chair (Mrs. Laura Albanese):** MPP Qadri had a point of order that he wanted to bring to our attention before calling up the next presenter.

**Mr. Shafiq Qadri:** As you know, a number of votes are being called and likely will be called throughout the day. I consulted with the table officers. The protocol is usually, certainly at the discretion of the Chair, either five minutes or 10 minutes before. I would simply suggest that 10 minutes be allowed. It would allow us not only

enough time to physically walk there, but possibly to get our bearings. I believe it's in the interests of some parties that some of us not show up for that vote and in the interests of other parties that we be there in full strength and full numbers.

I do not want to be compromised. I note, for example, that some of the individuals in this committee, who shall remain nameless, were in the House 21 seconds before the vote, and I don't want to have to go through that. With the urgency in a minority government, I think that this request will be taken seriously.

**Mr. John Yakabuski:** Can I at least comment on the point of order?

**The Chair (Mrs. Laura Albanese):** Yes, you may, but Mr. Miller put up his hand first.

**Mr. Paul Miller:** I don't have a problem allowing people to have enough time to get to their respective seats, but we don't vote until after question period, right, so any deferred votes are after.

**Mr. Shafiq Qadri:** There's a vote right now.

**Mr. Paul Miller:** A vote on—

**Mr. Shafiq Qadri:** Adjournment.

**Mr. Paul Miller:** Adjournment of debate.

**Mr. Shafiq Qadri:** Yes.

**Mr. Paul Miller:** So that's what you're concerned about?

**Mr. Shafiq Qadri:** Yes. As a government, we should be concerned with all votes in the Parliament of Ontario.

**Mr. Paul Miller:** But there are more opposition members here in the committee.

**Mr. John Yakabuski:** We've got a person here to appear before the committee. We can deal with this after.

I left here at about a minute and three left. I made it to vote. I was there at 21 seconds. The childish behaviour over there, it's ridiculous. Ten minutes? I left this room, there was a minute and three on the clock, and I was in there to vote, so give me a break.

**The Chair (Mrs. Laura Albanese):** We will resume this discussion after the next presenter, if everyone is in agreement.

#### ONTARIO PROVINCIAL POLICE

**The Chair (Mrs. Laura Albanese):** The Ontario Provincial Police are here? Please come forward. You will have up to 10 minutes for your presentation, which will be followed by 10 minutes of questioning by all parties. Please state your name for the purposes of Hansard recording.

**Mr. Larry Beechey:** Thank you. My name is Deputy Commissioner Larry Beechey of the Ontario Provincial Police.

**The Chair (Mrs. Laura Albanese):** Thank you for being with us.

**Mr. Larry Beechey:** Thank you. The written material I've submitted to you is exactly the same as what I'm going to read off. It's okay to proceed?

**The Chair (Mrs. Laura Albanese):** Yes, you may proceed.

**Mr. Larry Beechey:** In the past, the Ontario Provincial Police have used the Public Works Protection Act for court security functions and for some issues in regards to the security of the offices of the provincial government that it is responsible for.

In the case of court security, the Ontario Provincial Police have been consulted during the preparation for Bill 34 and is supportive of the wording proposed. We have reviewed incidents in relation to our security of the provincial government offices and are confident that existing provincial and federal legislation will be appropriate to utilize in any future incidents.

The Ontario Provincial Police did not request or utilize the designation of the Public Works Protection Act for its policing role in the G8 summit. We do feel, however, that at some future time, it will be prudent to review legislation in regard to several concerning areas that are now covered by common law. These areas all relate to having the authority and power to move the public or prevent the public from accessing certain areas or locations with regard to public safety.

Examples are as follows:

—a protest activity where the police prevent entry to a building or a specific boundary of land, due to safety concerns and prevention of a breach of the peace;

—an occurrence of an armed or barricaded person where residences within an established inner perimeter have to be evacuated; or

—a disaster such as a flood situation, where members of the public may have to be evacuated for their own safety and the safety of their rescuers.

The Honourable Roy McMurtry, in his report on the Public Works Protection Act, felt that common law would cover police action on these types of incidents. We accept his findings and recommendations and will continue on without any additional powers, but we do wish to note this as a future concern.

I'd also like to address some concerns in relation to the sections specifically related to court security in Bill 34. Nothing that I have seen in the proposed wording would constitute a change in how we are currently conducting our business. We do not want to examine lawyers' notes. Any exam or identification required would be based on the individual situation and/or perceived threat. I might add that we need to have reasonable and probable grounds to escalate that at any point, and we need to be able to justify any of our actions.

We need to ensure that persons entering the courtroom are there for a lawful purpose and do not have weapons that could injure or kill anyone in the courtroom.

We respect religious beliefs, but if there's a danger of violence, it may well be caused by a third party that accesses a ceremonial weapon for their own illegal purpose.

There's nothing in this legislation that reduces anyone's rights or freedoms from what now exist, but it does

continue to give police and court officials the ability to guarantee the safety of all persons entering the courts.

In regard to the schedule 3 sections, we've also had input and agree with the wordings. In this area, much work will have to be done in drawing up the appropriate wordings and parameters for the required regulations. There must be stringent regulations as to who has the authority of a peace officer under this act, what qualifications they must have, what training they will require and what limitations they will have on their powers, along with an appropriate oversight body to ensure accountability. The Ontario Provincial Police look forward to further consultation in this area.

As noted, the Ontario Provincial Police has been adequately consulted during the process and is in agreement with the proposed legislation. We look forward to further consultation in the development of any of the regulations. Thank you.

**The Chair (Mrs. Laura Albanese):** Thank you, Deputy, for your presentation. This round of questioning will begin with the Conservative Party: MPP Yakabuski.

**Mr. John Yakabuski:** Thank you very much, Madam Chair. Thank you very much, Deputy Commissioner—I wanted to make sure I got that right, Larry—for joining us today.

It's interesting. I'm glad you had the chance to join us, because it's not something that I'd actually thought about when I was speaking with Balpreet here earlier—our last submission—specifically, to the kirpan. While it is clearly defined as not being a weapon, it sounds like your concern is that while it's not defined as a weapon, it could be used as a weapon by a third party, should it be taken off a person who was wearing it. Is it currently the practice—because if I go to get on a plane and I have a certain toiletry tool, I'll have that removed, because even though it's not defined as a weapon, it could be used as a weapon. If you're getting on a plane, do you have to remove—are you aware of whether you have to remove the kirpan, if you're wearing it?

**Mr. Larry Beechey:** I'm not sure on that. I would like to say that I know there has been talk about the identification and the search for weapons and the rest of it. We do not now demand identification from everybody who enters a courtroom. We do not search everybody who enters a courtroom. We take it, if there is a perceived threat, if there is a violent incident that we know will cause problems—and like I say, it has to be justified. We would never just approach people and take kirpans or anything else off them in a courtroom unless we had a specific issue within the court and we had to deal with that.

**1010**

I don't think we would take tweezers off, like some of the airplanes do, but anything that we felt could be used as a weapon, we would try to remove. I know there was some mention of canes. I don't know if we've ever removed a cane. What we try to do is, instead of doing the whole courthouse, we will do a specific courtroom. So if we have to remove a cane from somebody, we

would assist them into the court and we would give them their cane back when they come out.

**Mr. John Yakabuski:** Joe Kapp is in favour of removing canes.

**Mr. Larry Beechey:** Is he?

**Mr. John Yakabuski:** I don't know if you noticed the Angelo Mosca-Joe Kapp situation at last year's CFL dinner.

I know we've had some suggestions that the provisions in the act as written would have to be lessened or weakened to some point. Would it be your position that if these provisions were weakened, it would make it harder to ensure that we had adequate security in our court-houses?

**Mr. Larry Beechey:** I think the wording is adequate. I don't know if you need to deal in a regulation for some of those things. Once things get into law, whether it's regulations or not, there are always interpretations on them. So I would rather see courtroom guidelines—

**Mr. John Yakabuski:** My colleague Mr. MacLaren has a question for you. Thank you very much.

**Mr. Jack MacLaren:** Mr. Beechey, in your presentation at one point, you say, "There is nothing in this legislation that reduces anyone's rights or freedoms." I'm awfully pleased to see that, but I also hear you say that, currently, if it's warranted, you will search somebody or do what's required to provide security.

I'm very concerned that our rights and freedoms not be infringed upon as Canadians. We consider ourselves to be a free people with a constitutional right to those freedoms, and I am very reluctant to see more police powers created unless they're truly needed. I guess I need some convincing that this legislation is necessary, because as far as I'm concerned, I think you guys are doing a great job right now.

**Mr. Larry Beechey:** Yes, but we are relying on the Public Works Protection Act to do what we have to do in the courts. This is only conferring those sections over to a different piece of legislation. So I haven't seen anything different there.

**Mrs. Laura Albanese:** We will now move to the NDP.

**Mr. Paul Miller:** Thanks for coming. In a courtroom situation where the kirpan is allowed in, do you feel that there's any security problem as far as maybe a prisoner or some other person who's upset who could get their hands on such a weapon? Do you feel that that could be a possibility and that would be one of your concerns?

**Mr. Larry Beechey:** There's always a possibility in any situation. There could be a possibility in this room that there could be somebody in here who may act out. We don't enforce any of the advanced security measures unless we have some grounds to do it, that we know that there's maybe a very violent prisoner who we can't secure in the court. Most courtrooms are secured fairly well, and we will have an actual constable with that person if we feel they're violent. The measures I talked to, in courtrooms where we've had to increase security, have been different protest groups who are fighting, who

we know become violent; different biker enforcement trials. Those are the ones that we really look at. So it's just not the everyday.

It would be nice to have something that, if someone is wearing a kirpan, they actually declare that and just say, "I have a kirpan," so there's knowledge of the police who are in the courtroom, that they know it's there in case something happens.

**Mr. Paul Miller:** That's good. Thanks very much.

**Mr. Jagmeet Singh:** With respect to the current protocol, would you agree with me that if the police or any court security personnel were given the right to search upon entry—very cursory; just to ensure that there's no explosive devices or firearms, whether it's a wand or a metal detection device—that that would cover that area of courtroom security? Would that be sufficient in your mind in terms of security? That's how it's been going on right now.

**Mr. Larry Beechey:** It's all dependent on the situation. Like I said, we have to deal with individual situations. We usually do wand. I think I can recall in one other court that we did further searches on some individuals that we had information that they may cause problems. Other than that we haven't, and I don't think we've ever dealt with an issue with a kirpan.

**Mr. Jagmeet Singh:** Okay. With respect to access to other potential forms of threat, you'd agree with me that there are often police officers that are in courthouses.

**Mr. Larry Beechey:** Yes.

**Mr. Jagmeet Singh:** And police officers often attend with loaded and armed firearms?

**Mr. Larry Beechey:** Yes.

**Mr. Jagmeet Singh:** That firearm could easily—I mean, it could be, if you're talking about potentials, if they're tackled by a group of four people, they could wrest away their firearm from them. It's a possibility.

**Mr. Larry Beechey:** Well, I know the security of our holsters and half the time I have trouble getting it out, so I don't think three or four people not knowing—

**Mr. Jagmeet Singh:** How to do it.

**Mr. Larry Beechey:** —would ever get it out.

**Mr. Jagmeet Singh:** Fair enough. There's also batons that people carry that are on their person. There's also glass items that are allowed into buildings, glass bottles and glass devices—glass items.

**Mr. Larry Beechey:** Like I said, there's always weapons of opportunity anywhere. It depends on your court security. When you're talking about police, we are trained in the resistance of anyone getting our weapons, so that's a little different than a regular person going in that may have something.

**Mr. Jagmeet Singh:** I went to a lot of jiu-jitsu courses with police officers and I beg to differ, but we'll talk about that afterwards.

Sir, also in addition to—

**The Chair (Mrs. Laura Albanese):** One minute left.

**Mr. Jagmeet Singh:** In addition to these concerns, would you agree with me that, in terms of your experience, with the powers granted in terms of search, there

has been no incidents that have been reported of either death or serious injury in any courthouse in Ontario as a result of any weapons or any firearms or explosive devices being brought in?

**Mr. Larry Beechey:** There's been violence in some of our Ontario courtrooms—

**Mr. Jagmeet Singh:** Specifically related to weapons.

**Mr. Larry Beechey:** I do not have any evidence on that. I did not bring any on that.

**Mr. Jagmeet Singh:** My research is that there hasn't been, but I wanted to confer with you.

**Mr. Larry Beechey:** I can't confirm or deny.

**The Chair (Mrs. Laura Albanese):** Thank you. And now the government side.

**Ms. Soo Wong:** Thank you very much for your presentation this morning, Deputy Commissioner. I have a couple of quick questions for you. First, did I hear correctly that you believe the wording in the proposed Bill 34 is adequate?

**Mr. Larry Beechey:** Yes.

**Ms. Soo Wong:** Okay. The second question I have is that there has been a lot of talk just now about the kirpan and accommodation. Do you believe, in your professional opinion, that accommodating the kirpan and other headgear can be considered as a risk to the courthouse?

**Mr. Larry Beechey:** Like I mentioned before, they have to be taken on individual cases. General entry into a courtroom I don't think should ever, unless there's a huge threat—would ever be diminished or kirpans not be allowed. But a specific courtroom, it may have to come to that. It just depends on the level of information we have on what violence may occur.

In that case, I heard the previous fellow that was up here, and yes, we would treat people with the utmost of respect and do what we could. We usually deal with that in our everyday work. If we have to search someone, we search with a female if that's the case or whatever. We're not out to infringe on anybody's rights and freedoms, but we do have to ensure that security.

**Ms. Soo Wong:** My last question: Do you support Bill 34 as it has been presented?

**Mr. Larry Beechey:** Yes.

**Ms. Soo Wong:** Okay, thank you.

**The Chair (Mrs. Laura Albanese):** Thank you very much for presenting to us this morning.

Before we recess, I just would like to address the point of order put forward by MPP Qadri. I will be very mindful to give members enough time to go upstairs for a vote and keep it as close as possible to the 10 minutes. I would like to retain the flexibility if a presenter is almost finished. If we have only 30 seconds to go, I would like to retain that flexibility, but I will be very mindful to give members enough time to go up to the chamber to vote. Thank you. So we will be back here at 2 o'clock.

*The committee recessed from 1020 to 1400.*

#### ONTARIO BAR ASSOCIATION

**The Chair (Mrs. Laura Albanese):** We're resuming our session. We have the Ontario Bar Association, which

we welcome to our committee. I would ask you to please state your name and your title for our Hansard recording. You will have up to 10 minutes for your presentation, and that will be followed with up to 10 minutes of questioning by all parties. Thank you, and you may begin any time.

**Mr. Paul Sweeny:** All right. Thank you very much for giving us the opportunity to appear before you. My name is Paul Sweeny. I'm a Hamilton lawyer and the president of the Ontario Bar Association. Beside me is David Sterns, who is a Toronto litigator and the chair of the public affairs committee, and Cheryl Milne, a constitutional lawyer who practises here in Toronto.

The Ontario Bar Association represents more than 18,000 lawyers, law professors, law students and judges. Our members have 30 different practice areas. We are the voice of the legal profession in Ontario. You have our written submission, which has been approved by our board, which includes representatives from each of the eight judicial regions.

At the outset, I just want to say we're pleased the government has taken steps to repeal the Public Works Protection Act and tailor the legislation specifically to court security requirements, rather than leaving them ad hoc. As lawyers, we, like the government and the members of this committee, want to ensure that the courts are safe and open. If courts aren't safe, lawyers aren't safe.

There are really three areas which we're going to focus on. Mr. Sterns is going to address these in more detail.

Firstly, the effective and efficient administration of justice requires that officers of the court be entitled to enter courthouses in a streamlined and efficient manner, and in a way that ensures that any client privileges which attach to communications are protected and cannot be required to be disclosed.

Secondly, given the open court principle, the requirement for the general public to produce identification is, in our view, inappropriate.

Thirdly, there's a need for clarification of the information for the purposes of assessing whether the person poses a security risk, and confirmation that it does not include requiring a person to state the purpose for which he or she desires to enter the premises; the requirements for notice with respect to search; and to deal with the abandoned attempts to enter the building.

Mr. Sterns is going to address these issues in more detail.

**Mr. David Sterns:** Thank you. Good afternoon, Chair, honourable members. The OBA, the Ontario Bar Association, views court security from two perspectives. First, the courts are our workplace. They are where we serve our clients, and we want them to be safe places for all participants in the justice system. In that regard, we welcome the initiative to bring forward legislation specifically tailored to the unique environment of the courthouse.

Courts are where disputes are to be resolved without resort to violence. But hostility and the threat of violence

are never far from the surface in criminal, family and even in some civil disputes. There have been instances of lawyers and their clients being harassed or targeted by adverse parties in litigation, and some of these acts have occurred within the sanctity of the courtroom. Judges, as well, live with the fear of violence erupting in the courtroom.

For these reasons, the OBA supports the powers of court security officers to search members of the public entering into the courthouse by subjecting them to metal detectors and scanning their property. We support the power to search without warrant any person who is on court premises, or their property. In addition, we recognize the need in certain cases to extend search powers beyond the walls of the courtroom and into adjacent areas, subject to clear and constitutionally valid limits.

While we support these necessary security measures, we wish to point out two related issues: (1) streamlined access for lawyers, and (2) protecting clients' right to confidentiality and privilege.

An efficient court system requires lawyers and other officers to be able to enter into a courthouse in a streamlined manner. Permitting streamlined access allows cases to start on time, reduces court downtime and saves clients money.

There are many instances, particularly in urban centres, where access to the court grinds to a halt while the public or potential jurors are screened at the door. The current practice in Ontario is that lawyers who present official identification issued by the Law Society of Upper Canada to security officers may enter the courthouse without waiting in line. This practice exists under a courtesy arrangement between the bar and local court security officers but is not currently found in legislation. The current system works well from the perspective of the profession and, as far as we know, has not given rise to any concerns on the part of court officers. We therefore ask that the current arrangements be expressly preserved in legislation or through regulation.

The second issue we'd like to draw to your attention is protecting clients' right to confidentiality. Confidentiality and privilege are also fundamental to the proper functioning of our legal system. As the bill is currently written, it could require individuals entering court to reveal privileged information either by virtue of having written material reviewed in a search or by having to reveal why they're entering the courthouse in order to satisfy the officers that they do not pose a security risk.

In our written submission at page 6, we propose language that exists in other Ontario legislation that will ensure that the act does not operate so as to require disclosure of any privileged information.

The second perspective that we as lawyers have on the bill stems from our commitment to defending the open court principle. As much as we are concerned about safety, we are also committed to ensuring that courthouses remain open to the public and that access to justice be unimpeded.

The open court principle is a cornerstone of our system of justice. It ensures that justice plays out in the full light of day. Allowing the press and the public unimpeded access to the courts is an essential check on power. The open court principle, though, is under creeping attack. We see this through applications for sealing orders, witness exclusion orders, publication bans and, in civil cases, the increasing tendencies of corporations to exclude disputes from the court system altogether through the use of arbitration, designed primarily to shield the process and the outcome from the public.

The bill currently requires anyone entering or attempting to enter premises where court proceedings are conducted to produce identification. The Ontario Bar Association opposes this identification requirement. The identity of a person who wishes to observe court proceedings is irrelevant to security and, to put it bluntly, is no business of the state. Members of the public should be able to access court proceedings anonymously. They may wish to do so for reasons that we approve of or reasons that we disapprove of; that is their prerogative.

Whenever a law requires identification, which this bill does, it is important to ask the following questions: What happens if an individual doesn't have the required identification? What will this do to the right of the indigent to attend in court? Can someone be excluded from attending because they're associated with an accused? What will happen with the information that is collected? Will it be checked against a database or stored for future use? And, most troublingly: Will a person's attendance in court at a particular time be used as part of a criminal investigation or used to commence one?

These questions impact access to justice. Again, I emphasize that we do not believe that identification should be requested at all upon entering the court. I do point out, however, that the OPA fully supports the current practice of requiring identification from lawyers and other officers of the court, for reasons I have already stated.

A question related to identification is: What information may be required under subparagraphs 138(1)1(i) and (ii)? That is the provision that says that a person entering the court may be required to provide information for the purposes of assessing whether the person poses a security risk. It is important to state in the law or the regulations what specific information may be requested for the purposes of assessing security risks. One can imagine questions such as: What is your purpose for attending here today? How do you know the accused? Have you ever committed a violent crime? Such probing questions could deter someone from attending at court.

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**The Chair (Mrs. Laura Albanese):** You have about a minute left for the presentation.

**Mr. David Sterns:** Thank you. The OBA would be pleased to assist in finding the proper balance between appropriate information-gathering and observance of the court principles.

Those are the main points that we wish to cover today. In our written submission, we outlined some other points

that I would simply like to draw to your attention. The first relates to the vagueness of some of the language in the bill—in particular, the term “premises.” This is the touchstone for the right to perform a warrantless search. The term “premises” is undefined and it is vague.

A second point that we make is that there should be notice posted at the entry of the courthouse warning people that they may be subject to a search and that they may be arrested if illegal items are found on their person. This notice will help ensure the constitutional validity of the proposed law.

A third issue concerns situations where a member of the public abandons the attempt to enter the court facilities. If the person turns around, there's no reason to perform a warrantless search.

In closing, I would like to thank the committee for inviting the Ontario Bar Association to participate in this process. The OBA supports the repeal of the Public Works Protection Act and the tailoring of legislation specific to the courts. We look forward to continuing to work with this committee to ensure that the bill strikes the necessary balance between security and openness that are both essential to our judicial system.

**The Chair (Mrs. Laura Albanese):** Thank you. This round goes to the NDP.

**Mr. Jagmeet Singh:** Certainly. Thank you very much. Once again, thanks for attending.

Just to get into some questions regarding some of the content of the bill, you've addressed the issues surrounding identification. Just surrounding the issues where information is requested—citing 138(1)1(ii), “to provide information for the purpose of assessing whether the person poses a security risk”: If you could just highlight the difference of how the system currently works and if that is used at all and if there are any issues with that, and the problems that arise with requesting that information.

**Mr. Paul Sweeny:** With respect to the way that the system currently operates, I'm not aware of officers asking for any information or identification of people simply passing—

*Interjection.*

**Mr. Paul Sweeny:** Oh, sorry. With respect to the way the system currently operates, my understanding in Hamilton, where I practise, is that people are screened before they go in, but there are no questions asked once you're inside the courthouse about what you're doing. There's no requirement for identification or anything like that arising, as far as I'm aware. So that situation—right now, that doesn't happen. In fact, I would think there would be an issue about that.

**Mr. Jagmeet Singh:** What would the problem be, in your mind, with respect to requiring that information?

**Mr. Paul Sweeny:** The practical problem is that the courthouse is a public space and people are entitled to be there for whatever reason they wish to be there. To the extent that someone doesn't have identification, they may be precluded from being there. There are often children, groups that go through, that don't have identification.

There are people who just don't have that identification with them and are in there.

To the extent that questions are asked of people who are just in there—maybe it's a parent of an accused or something who's maybe not sophisticated and is intimidated by those questions—they should be free to be there, observe what goes on in the courts, without having to give any explanation as to why they're there or who they are.

**Mr. Jagmeet Singh:** So do I take it that the OBA does not approve of that section that requires the production of identification, and a section which requires the providing of information?

**Mr. Paul Sweeny:** The identification, we disagree with. With respect to the information, I think there has to be some understanding, some looking at of what exactly that information is. So we would suggest that there be a regulation to define what specific information can be requested and in what circumstances.

**Mr. Jagmeet Singh:** Okay. With respect to access to courts and maintaining that access to justice and access to a public court system, what's your position on reasonable accommodations for religious articles of faith, including a kirpan, a turban or something like a hijab?

**Mr. Paul Sweeny:** I'm going to ask Ms. Milne to respond to that question.

**Mr. Jagmeet Singh:** Certainly.

**Ms. Cheryl Milne:** Yes. A courthouse in Ontario could not be considered truly open if we do not respect the diversity of the people in Ontario. At stake are both religious freedoms and equality rights in terms of accommodating those kinds of religious differences, for example. We would ask that we need to work with all of the participants to arrive at a balanced approach to that. The Supreme Court has pronounced on this issue in terms of the Multani case in terms of the school setting, and we say that a similar approach needs to be taken with respect to courts.

**Mr. Jagmeet Singh:** Okay, thank you. Just one last—

**The Chair (Mrs. Laura Albanese):** No, sorry. The time is up, and I have to keep it to time. I apologize. I can't make the committee run behind.

**Mr. Lorenzo Berardinetti:** Thank you, Madam Chair.

Thanks for coming out today. I've met with several crowns, and they are concerned. I live in Scarborough, and there's a court in Scarborough, a big facility on Eglinton Avenue near Warden. Beyond what you've stated, is anyone else exempt—for example, crowns, judges—in your proposal?

**Mr. Paul Sweeny:** Court officers include judges and crowns. Crowns are also lawyers; as court officers, they would be exempt.

**Mr. Lorenzo Berardinetti:** But when they come in in the morning, is there someone, a security guard, who would make them go through a scanner?

**Mr. Paul Sweeny:** If they're exempt, then they needn't go, if you're concerned about—I can tell you that in the courthouse in Hamilton, because I'm a member of

the law association, I have a card that I can go into the court any time I want to go into the court. Similarly, I believe the crowns have a card that entitles them to access 24 hours a day into the courthouse. Because we are officers of the court, that's where we do our business, so we are entitled to go in there, and we do that. I'm just not sure I follow the issue.

**Mr. Lorenzo Berardinetti:** I'll get straight to the point. I have that same card, and a couple of years ago, before I came here to the Legislature, I used to practise law. I would go in, I would show the card, and they would say—it happened to me a few times—"Sorry. Get in line." Maybe it's different in Scarborough, but I have the card from the law society, I show it to them, and they say, "Sorry. Get in line." I had to go through a scanner, and so did my briefcase, very similar to an airport.

**Ms. Cheryl Milne:** I think what we're saying is that that's part of the problem with the discretionary nature of that right now. Actually making it more formalized that court officers are permitted access might prevent something like that from happening.

**Mr. Lorenzo Berardinetti:** But if I was to forge—

**The Chair (Mrs. Laura Albanese):** You have 10 seconds left.

**Mr. Lorenzo Berardinetti:** Okay. I just want to thank you for being here, and we can talk later on, perhaps, outside of here.

**The Chair (Mrs. Laura Albanese):** The PCs may proceed.

**Mr. John Yakabuski:** Thank you very much, gentlemen and ma'am, for joining us today.

I just want to clarify one thing. You used the word "require." The act, as I see it, the amendments, "Subsection 137(2) may exercise the following powers if it is reasonable to do so for the purpose of fulfilling those responsibilities." There's nothing that I read in here that means that you're going to be asked for ID or you're going to be searched. You may. If it is deemed by the security people in the exercise of their responsibilities under the Ontario act in relation to the Ontario Provincial Police responsibilities under subsection 137, they may ask you for identification.

*Interjection.*

**Mr. John Yakabuski:** I'm going to ask a couple of questions.

They can do that now, I believe, under the act.

**Mr. David Sterns:** That's correct.

**Mr. John Yakabuski:** So I want to clarify that that's not exactly a change.

The other thing I have a concern about is with the searching. So you don't want to have the powers of searching, but if someone was in the courthouse common area and happened to make a statement, you know, "I'm going to bomb this place," and then they want to leave, you don't think people should have the right to search their vehicle to see if there's a bomb in the car or whatever? If they're in the general parking facilities of that facility, you don't think the authority should then have the right to actually search that vehicle, and let that

person drive away with, maybe—because I'm hearing the worst-case scenarios from your perspective; I want to throw the other ones back out there and ask you. If we don't have the tools in the toolbox to be able to provide security, if we have those taken away, even if they're used in a very discretionary manner—if they're gone, then we don't even have that discretion as security people. I just want your response to that, if I could.

**Mr. David Sterns:** Right. It's very important to understand that we do favour the right to search. We're simply against the identification requirements writ large, as it's currently written.

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So in your example, first of all, the person who makes a threat to blow up the place should be dragged out by the police and arrested, because that is itself a crime. There's no issue about that. That person could, in our submission—

**Mr. John Yakabuski:** Or if they even mused about it?

**Mr. David Sterns:** That person or any other person can and should be searched if they're in any way a threat coming in or whether they're on the premises after entry. So there's no issue there whatsoever.

The first question you asked, though, is about the identification. It is in the Public Works Protection Act that court security can request identification. Our position is simply this: We think the PWPA should be repealed, and one of the reasons is that that's just not an appropriate thing to request of somebody entering into a courthouse. It may be perfectly appropriate for someone who wants to go into a nuclear facility, but not in a courthouse.

You also raised the point about the act saying that they "may" be required to produce identification. That's true, but, as we read it, they could effectively ask anybody they wanted, or everybody.

**The Chair (Mrs. Laura Albanese):** Thank you. Sorry, but time has expired. Thank you very much for appearing before our committee today.

#### GURSIKH SANGAT HAMILTON

**The Chair (Mrs. Laura Albanese):** We'll now call our next deputant, from Gursikh Sangat Hamilton. Good afternoon.

**Mr. Manjinder Singh Dhinsa:** Good afternoon, Madam Chair.

**The Chair (Mrs. Laura Albanese):** Welcome to our committee, and I would please ask you to state your names for the purposes of Hansard recording. You will have up to 10 minutes for your presentation, followed by 10 minutes of questions by all parties. You may begin any time.

**Mr. Manjinder Singh Dhinsa:** Good afternoon to all the members of the committee. Firstly, thank you for giving us the opportunity to speak and present here today. My name is Manjinder Singh Dhinsa. I am the youth adviser for Gursikh Sangat Hamilton and the

adviser for the Hamilton Punjabi Sports and Culture Society. Present with me here today is Sukhdeep Singh Dhaliwal. He is the policy adviser for Gursikh Sangat Hamilton. Over here I have Rampal Singh Dhillon. He is the director of Baba Budha Gurdwara, which is based in Stoney Creek. And here I have Jasbir Singh. He's the president of Gursikh Sangat Hamilton.

Due to the fact I have Bell's palsy and I have a facial paralysis, I'm going to have Sukhdeep Singh Dhaliwal carry on with the presentation today.

**Mr. Sukhdeep Singh Dhaliwal:** Thank you, Manjinder, and thank you very much, members of the committee.

I begin by thanking the committee for providing us with this opportunity for input at a time when a very crucial amendment to the Police Services Act of Ontario is being considered. The addition of sections 138 through 140 to part X of the current Police Services Act will provide, we believe, streamlined guidance to the security personnel ensuring security in and around Ontario's courthouses. Proper amendment to the act, we believe, will provide specific authority to the officers and put an end to the arbitrary decision-making that has thus far resulted with respect to the issue of the kirpan, largely under the general scope of section 137 of the act as it stands now.

The issue of the kirpan and courthouse security has been a constant source of frustration, harassment and disappointment to many among the sizable population of the Ontario Sikh community. Despite clear rulings from the Supreme Court of Canada and the various human rights tribunals on issues either directly linked to kirpans or generally linked to freedom-of-religion issues and accommodation, often militating in favour of an accommodations policy towards kirpans at public institutions, Ontario's courthouse security officers continue to apply a differential and often discriminating policy towards Sikhs who wish to enter courthouses with their kirpans.

In some Ontario courthouses, Sikhs are not allowed to enter with their kirpans at all. In others, some Sikhs are allowed in with their kirpans while other Sikhs are not. Yet in other courthouses sometimes Sikhs are allowed to enter with their kirpans, while at other times they are not. In the Supreme Court of Canada and the Federal Court in Ottawa, Sikhs seem to have no problem gaining entry with their kirpans. So the ad hoc decisions seem to be entirely dependent upon the individual security officer's personal beliefs and whims.

Kirpans are allowed in the Parliament of Canada, the Ontario Legislature, and indeed in many other provincial Parliament buildings across the country. As a matter of fact, some of our members of Parliament and members of provincial Parliaments wear kirpans, and they seem to have no problem gaining entry to the Parliaments.

The arbitrary nature of the policy, when implemented to refuse entry to kirpan-wearing Sikhs into Ontario courthouses, directly violates the instructions of the Supreme Court of Canada in some of the famous cases, like Multani in 2006; Syndicat Northcrest and Amselem,

2004; and the various human rights tribunals, as in the case of the Ontario Human Rights Tribunal in the case of Pandori and the Peel board of education, which actually is a case that goes all the way back to 1990.

The arbitrariness we believe results from the lack of clear instructions to court security officers about the law in Canada on the treatment of kirpans as enunciated by our apex court, the Supreme Court of Canada.

The existing section 137 of the act, through subsections (1) through (4), whereas it requires officers to ensure the security of judges and other persons in courthouses, also simultaneously allows them full discretion through section 137(4) in “determining appropriate levels of security....” No guidance is provided regarding the special status of the kirpan. As a result, well-meaning security officers, either innocently ignorant of the significance of the kirpan or of its judicial treatment by our Supreme Court, often decide to err on the side of safety. Viewing it as a common weapon and acting with an abundance of caution, they arbitrarily refuse entry, thereby disenfranchising a large number of Canadians from access to and participation in the delivery of justice in the province of Ontario.

The kirpan is an inseparable article of the Sikh faith. While ordaining the Khalsa in 1699, the 10th guru of the Sikhs, Guru Gobind Singh Ji, made the kirpan an essential requirement for the Khalsa Sikhs. The word “kirpan” itself is a combination of two words: “kirpa,” meaning “mercy and benevolence,” and “aan,” meaning “honour.” The Supreme Court of Canada has accepted this fact in the Multani decision that I spoke about, at paragraph 37 in that judgment. The kirpan is a continuous reminder to a Sikh about the two virtues that he or she is to keep front and centre in his or her daily dealings. Once initiated, a Sikh is required to wear a kirpan at all times. To require a Sikh to remove his or her kirpan is to force a Sikh to violate a crucial tenet of his or her faith. Canada’s courts and tribunals have well understood the importance and inalienability of the kirpan vis à vis the Sikhs.

Multani was a case about the religious right of a Sikh student to wear his kirpan to his school. The Supreme Court of Canada decided in favour of the student, mandating the school board to change its policy of banning kirpans. Justice Abella, holding that the school board’s policy was unreasonable, at paragraph 109 of the judgement said: “It is difficult to imagine a decision that would be considered reasonable or correct even though it conflicted with constitutional values.” The majority opinion held that the banning of the kirpan was not proportionate to the professed objective of the school’s policy for security maintenance. Ruling on the gravity of the appellant’s religious rights violation, the majority again held, at paragraph 40 in that ruling:

“Finally, the interference with Gurbaj Singh’s freedom of religion is neither trivial nor insignificant. Forced to choose between leaving his kirpan at home and leaving the public school system, Gurbaj Singh decided to follow his religious convictions and is now attending a private

school. The prohibition against wearing his kirpan to school has therefore deprived him of his right to attend a public school.” Gurbaj Singh was the appellant in that case.

In Amselem, a leading authority on religious freedom in Canada, the Supreme Court, giving a wide reading to the meaning of religious freedoms at paragraph 46, held that an appellant only needs to establish that “he or she sincerely believes or is sincerely undertaking in order to connect with the divine or as a function of his or her spiritual faith, irrespective of whether a particular practice or belief is required by official religious dogma or in conformity with the position of religious officials.”

So on the authority of Amselem, as long as a Sikh establishes that he or she sincerely believes that a kirpan is an essential article of his or her faith, it is not up to the state and its authorities to question the basis of that faith, and the belief, then, is duly protected by the religious freedoms guaranteed in our Charter of Rights and Freedoms. That case was heavily relied upon by the Supreme Court in the Multani case, which came later, in which it overturned the school board’s policy of banning kirpans on the property.

In Pandori, which was an Ontario Human Rights Tribunal case back in 1990, the tribunal overturned the Peel District School Board’s policy of disallowing kirpans on its property. On appeal, the Divisional Court of Ontario agreed with the tribunal and the Ontario Court of Appeal further refused an appeal, thereby confirming the decisions of the tribunal and the Divisional Court on that matter. The tribunal held that the Peel board’s amendment to its policy number 48 prohibiting kirpans infringed the Ontario Human Rights Code and ordered that the offending portion be deleted from the policy and funds be made available to safeguard both religious freedoms and safety at the same time. This case has also been referred to by the Supreme Court in many of its decisions dealing with religious rights, including the Multani case, at paragraph 60 in the Multani ruling.

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It is submitted that for all pertinent purposes, Ontario’s courthouses are in the same category of public institutions as are its public schools. These institutions are funded by the public, they are for the benefit of the public and they are composed of the members of the public. Thereby, they deserve equal, similar legal treatment on the issue of the kirpan.

The current initiative undertaken by the Ontario government to amend the Police Services Act provides the much-awaited opportunity to enunciate a clear policy with regard to kirpans, thereby bringing Ontario courthouses in compliance with Canadian law.

It is in this background, as we celebrate the 30th anniversary of the adoption of the Canadian Charter of Rights and Freedoms, that we propose the following:

—that the act be amended with the addition of a subsection that provides for an express exemption for kirpan-wearing Sikhs from the no-weapons policy of admission to Ontario courthouses;

—that courthouse security officers be trained or advised through educational or instructional memos, or by any other means that the government deems appropriate, about the special religious significance of the kirpan for Sikhs; its express recognition as such by the Supreme Court of Canada; the fact, as upheld by the Supreme Court of Canada, that a kirpan is not a weapon in the usual sense of the term; and the importance of not disallowing a Sikh from entering a courthouse solely on the basis that he or she wears a kirpan; and

—that the government of Ontario, through the amended act or in any other way that it deems fit, ensure that an express, uniform, clear, consistent and province-wide policy of unrestricted courthouse access to kirpan-wearing Sikhs is implemented and followed forthwith.

Those were my submissions, subject to the committee's questions. Once again, I'd like to thank the members of the committee for this time and this opportunity.

**The Chair (Mrs. Laura Albanese):** Thank you. The Liberals will begin this line of questioning. MPP Soo Wong.

**Ms. Soo Wong:** Thank you very much for coming to the hearings. I just want to ask the deputants a couple of questions. First, does your organization support the spirit of this proposed legislation?

**Mr. Sukhdeep Singh Dhaliwal:** When you say "spirit," are you implying the issue of the kirpan as it is—

**Ms. Soo Wong:** If the legislation, with your suggestion and recommendation, included the kirpan, would your organization support the proposed legislation?

**Mr. Sukhdeep Singh Dhaliwal:** Absolutely. We are very much in favour of streamlining the vague requirements of section 137 as it exists now, to give that some sort of a clothing, if you will. The kirpan issue, if it is accommodated to the satisfaction of the Sikh community, we would be very much in support of that.

**Ms. Soo Wong:** We heard it very clear, your suggestion.

My other question to you, sir, is, does your organization—because there were also some comments made earlier this morning about head gear and other religious practices—support any kind of accommodations, not just exclusively for kirpan?

**Mr. Sukhdeep Singh Dhaliwal:** If I understand the question correctly, kirpan is one of the five articles of faith. It seems that so far, the main problem arises with the misinterpretation of kirpan as a weapon, and therefore, Sikhs are being disenfranchised.

In terms of, would there be some sort of accommodation, would there be some sort of conditions, if you will, whereby a person might have to declare they have a kirpan and so on—those issues, I think, would be dealt with as they arise, but I don't see in principle that there would be any opposition, at least from our organization, in terms of a dialogue on that issue.

**Ms. Soo Wong:** I don't think I asked the question clearly, Madam Chair. I think the question I have is that

if the proposed legislation includes the kirpan—we also heard this morning about other accommodations. I'm just asking, does your organization have any difficulty supporting legislation that accommodates not just kirpan, but other religious—

**Mr. Sukhdeep Singh Dhaliwal:** Oh. Absolutely.

**Ms. Soo Wong:** Okay. I just want to make sure—

**Mr. Sukhdeep Singh Dhaliwal:** We'd be very much in favour of that.

**Ms. Soo Wong:** —that when we talk about accommodation, like your reference to the charter, that we need to accommodate everybody, not just one particular faith or community. That's what I wanted to make sure. Thank you very much.

**The Chair (Mrs. Laura Albanese):** Thank you. I will pass it on to the Conservative Party.

**Mr. John Yakabuski:** Thank you very much, gentlemen, for joining us today. I'm familiar with the 2006 decision by the Supreme Court of Canada with respect to the definition of a kirpan as an article of faith and not a weapon. We had a gentleman from the World Sikh Organization as well earlier today asking for the same accommodation, the same exemption for the wearing of the kirpan in a courthouse. We subsequently had a deputation from the deputy commissioner of the Ontario Provincial Police, and he raised, in my opinion, a very legitimate concern—and I did confirm with my colleague Mr. Singh earlier that if he wishes to board a plane he has to remove the kirpan, religious beliefs or not.

The deputy commissioner of the OPP raised the issue that the concern that they have—and they are the ones responsible for courthouse security either by delegation or the ultimate authority. They have very significant concerns with respect to—not the wearer of the kirpan, because they're very devoted to their religious beliefs that it is not a weapon, and you've explained their reasons for wearing it and also by definition what it means. But the ability of a third party to secure that kirpan and use it as a weapon is the big concern that the OPP have. So if they were to give a blanket exemption for the kirpan, they would be allowing—not to be used by the person wearing it, but if a so motivated other person was able to extract that kirpan from the person wearing it, they could use it as a weapon. That is the concern that was put to us by the OPP. So I'd like you to, if you could, respond to that, if you might.

**Mr. Sukhdeep Singh Dhaliwal:** First of all, with regards to the question of airline security, one of the factors that distinguishes is that the airline industry is private corporations, with some exceptions, whereas—

**Mr. John Yakabuski:** But they're governed by the law of the land.

**Mr. Sukhdeep Singh Dhaliwal:** Well, the law of the land applies to all kinds of things, even restaurants or any place out there, but there are still parameters that distinguish.

In regards to the security aspect, I think the problem that we face is the viewing of the kirpan, again, from a biased perspective of it being a weapon.

For instance, in courthouses we've got all kinds of cutlery; we've got glasses, tumblers. People, if they want to use them as a weapon, could smash them and use the sharp edge. People have pens, people have canes, walking sticks, all kinds of things that could lend themselves very easily, to a willing individual, to be used as a weapon.

However, we seem to overlook—if that is what the OPP addressed, then they seem to overlook all of those, but they seem to zoom in on the kirpan. We submit very respectfully that it seems that the starting point there is a biased perception of this: “We don't care what the Supreme Court says, we don't care what the Parliament says, we don't care what the courts allow in Ottawa, but we're still going to look upon it as a weapon in clear defiance of the Supreme Court's instructions on grounds that are protected by the charter.” So there are major differences there.

**The Chair (Mrs. Laura Albanese):** Thank you very much. Now I would pass it to the NDP.

**Mr. Jagmeet Singh:** Thank you. I just want to touch on some other points and come back to the kirpan. Have you or your organization turned your mind to the requirement of producing identification in courthouses? Any views on that?

**Mr. Sukhdeep Singh Dhaliwal:** Could you please explain the question a bit more?

**Mr. Jagmeet Singh:** There is a requirement in this bill that requires producing identification, or it may be required. So there's a discretionary power given to the court security to require a person to produce identification or to provide reasons or information why they're attending the court. Have you or your organization turned your mind to those requirements?

**Mr. Sukhdeep Singh Dhaliwal:** I do recall us having some conversations around that issue, and I think the consensus was that if courthouses are venues where justice is conducted, where justice not only ought to be done but ought to be seen, and where we have free access to everyone, all individuals, then requiring people to produce their identification seems counter-productive at the very least, but also could be used as a tool, or misused as a tool, of profiling later on. It just didn't seem appropriate to us that the authorities would require or need people's names. As long as individuals are there and they're compliant with the law, it shouldn't matter whether or not they have a particular identification with them. So I think we're, in principle, against that.

**Mr. Jagmeet Singh:** Okay. And then just with respect to the issue of the kirpan and safety, you touched on it very well in describing the many other issues that arise in a courthouse that are never raised, like a cane, like a glass that's available that could be used as a weapon by someone who has that desire. Just to allay any concerns, though, would you be able to suggest any reasonable accommodation to prevent maybe a third party from accessing a kirpan?

**Mr. Sukhdeep Singh Dhaliwal:** I think the courts have already spoken about that in various decisions. I

don't have the details with me right now, but I'm sure that once, in principle, we accept that we, as a government, are going to enforce the law as enunciated by the Supreme Court, then how that law is implemented in terms of the administrative nitty-gritty could be figured out once we get to that bridge and we can cross it.

I don't see, in principle, any objection to that so far.

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**Mr. Jagmeet Singh:** Okay. With respect to kirpans being worn in other jurisdictions, if you could just clarify where kirpans are currently allowed, in terms of public institutions.

**Mr. Sukhdeep Singh Dhaliwal:** Right. I recall a couple of years ago I was in Ottawa visiting our national monuments with my father, who's an Amritdhari Khalsa Sikh, who wears a kirpan. We didn't seem to have any problem at all. As a matter of fact, the officers knew what the object was. They didn't say it was a dagger or a weapon. They knew the term “kirpan,” and they were quite accommodating. They let us into the Supreme Court of Canada, the federal court.

I also know that in some courthouses—for example, in Brampton—certain individuals, if you're an officer of the court—if I was a lawyer or somebody who works for the courthouse, I would not have a problem getting the kirpan in, whereas if I was an individual member of the general public, I would not be allowed in. In some other courthouses, it depends on who the officer is on duty. Some officers will not have a problem; others will. So there seems to be very inconsistent, ad hoc decision-making going on.

What I found ironic, if you will, is that in areas where Sikhs don't have a sizable population geographically, they don't seem to have a problem with the kirpan, whereas in areas like Peel, where the Sikh community is quite flourishing, there seems to be this discrimination rampant, even though it should be the other way around. It's one of those peculiar things that I couldn't help noticing.

**The Chair (Mrs. Laura Albanese):** I would like to thank you for appearing before the committee today. Unfortunately, our time together has expired.

#### CANADIAN CIVIL LIBERTIES ASSOCIATION

**The Chair (Mrs. Laura Albanese):** I would call upon the next presenter, from the Canadian Civil Liberties Association. Again, I would ask you to state your name for the purposes of Hansard, and you may begin your presentation any time. You have up to 10 minutes.

**Ms. Nathalie Des Rosiers:** My name is Nathalie Des Rosiers. I'm the general counsel for the Canadian Civil Liberties Association. I'm accompanied by Abby Deshman, who is our director of public safety; and Vladimir Shatiryanyan and Sheetal Rawal, who are students at Canadian Civil Liberties. Merci beaucoup. Thank you

very much for allowing Civil Liberties to appear before you.

L'Association canadienne des libertés civiles accueille favorablement l'abrogation de la Loi sur la protection des ouvrages publics, et nous sommes particulièrement contents de célébrer cette abrogation.

**Mr. John Yakabuski:** Excuse me—

**The Chair (Mrs. Laura Albanese):** It's only the beginning—

**Ms. Nathalie Des Rosiers:** Yes, I'm moving to English.

**Mr. John Yakabuski:** Okay, because I don't have any translating equipment here.

**Ms. Nathalie Des Rosiers:** I'm moving to English right away. I just said that I was pleased that the Public Works Protection Act was being abrogated.

**Mr. John Yakabuski:** That's what I thought you said.

**Ms. Nathalie Des Rosiers:** That's right. So you feel better, now that you—you are almost bilingual.

*Interjection.*

**Ms. Nathalie Des Rosiers:** Yeah, yeah, that's good.

Anyway, we welcome this repeal, certainly, and we also applaud the government's commitment to passing targeted legislation that specifically addresses the security needs of courthouses and power-generating facilities, as opposed to having a general piece of legislation which was much more unwieldy.

However, we have some concerns, and you can see our concerns. We have suggestions for improvement to the bill, and they are listed at the bottom of page 1 of our mémoire that has been circulated. I will make three brief preliminary points and then just explain why we think the legislation could be improved.

My three points: The first one is the importance of the open court principle. Certainly, I think you've heard the Canadian Bar Association expressing it. I want to add just one point on the open court principle. The point is not to impede access to the court but, on the contrary, to accommodate and facilitate that access to the court, for many reasons. First of all, it is incumbent to ensure the proper workings of the court; it ensures the legitimacy if people can come and see what's going on. It also is important because it demystifies the working of the courts if people can come and see what's going on. Indeed, there's a public interest in facilitating and ensuring that people have free access to it. So it's in that context that we should look at these provisions, with a specific worry about what will be the impact on the access to court. Certainly, I think nobody will go to court if it's dangerous, so we recognize that it's important to protect safety, but it must be done in a context where the open court principle is a core value of our society.

The second preliminary point I want to make is that the Criminal Code continues to exist; that is, this legislation is not the only source of power for law enforcement. It's important, when we imagine scenarios—which we should—that we don't forget that there's a Criminal Code out there that allows police officers in exigent circumstances to search and to arrest. If somebody is

uttering threats, that's a criminal offence, and so on. So I'm going to refer to the fact that at times it may be that this legislation reaches a little too far, maybe forgetting that there are already, in the Criminal Code, sufficient provisions to respond to the perceived dangers.

Finally, my third preliminary remark links to the fact that the powers that we're having here—powers of search, powers to demand information, powers to demand identification and warrantless searches—are all extraordinary powers, and those are the normal powers that we give police officers. So it's important that we recognize that our charter requires that extraordinary powers be used not only reasonably—and the word “reasonable” figures here too—but it has to be justified in a free and democratic society. To assert whether or not it's justified, you need to have evidence of what you're trying to do, it has to be rationally connected and it has to limit the right as little as possible. There's an obligation to not go too far, and that's a little bit where we're going to go.

What we've done to prepare for this is to look at all the other jurisdictions across Canada. This has been a subject of recent amendments. None of them provide for warrantless search powers of vehicles—none of them across Canada. None of them provide for the demand for information. Some of them provide for the powers to demand identification. None of them have been challenged in front of the courts. Our position and the way in which we've approached this idea of identification is that it's a very dangerous precedent here.

People should be able to go to court in an anonymous fashion because that's the way in which the court system works. If you start asking for identification, people will know whether or not someone has been coming to court and for what reason. We ought not to do this. There is a right to anonymity to access public buildings, and unless you have good reasons and you can show why this is important, then you ought not to go that route. It's the beginning of asking for identification for people everywhere all the time, and I think that's a route where we don't want to go.

Certainly, I think if someone is well identified as being a threat, he or she will be identifiable physically, and that's, I think, the way in which we should approach this. The requirement that everyone be subject to producing identification will delay access to the courts and is incompatible with a free and open and welcoming court system. So that's the reason why we object to it.

The six provisions that you see on page 1 are essentially our suggestions to improve the act. We suggest to remove the powers to demand general information. We suggest a removal of the identification requirement, as I explained, and of the power to search vehicles. That's not consistent with what's going on across Canada and it's not necessary if you look at what powers currently exist in the Criminal Code.

All the statutes across Canada are focused, and we agree with this, with the fact that there ought not to be weapons in courthouses. The framing is, we allow and

we should allow screening of people as they enter a courthouse—and we have some suggestions on how it must be done and so on—to detect whether people are carrying weapons. That’s how the legislation should be looked at. It’s the possession of weapons that is dangerous in a courthouse; that’s the one that we should look at.

**Random searches:** Our third point there is to restrict and to frame random searches. Our Supreme Court and section 8 of the charter do not like random searches very much because it subjects the citizens to the whim and the arbitrariness of being searched. In a way, the only way that you can accept random searches is that if they are done in a systematic way: Either it’s every one or it’s every second one or it’s every fifth person, so there’s not the feeling that you’re being targeted because of what you wear or because of who you are and so on.

**1450**

The way in which a random search that is formalized is done is something that we accept. Everyone passes through the metal detector—no problem. But it has to be to inspect whether people are carrying weapons, and it must be done in a way that people know in advance. It prevents a lot of negative interactions and conflict zones if people know in advance—it’s written outside, and it says, “When you enter the courtroom, you will have to pass through a metal detector.” People know, and they know that they will be searched in that context. Their purses will be searched, their possessions will be searched, through the metal detector, and they know that in advance. It would save a lot of aggravation.

As you see, we do support the idea that we have to incorporate measures for judges, security officials and other appropriate authorities to accommodate religious beliefs. I think you’ve heard about the kirpan for sure and other beliefs that require accommodation.

Finally, our number five, just to finish on this, is that if a police officer suspects on reasonable grounds that someone is carrying a weapon, in our view, it’s appropriate to ask the person to go back to security and be checked to see whether they’re carrying a weapon.

So the framing is, weapons are wrong in the courthouse—they don’t belong there—but everyone else is welcome. That’s essentially the position of the Canadian Civil Liberties Association.

**The Chair (Mrs. Laura Albanese):** Thank you very much for your presentation. The Conservatives have the first round.

**Mr. John Yakabuski:** Thank you very much for joining us today. I want to first thank you and commend you for your support of freedoms during and in the time following the G20 summit. We all know that that’s part of the impetus that has us here today, what went on here in 2010.

One thing I did want to point out about the changes being made and the repeal of the Public Works Protection Act: It now is narrowing the scope specifically to courthouses and generating facilities, most particularly nuclear.

I have a question about the requirement of ID. No one really believes that everybody is going to be asked for ID, but under certain circumstances, if someone is considered to be acting suspiciously, this law would give them the power to do that. I just want a little more comment on that, the need of security to have some ability to make judgments.

The other thing I want to ask you about—because I know that your organization specifically called on the provincial government to formally apologize for its role in the use of the Public Works Protection Act in the violation of constitutionally protected rights during the G20 summit. We share that view. I think most people in this Legislature share this view. Has the government ever formally apologized for its use of this law with regard to the G20?

**Ms. Nathalie Des Rosiers:** Not to our knowledge.

**Mr. John Yakabuski:** That’s regrettable. So if you could maybe comment on the ID part?

**Ms. Nathalie Des Rosiers:** Well, in our view, identification is not particularly a good tool of law enforcement in a courthouse. As I said, the Criminal Code is still there for police officers to do the enforcement that they need to do. And it’s in that context—you know, people are obliged to identify themselves if they are going to be arrested. In that context, they have the obligation to identify themselves. Outside of that, when we walk around, we don’t have the obligation to identify ourselves.

In our view, if you want to facilitate access to the court, for the reasons that I have explained, it’s a better way to ensure that people come to court. They’re welcome. They ought to be there to see how it works. To the extent that they have committed a criminal offence, certainly they will be arrested and asked for identification. So in our view, there’s no need to demand identification. Indeed, I think in a random—the idea that we should give this power because it probably won’t be abused—

**The Chair (Mrs. Laura Albanese):** Thank you.

**Ms. Nathalie Des Rosiers:** The problem with this in a context where people come into a public place is the way in which it has happened in the Public Works Protection Act, as we saw around the fence.

**The Chair (Mrs. Laura Albanese):** Sorry, I have to interrupt you. I said, “Thank you,” and that means that the time for the PCs is up.

*Interjection.*

**The Chair (Mrs. Laura Albanese):** I understand. Unless you agree that she continues.

**Mr. Jagmeet Singh:** Yes, I think she should. Not to take away time, but just out of fairness. I can be cut off; I’m just a person on the committee. But a witness should be entitled the fairness of—

**Ms. Nathalie Des Rosiers:** I will finish quickly.

**The Chair (Mrs. Laura Albanese):** Thank you.

**Ms. Nathalie Des Rosiers:** Simply that it creates the interactions. People should know in advance what’s going to be the law, and they should not be subject to

random or arbitrary demands. That's what happened around the fence, and that's what people were being asked—"Identify yourself; don't identify yourself"—and it creates chaos.

So our view is, the rule should be the same for everyone, and the Criminal Code is there to provide law enforcement officers with the powers that they need to do law enforcement.

**Mr. John Yakabuski:** Thank you very much.

**The Chair (Mrs. Laura Albanese):** Mr. Singh, please proceed.

**Mr. Jagmeet Singh:** Thank you so much. Thank you very much for being here.

I just want to clarify some questions or some areas. If I understand correctly, the position of the civil liberties association is that the search powers be limited specifically for the search of weapons or something dangerous to the courthouse.

**Ms. Nathalie Des Rosiers:** That's it. We suggest that you look at the Manitoba legislation that has been recently amended in response to two court decisions. I think, in our view, that's a good model. But I repeat, all legislation across Canada seems to be targeted at—the problem is weapons or dangerous things, but weapons are—

**Mr. Jagmeet Singh:** Just to cite the Manitoba legislation, the Manitoba legislation is legislation with a very extensive regulation component which actually defines what a weapon is and defines what these items are. That's something you're suggesting would be—

**Ms. Nathalie Des Rosiers:** In our view, the most clarity avoids problems on the ground, and it prevents some interactions that can be unpleasant. Police officers don't like it either when there are some interactions. People debate whether they should be allowed or not. Clarity, particularly in access to a public space, is important.

**Mr. Jagmeet Singh:** Thank you. So the way that the section is worded currently in schedule 2, do I understand correctly that the association takes issue with the powers that allow security personnel to require a person to produce identification, provide information, as well as the powers which allow a search without warrant of the vehicle which someone is driving as well as the vehicle in which they were a passenger?

**The Chair (Mrs. Laura Albanese):** Ten seconds left.

**Ms. Nathalie Des Rosiers:** Yes. So we object to 138(1)1, 138(1)3 and 138(1)2, so identification, information and search—

**The Chair (Mrs. Laura Albanese):** Thank you.

**Mr. Jagmeet Singh:** And would you support accommodation for kirpans—

**Ms. Nathalie Des Rosiers:** Yes.

**Mr. Jagmeet Singh:** —and other religious articles?

**The Chair (Mrs. Laura Albanese):** Sorry, but the time is—

**Mr. Jagmeet Singh:** Just answer to that.

**Ms. Nathalie Des Rosiers:** Yes, it is page 1 of our packet.

**The Chair (Mrs. Laura Albanese):** Thank you for that. Ms. Wong.

**Ms. Soo Wong:** Thank you, Madam Chair. Just a quick question for you, to the deputant: Does your organization support the spirit of repealing the PWPA?

**Ms. Nathalie Des Rosiers:** Absolutely. I think we have been asking for the repeal of the Public Works Protection Act. As I say, we welcome it and we're very happy about his.

**Ms. Soo Wong:** Now, given your recommendations and your proposed amendment, does the proposed amendment and the numerous suggestions being put forth to the committee—does it reflect the McMurtry report and his recommendations?

**Ms. Nathalie Des Rosiers:** In our view, this does not reflect—our concerns, I think, have been expressed before and continue to be the same. I think the legislation needs to be improved to meet the spirit of the McMurtry report and actually respond to the need to ensure that courthouses are places where people can go. It's important for our justice system and it's important for certainly officers of the court, but it's also important for the public and for the public interest.

**Ms. Soo Wong:** My last question here is, what I heard you said this afternoon—you do not have a problem with random searches, but if you search for the sake of searching, you would have concerns.

**Ms. Nathalie Des Rosiers:** Yes. A random search that is formalized, that is either everyone or every fourth person, can be acceptable if people know in advance. People should know that "I'm going to go to the courthouse and I'm going to have to open my purse." If you know in advance, it's far less intrusive than if you don't know or if you arrive and somebody suddenly says, "Hey, you. Step over here. I want to search your purse." That's where there are negative interactions. That's where people, maybe, respond impolitely and it creates a sense—

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**Ms. Soo Wong:** Just to follow through with this is the fact of how you inform the public. What is the proper way to inform the public? You said you would need to inform the public: by posting signs outside or—

**Ms. Nathalie Des Rosiers:** Yes, certainly. And I think if it's clear—you need a sign outside, far enough so that people can prepare themselves for what's going to happen to them. If it's the same, we would want a certain level of compliance assurances so that, indeed, the experience of accommodation is being done properly throughout the province and so on.

Once you exercise special powers under our Constitution, you need to do it seriously, so you need to do it in a way that is well framed, that is not excessive and that, also, is being supervised in some fashion.

**The Chair (Mrs. Laura Albanese):** Thank you very much. Thank you for your time.

**Mr. John Yakabuski:** Perhaps the government members wanted to take this opportunity to issue that apology.

**The Chair (Mrs. Laura Albanese):** I can't—I'm on a tight timeline here.

Thank you very much for your time.

**Mr. Lorenzo Berardinetti:** Madam Chair, point of order?

**The Chair (Mrs. Laura Albanese):** I'm on a tight timeline.

**Mr. Lorenzo Berardinetti:** I think the member has to apologize, because he's painting the government as being unreasonable in the questions and in the act.

**The Chair (Mrs. Laura Albanese):** I appreciate your concerns, in pointing them out, but we're moving forward with the deputations.

#### CANADIAN SIKH ASSOCIATION

**The Chair (Mrs. Laura Albanese):** I call on the Canadian Sikh Association to come forward. If you could please state your name fully and your title for the purposes of our Hansard recording. You will have up to 10 minutes for your presentation, and that will be followed by 10 minutes of questioning by all parties. You may begin any time.

**Mr. Baljit Singh Ghuman:** Thank you very much. My name is Baljit Singh Ghuman, and I'm the chair of the Canadian Sikh Association.

First of all, thank you very much for giving us this opportunity to be here and present the issues on behalf of the Sikh community. Our organization's aim is to actually promote civic engagement and empower communities to address issues related to human rights and social justice.

Our mission is to promote and strengthen multiculturalism in Canada by encouraging and providing the required platform and resources for active participation in social and political activities and bringing healthy changes to our system.

For the last few years, we have been working on various Sikh issues with the community and elected members of all political parties in Ontario. The issues that we have been dealing with have to do with the Sikh articles of faith, also known as the five Ks, and more specifically with wearing the turban and kirpan at workplaces, courthouses and also while riding a motorcycle in Ontario.

We do have a formal presentation, and at this point I will ask my colleague Mr. Manohar Singh Bal to actually continue with the presentation. Thank you.

**Mr. Manohar Singh Bal:** Thank you very much. As stated already, my name is Manohar Singh Bal, and I am the secretary of the Canadian Sikh Association. We do have a presentation, which we handed out to you earlier. I will go to page 3, and take it from there on.

It is a religious requirement for the Sikhs to wear the Sikh articles of faith. Despite all the guarantees and protections provided before and under the law, Sikhs are facing hardship in practising their religion. It is because the Sikh articles of faith are not recognized in our laws. Our policies do not respond to the needs of the Sikh community.

Although this issue covers many jurisdictions, such as transportation, workplace and the usage of public institu-

tions, our presentation today in front of you only covers one aspect of this issue, and that is the wearing of the kirpan in Ontario courts.

The right to wear kirpan has been recognized. It was in 1981, when Professor Frederick Zemans rendered his decision, as chair of a board of inquiry convoked under the Ontario Human Rights Commission, that a Sikh patient has the right to wear kirpan at a hospital operated by the Workers' Compensation Board.

Professor Zemans stated: "In my opinion, we cannot infringe upon the practices of religious minorities simply because of unreasonable apprehensions of other members of society."

A few years later, another board of inquiry, headed by Dr. Gunther Plaut, determined that Sikh students and teachers have the right to wear kirpan in Peel schools and ordered the Peel board of education to withdraw the offensive policy prohibiting kirpans.

Since then, the Supreme Court of Canada has recognized the right of the Sikhs to wear kirpan. Sikhs can wear kirpan when visiting the Ontario Legislature—and I am wearing one today—and the House of Commons. Sikhs are permitted to wear kirpan at the London Olympics. Yet wearing of kirpan is prohibited in Ontario courts. This is the time for the lawmakers of the province of Ontario to recognize the religious right of a minority and enact law which recognizes the Sikh way of life.

Over the last 25 years, the Sikh community has been working with various stakeholders to address this issue. In a memorandum dated November 29, 1988, the then director, policy and research unit, of the Ontario Human Rights Commission, Ms. Tanja Wacyk, stated, "There appears to be no justification for such a policy, and the Sikh community should be encouraged to work with us in resolving this matter," the matter being that kirpans are not allowed in Ontario courts.

We have been working on this for a long time. We have had many meetings and consultations with successive governments, but none had shown leadership to address our concerns. This is the time for our political leadership to lead in this area.

If I can very briefly say this: With respect to the wearing of the Sikh emblems and the right not being recognized in the laws, when some members of the Sikh community take this either to the Ontario Human Rights Commission or to civil litigation, the negative media publicity which we get harms race relations in this province. Although various governments in the last 25 years have had race relations policies, when the rights of the minorities are not protected and they fight for those rights, as I said earlier, the negative publicity which they get from the media, may that be print or TV or radio, hampers their progress and settlement in society.

Therefore, we recommend the following with respect to wearing of the kirpan in Ontario courtrooms:

Under the Police Services Act, it is the responsibility of each municipal police services board to provide courtroom security. Bill 34 amends the Police Services Act. Section 138 elaborates the procedure to provide

courtroom security. We recommend that the kirpan be recognized in this section of the act, and the Sikh right to wear it should be incorporated in the law, or that a regulation under the Police Services Act, section 135(1), is developed. The Police Services Act, under section 135(1), does have a provision to develop such regulations, prescribing certain standards.

Previously, we mentioned the decision of Dr. Gunther Plaut. During the hearing of the Pandori case at the Ontario Human Rights Commission, Dr. Plaut had a number of questions about the Sikh practices, with reference to the wearing of the kirpan. He wrote to the supreme religious body of the Sikhs in Amritsar, Punjab, India, and sought clarification. We are attaching a copy of the response. We are hopeful this information in our attached letter will help you in your deliberations and decision-making. Thank you very much.

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**The Chair (Mrs. Laura Albanese):** And thank you for your presentation. Mr. Singh.

**Mr. Jagmeet Singh:** Certainly. In respect of the recommendations, your organization doesn't take any issue with either the exemption being applied directly to the legislation or the exemption being mandated in a regulation.

**Mr. Manohar Singh Bal:** No, what we are saying is that it should be clearly stated in the law itself that this is a religious right of the Sikhs and it is recognized as such, and becomes part of the law.

**Mr. Jagmeet Singh:** With respect to the fact that, though the kirpan is allowed in the House of Commons, the Ontario Legislative Assembly and in the Supreme Court of Canada, and Supreme Court decisions have recognized the nature of the kirpan being an article of faith—that hasn't been sufficient in allowing the kirpan in courthouses?

**Mr. Manohar Singh Bal:** Not at all. I will say, not only some of the facts which you mentioned but some other vague policies and procedures—we'd rather that be of the Ontario government or of the federal government—sort of talk about all these rights, but when it comes to the implementation of those rights, it is a totally different thing. So those decisions which have been made, for example, even in this case here in the Peel board of education versus Pandori—this was about 25 years ago, but that decision did not encourage the government of that day that, if this is the issue in this particular jurisdiction, we should look proactively in other areas and see where this needs to be incorporated in the law or in the policy. That didn't happen. Again, the case at the Supreme Court or at the Ontario Human Rights Commission is only limited in its capacity to grant these rights to the Sikh community.

With reference to this particular issue, the only way to fully have it implemented universally, throughout the province, is to have it incorporated in the law. Otherwise, what will happen is that one jurisdiction may or may not exempt, and others may or may not exempt. So there will be disparity even within the province with respect to

these rights of the Sikhs, and then we will end up fighting each municipality, one at a time.

**The Chair (Mrs. Laura Albanese):** Thank you. We have 30 seconds left.

**Mr. Jagmeet Singh:** And with respect to other accommodations, does your organization support accommodations for other religious articles of faith, including the hijab, the turban and the yarmulke? What's your position with respect to accommodations for those who are special needs and require assistive devices, like a cane or a walker?

**Mr. Sukhpaul Tut:** Sorry. My name is Sukhpaul Tut. Thank you for the question.

Absolutely, we wholeheartedly believe in the values of this province and support equal rights to be attached to all communities. Whether based on race, colour, creed; whether there's a disability attached or not, we support it wholeheartedly.

**Mr. Jagmeet Singh:** Thank you very much.

**Mr. Baljit Singh Ghuman:** I just want to add to that that it's for the freedom of religion. It doesn't matter which religion it is. We do support that.

**The Chair (Mrs. Laura Albanese):** Thank you. We'll pass on to the Liberal Party.

**Ms. Soo Wong:** Thank you very much for coming before the committee. Just a couple of quick questions: Did I hear correctly that your organization asked specifically to deal with accommodation dealing with the kirpan, dealing with section 138 of the proposed legislation, to be put into the legislation?

**Mr. Manohar Singh Bal:** That is correct. We are specifically asking for that.

**Ms. Soo Wong:** If that is included, does your organization support Bill 34?

**Mr. Manohar Singh Bal:** I guess we will.

**Mr. Sukhpaul Tut:** Yes, we do.

**Ms. Soo Wong:** Okay. That's all I wanted to know. Thank you very much.

**The Chair (Mrs. Laura Albanese):** Okay, we'll pass on to the Conservative Party. MPP MacLaren.

**Mr. Jack MacLaren:** We've heard the Canadian Civil Liberties Association and I think the Ontario Bar Association express concern about the request to provide identification, the request to be searched—that these were infringements on constitutional rights. Could you tell me, do you have concerns about those rights, that this would—

**Mr. Manohar Singh Bal:** I guess if the person who is in charge of the security in any particular case, if they want to simply inquire if I'm wearing the kirpan or not—I guess if they want to ask me that, I would not have any specific objection to it. But if he wants to—basically, if what we're asking for is accommodated in the law and then this question is asked of me, I would feel comfortable in answering that.

**The Chair (Mrs. Laura Albanese):** Any more questions? No. Thank you very much. Thank you for your presentation and for being with us today and appearing before the committee.

**Mr. John Yakabuski:** Well, I had a question.

**The Chair (Mrs. Laura Albanese):** You have another question? Okay.

**Mr. John Yakabuski:** We have time, don't we?

**The Chair (Mrs. Laura Albanese):** Well, you have—

**Mr. John Yakabuski:** I just turned it over to my colleague first.

**The Chair (Mrs. Laura Albanese):** Sorry. Yes, you do have a couple of minutes.

**Mr. John Yakabuski:** Thank you very much for coming. We've had other submissions very similar to yours with regard to an exemption for the kirpan. I'm reading a letter from your organization to Ms. Ginsburg. It goes on to talk about the rules—it's a question and answer—and the importance and the lack of option when it comes to the wearing of the kirpan for a baptized Sikh. My question is, in the case of the courts today—and some have recognized and given exemptions to kirpans; others have not. It's not an absolute thing, I guess, currently. For a baptized Sikh, would they then have to make a choice about leaving? What has been the practice if they've been in a courtroom that doesn't recognize that it's an article of faith, that they view it otherwise? Courts have been kind of all over the map on this, according to the testimony today.

**Mr. Manohar Singh Bal:** You mean right now?

**Mr. John Yakabuski:** Yes. If—

**Mr. Manohar Singh Bal:** Right now, if you're wearing a kirpan, you cannot go into the courthouse—period.

**Mr. John Yakabuski:** Right. So what if someone was wanting to go into the courthouse and was met with resistance saying, "You cannot with the kirpan"? What would be the choices left to that person?

**Mr. Manohar Singh Bal:** Well, there are three ways people have been handling this. One is that they send somebody else if they need to pick up some information, so then they have the choice not to go in. Secondly, there have been some cases where the people have decided not to go, and the case has been decided against them—I mean, they have been found guilty or whatever. That has been one scenario. The third is, there are some people who make the choice of removing the kirpan and leaving it at home or wherever and go in the courthouse without it.

**The Chair (Mrs. Laura Albanese):** Thank you. I appreciate your time and your answer.

#### CRIMINAL LAWYERS' ASSOCIATION

**The Chair (Mrs. Laura Albanese):** We'll now move on to the next presenter, the Criminal Lawyers' Association. We would ask you to come forward. Please state your name fully so that we can have it recorded in Hansard. You will have up to 10 minutes for your presentation. That will be followed by questions by all parties, another 10 minutes for that.

**Mr. Howard Krongold:** Thank you, Madam Chair. I should say at the outset that I'm probably going to call

you "your honour" at some point. I'll apologize in advance for that.

My name is Howard Krongold, and I'm a director of the Criminal Lawyers' Association. First, let me say that I bring greetings on behalf of our association, the 1,000-plus members across this province.

The Criminal Lawyers' Association was founded in 1971 and acts as the voice of the criminal defence bar in this province. We're consulted by every level of government. We appear in courts all across this province representing the interests of our members.

With respect to courthouse security, our members spend their days in the courthouses of this province, and we are certainly one of the beneficiaries of good courthouse security. Our concern, though, is to ensure that there is also a measured and balanced approach to ensuring courthouse security in this province.

There are three main concerns that we have about the proposed legislation. The first one is one that I think you may have heard about today from the Ontario Bar Association and may hear about later from my colleague Mr. Zochodne, that there is no exception in this legislation for counsel.

**1520**

I won't go into it in great depth, but obviously lawyers are officers of the court. We're essential justice system participants, and our view is that by exempting counsel you can preserve, first of all, our dignity to enter our workplaces where we're known, where we can be subject to pre-screening by security, and preserve the appearance of independence for our clients.

For a practical matter, it would also help ensure that courts aren't held up—

**The Chair (Mrs. Laura Albanese):** Excuse me, could I ask you to speak more into the microphone or adjust the microphone accordingly? Some of the members are having trouble hearing you.

**Mr. Howard Krongold:** Of course. I'll do my best.

The second thing I was going to say is that exempting counsel serves an important practical purpose: It ensures that the courts are not held up by counsel who are having trouble getting in the door because of a long lineup. That sounds like a minor problem, but the courts in this province are, unfortunately, very often backed up, and having counsel arrive 10 minutes late puts an extraordinary strain on the justice system.

It also, of course, would protect client privilege by allowing counsel to enter when they present proper identification and, in my submission, would present no substantial danger to courthouse security.

The second concern that the CLA has about this legislation is its breadth. We agree that it may be necessary to conduct security searches of all persons, obviously subject to exceptions for counsel, who enter courthouses. This bill goes well beyond what, in our view, is required to have a reasonable assurance of safety in the courts. This bill would permit police to demand identification. It would permit police to demand an explanation why somebody wants to go into a courthouse and permits

even a search of a vehicle, which is a particularly unusual provision, in my submission. Very few courthouses in this province even have parking onsite, but the bill seems to permit that, even if you parked three blocks away on the side of the street, you might have to submit your car to a search in order to enter a courthouse.

I think that the best indication of what's appropriate is shown by the practice in this province. The vast majority of courthouses, I should say, don't have any security screening, none whatsoever. There are certainly ones that do, and that can be quite justified, but practice has shown that a simple airport-style security screen to ensure that nobody enters armed with weapons or dangerous objects is more than sufficient.

There are, of course, in cases of particular dangers, still police powers that can be exercised within a courthouse. The police have the power to question people and, when they have appropriate grounds, to detain them and even to search them when there are specific, individualized grounds. Our concern is that this bill would tend to make entering a courthouse a pretext for a groundless, generalized criminal investigation of everybody who comes in the door, and we say that's too broad.

Our third problem—and I don't know if this is one that has been identified by the other parties, so I hope I can add something in this respect. The bill seems to permit courthouse security to pick individuals out at random, so not just individuals who happen to be entering a courthouse, but it seems to permit not only those who are entering or attempting to enter, but also those who are on such a premises. This would seem to allow security or the police to individually select people with no grounds and subject them to arbitrary scrutiny, questioning, identification and a search of their person and their vehicle.

There are two very pressing problems that we say exist with respect to that power. The first one is discrimination. It seems almost unavoidable that one will be met with claims of discrimination when you select people for special scrutiny with no objective reasons for it. Ultimately, those selected will be picked because somebody doesn't like the look of them. And we know that that can often be, or be viewed as being, a proxy for race, a person's manner of dress or appearance, or their associations. We know that there are members of the community who already feel targeted by the police. The last place that they should feel that they're subject to completely arbitrary search and questioning is a courthouse.

The second concern is a related one, and that relates to concerns that there could be or could be an appearance that these powers are being used in a retaliatory manner. One can imagine a defence lawyer who gives a police officer a particularly hard time in court. One can imagine a witness who has come to court to testify about abuse that he or she may have suffered at the hands of the police. One can imagine even a witness who comes to testify in support of a notorious and disliked accused person. We can imagine those individuals also being subject to arbitrary, random, groundless questioning and search.

On behalf of the CLA, we would urge you to consider redrafting this bill to authorize security searches of persons and effects for everyone entering a courthouse for security purposes with an exemption for counsel upon presenting proper identification. That, in our view, would grant police officers the necessary powers to prevent the real problems that can exist in terms of maintaining courthouse security but would not overreach.

**The Chair (Mrs. Laura Albanese):** Thank you for your presentation. It's the government's turn to start the questioning.

**Ms. Soo Wong:** Thank you very much for coming to the hearing. I just want to get some clarification, and I just want to make sure I heard what you just said. Did I hear you correctly saying that you would like to amend the proposed legislation to state that everybody will be searched except for counsel?

**Mr. Howard Krongold:** Yes. I mean, there may be another way to phrase that. There may be other justice system participants who can be pre-screened by security who might be appropriate, for example, clerks, perhaps jurors, certainly judges, crown attorneys whom one would not expect would need to be subjected to a security screen. Our concern here is that there should be an exemption recognized in law so that counsel who can present appropriate identification aren't routinely searched by court security.

**Ms. Soo Wong:** So if every individual going to court will be searched, which you suggested, would that delay entrance to the courtroom? I'm just visualizing—

**Mr. Howard Krongold:** If everybody is searched?

**Ms. Soo Wong:** Yes.

**Mr. Howard Krongold:** Absolutely, and I think it does. I should say this: From my understanding, and I did begin my practice in Toronto, every court in the GTA does security searches of everybody who enters, and there can be quite long lineups. As far as I'm aware, every one also exempts counsel from those security measures.

**Ms. Soo Wong:** So if that's what you're suggesting, does your organization have any problem asking for identification?

**Mr. Howard Krongold:** I think that what should be aimed for is the least intrusive measures that will still accomplish the goal of courthouse security. I think our concern is that, for one thing, there are certainly members of the community who may well feel uncomfortable just because they want to go to court that their identification is being checked, that they're being kept track of by the police. It seems, I would submit, an unnecessary step, given that we're already assuring that nobody who enters a courthouse has a weapon on them.

I'll say this as well. I noticed, for example, when I came into this building today that there is identification taken. I know that the same thing occurs in the Senate of Canada; I'm sure it's the same in the House of Commons. One of the differences, I think, is this: A courthouse is a busy location. It's not like a Legislative Assembly, where people often—

**Mr. John Yakabuski:** Where we do nothing.

**Mr. Howard Krongold:** Well, no, no. I didn't have a chance to wander the halls here, but I have a feeling—

**Mr. Shafiq Qaadri:** Get elected and see.

**Mr. Howard Krongold:** This is a hot bench, as we would say.

It seems to me that there are areas throughout this building where one can imagine you could wander and you may find yourself alone in a hallway with somebody you've never seen before, and there may be some justification for having identification taken at a place like this. Courthouses are busy, secure locations. It seems to me that people should be able to come and go as they please and that there doesn't seem to be any pressing need for taking identification from people coming into the courthouse.

**Ms. Soo Wong:** My last question, Madam Chair—

**The Chair (Mrs. Laura Albanese):** Sorry, the time is up, and I have to continue. Please proceed.

**Mr. Jack MacLaren:** I'm very pleased to see that you're concerned that the law goes too far with regard to identification, information, vehicle searches etc., because it's a terrible thing to see our liberties and freedoms taken away from us, and too much policing can do that.

Do you think we need this legislation at all to provide the required security in courtrooms?

**Mr. Howard Krongold:** Well, I guess there are a couple of aspects to that. I suppose one could ask whether legally it's required, whether the police might have the authority to set up this sort of basic security screen on their own without the legislation. It seems that that may be possible, although, that said, it's always preferable to have specific legislation to ensure that this kind of discussion takes place, where appropriate limits are put on police powers in the context of doing courthouse security searches.

In terms of whether searches are necessary at all, I think that probably varies. As I indicated, almost everywhere in the province there is no security screening done at any courthouses. That's quite a different situation in the GTA, and that's because of some very tragic circumstances that arose some time ago.

1530

**Mr. Jack MacLaren:** But if we agree that not having weapons in a courtroom is a most desirable objective, could that be done without legislation?

**Mr. Howard Krongold:** That's a legal question that I'd be hesitant to give a firm opinion on—

**Mr. Jack MacLaren:** That's your job.

**Mr. Howard Krongold:** It seems that it may well be that police have common law powers to set up searches where it's justified, provided that they're narrowly tailored. Again, though, I think there is real value in having the Legislature address the issue directly and set appropriate limits on it. One of the difficulties of common law powers is that very often no one knows what they are until they become tested. That's an unsatisfactory way of dealing with things, and it doesn't permit the Legislature to speak on what the appropriate contours

of those powers are. So it may be that the police have powers, but I would suggest that it's preferable to deal with it in carefully tailored legislation.

**The Chair (Mrs. Laura Albanese):** Twenty seconds.

**Mr. Jack MacLaren:** Is it not true that the Criminal Code provides for some protection and would give police authority to intervene where there was risk observed or with people behaving in a peculiar fashion, or whatever words you might want to use?

**Mr. Howard Krongold:** If there are individualized grounds, there are a variety of police powers—sort of a spectrum of police powers—to stop people, to question them and, ultimately, to search them. But those have to be specifically tailored to those individuals. It's sort of a sliding scale of objective verification of a police officer's suspicion.

For example, if somebody is in a courthouse and there's reason to believe that they're armed, there's reason to believe that they have a weapon, it may well be that there's some ability to intervene then, but it's a different kind of power. It would be a common law power—

**The Chair (Mrs. Laura Albanese):** Thank you.

**Mr. Howard Krongold:** —to justify a complete search. I'm sorry.

**The Chair (Mrs. Laura Albanese):** No problem. The NDP.

**Mr. Jagmeet Singh:** Thank you very much for attending. My name is Jagmeet Singh. It's a pleasure to see you here. I'm going to just hand you a copy of the bill so you can follow along.

**Mr. Howard Krongold:** Yes.

**Mr. Jagmeet Singh:** Do you have a copy?

**Mr. Howard Krongold:** I do have a copy, yes.

**Mr. Jagmeet Singh:** So, what I'm going to suggest to you, based on your comments, would you agree with me that you take issue with schedule 2, paragraph 138(1)1, the requirement to produce identification and the requirement to provide information, but you don't take issue with a search of the person and the person's body itself while entering the courthouse?

**Mr. Howard Krongold:** I guess if I was looking at the bill directly, with respect to number 2 on that list, I think our concern would be—we would agree that there should be a power to search without warrant a person who is entering or attempting to enter premises where court proceedings are conducted. We would suggest that the last words, "or who is on such premises," creates concerns that it could be used for arbitrary, individualized searches, which we say is unjustified. Subparagraph ii, searching vehicles, we're certainly against; and subparagraph iii, "any other property in the custody or care of the person," I think it's inherent, in doing a search of a person, you have to search their personal property. If they're bringing in a bag obviously, one needs to ensure that there are no weapons in there as well.

**Mr. Jagmeet Singh:** Certainly, and then just addressing subparagraphs i and ii of paragraph 138(1)1—both of

those you take issue with, as well, as a member of the CLA?

**Mr. Howard Krongold:** Well, like I say, my concern is that the closing words of subparagraph i, “or who is on such premises,” is—

**Mr. Jagmeet Singh:** Sorry, specifically, the “produce identification” issue, and the “provide information” issue?

**Mr. Howard Krongold:** Absolutely.

**Mr. Jagmeet Singh:** Okay. So if those were removed, if the requirement of producing identification was removed, if the requirement of providing information was removed, and the warrantless search powers of a vehicle in which you were a passenger—if they were removed and it was simply the power to search a person entering or his or her belongings, that would seem something that’s reasonable to you. Do you agree?

**Mr. Howard Krongold:** Yes. And again, we say there should be an exemption for counsel.

**Mr. Jagmeet Singh:** With an exemption for counsel.

**Mr. Howard Krongold:** Justice system participants—there’s different kinds of wording for that.

**The Chair (Mrs. Laura Albanese):** I believe we’re—10 seconds.

**Mr. Jagmeet Singh:** Your position with respect to an accommodation for religious articles of faith—kirpans, turbans, hijabs?

**Mr. Howard Krongold:** Yes, we think that a moderate approach should be taken and that any items that don’t present a substantial security risk should be permitted and, obviously, religious freedom should be respected.

**Mr. Jagmeet Singh:** Okay, thank you.

**The Chair (Mrs. Laura Albanese):** Thank you very much for your presentation.

**Mr. Howard Krongold:** Thank you very much, Madam Chair.

#### ONTARIO ASSOCIATION OF CHIEFS OF POLICE

**The Chair (Mrs. Laura Albanese):** The next deputy is the Ontario Association of Chiefs of Police. We call them to come forward. Good afternoon and thank you for appearing before our committee.

**Mr. Jason Fraser:** Good afternoon.

**The Chair (Mrs. Laura Albanese):** I would ask that you kindly state your name fully, for the purposes of Hansard. You will have up to 10 minutes for your presentation, which will be followed by 10 minutes of questioning by all parties. You may begin at any time.

**Mr. Jason Fraser:** Thank you very much, Madam Chair. My name is Jason Fraser, F-R-A-S-E-R. It was spelled with an “I” on my original tag this afternoon, hence the spelling.

**Mr. John Yakabuski:** F-R-A—

**Mr. John Fraser:** F-R-A-S-E-R, yes. Not the Blue Jays pitcher. It turns out there are other spellings.

I’m here today on behalf of the Ontario Association of Chiefs of Police. I’m a member of the Ontario Association of Chiefs of Police legal advisors committee, and I’m joined by the vice-chair of that committee, Gary Melanson. We’re here on behalf of Chief Matthew Torigian, who’s the president of our organization.

**The Chair (Mrs. Laura Albanese):** You may begin at any time.

**Mr. Jason Fraser:** Thank you.

The OACP participated in the review of the Public Works Protection Act that was held by the Honourable Mr. Roy McMurtry. We also participated in the Ministry of Community Safety and Correctional Services focused consultations. The OACP has publicly supported Mr. McMurtry’s review and his final report. In particular, we endorse the recommendation concerning specific court security legislation in Ontario upon the repeal of the PWPA. We appreciate this opportunity today to discuss Bill 34 from the particular standpoint of court security and public safety.

Under the Police Services Act, the police are responsible for providing court security in Ontario. Pursuant to the act, they ensure the security of judges and all other justice participants. They ensure the security of court premises whenever the courts are in session. They’re responsible for people in custody and when they’re taken into custody at court. And they’re responsible for determining the appropriate levels of security.

Unlike other jurisdictions in Canada, Ontario currently does not have a specific court security act or court security legislation, so court security officers here have been relying upon the powers of the Public Works Protection Act to require persons entering or attempting to enter a courthouse, or an approach to the courthouse, to identify themselves and state their purpose; and to search without warrant anyone or any vehicle entering or attempting to enter the courthouse or court property. The act also allowed the refusing of permission to any person to enter the courthouse, if necessary, or to use force to prevent their entry.

Ontario’s Court of Appeal, as you may be aware, has acknowledged that, unfortunately, courthouses have been the scene of serious weapons-related violence. Family, civil and criminal court proceedings are all emotionally intense. We all, as a community in this province, pride ourselves on having an open and transparent justice system. At the same time, the public expects the government to take steps to ensure that their safety is maintained while they’re attending a court facility.

The courts in Ontario have noted that the only effective way to diminish the risk in a large courthouse is to subject everyone without prior security clearance to some kind of inspection. This isn’t to say that Public Works Protection Act powers are being routinely applied at all times and in every courthouse. Like many other policing responsibilities, police services across this province routinely tailor their court security to meet the needs of their particular courthouses and their particular communities.

The OACP supports Bill 34 and its proposed amendments to the Police Services Act. I should note that Bill 34 does not add any new powers for court security. These powers have already been available under the Public Works Protection Act. What it does allow is for the police to move forward, to stop having to rely upon the broad and blunt PWPA, and instead have court-security-specific legislation.

**1540**

As we see it, there are two overarching benefits to this. First of all, it allows for the tailoring of the powers to be specific to the needs of court security. It also provides clarity—clarity for the police in terms of them engaging in their duties and clarity for the public, and it's certainly that clarity that's lacking in the current PWPA.

In support of Bill 34, we do have five recommendations that we hope will assist in enhancing these overarching benefits.

First, we would suggest that section 138 should be amended to prescribe court security powers to police officers, a duly appointed special constable or a person who is authorized by the board or the commissioner, for example, private security. What we're saying is that there shouldn't be a need to specifically prescribe court security powers to police officers or special constables.

Court security is already part of a police officer's general duties and powers, so it's somewhat redundant to then give them those powers again, and that's essentially the same for special constables. They will already have been appointed by the police services board as court security officers under section 53(3) of the Police Services Act. The act then, with this amendment, would still contemplate having the board prescribe specifically those powers to other persons, persons that aren't either police officers or already special constables.

Our second recommendation is that subparagraph ii of 138(1)2 should be amended to clarify that vehicles entering onto courthouse property may be searched. We recognize that this power realistically is only going to apply to stand-alone courthouses that have actual court property. It's simply not going to work for court sessions that are held, as we all know, across this province either in mixed-use government offices or, in some cases, in rental units and legion halls. The Bill 34 provision essentially permits court security, if it's enacted, to extend the security checkpoint from the front door of the courthouse to, say, the courthouse driveway, in the appropriate circumstances, meaning the vehicles entering onto courthouse property may be searched as they enter, and the recourse for people who refuse to have that vehicle searched is for that vehicle to be turned away, which essentially is much the same for an individual attending at the courtroom door refusing to be screened at the courthouse and they in turn being turned away. We would suggest that this change would clarify this section, and any clarification is going to be of benefit to both the police and the public.

Our third recommendation is that subsection 138(1)3 regarding the search of persons in custody should be a

stand-alone provision and not in amongst all of the other powers, and should be limited to police officers and special constables only. We would suggest that currently, as it's worded, the section allows a police services board to designate non-members of the police service to handle the searching of prisoners and the handling of prisoners. We would suggest that this power should not be delegated to non-police personnel; for example, to private security. Practically speaking, only police officers and special constables employed by the police services board or the commissioner will have access to the appropriate training.

On a technical note, we would suggest that this section be amended so that it applies to persons who "will be transported" as opposed to applying, as it currently reads, to a person who "is being transported." It's a small grammatical error, but we would suggest it makes the difference between searching people before they get on the vehicle for transport, as opposed to the way it reads now, where it seems to say that they would be searched while the vehicle is in transport.

Our fourth recommendation is that the OACP believes that signage should be posted at all premises where court proceedings are conducted to notify the public that they may be identified and searched prior to being granted entry. Additional public notice, through media releases or other forms of advertisements, may also be required for locations that are temporarily being used as court facilities. Greater awareness of court security powers will only serve to increase their effectiveness.

Our last recommendation is that secondary screening should be explicitly permitted within the courthouse. Currently, the proposed legislation provides the tools for maintaining a single layer of perimeter security, but the law doesn't clearly contemplate searching a person who is already inside the courthouse, and that type of search may be necessary; for example, if we have a person who has entered a courthouse without going through the checkpoint—entered through the side door or entered from some other part of the building in a mixed-use building—or in circumstances where a particular court proceeding requires that an additional layer of security be in place, such as trials involving organized crime or alleged acts of terrorism. And of course, as subsection 141 confirms, court security powers will always be subject to the overriding power of the judge to control the proceedings.

In conclusion, and subject to our recommendations, the Ontario Association of Chiefs of Police supports Bill 34. We support going forward with legislation that will be specific to court security and will provide the tools to keep the courthouses and our communities safe. We support legislation that will provide clarity, so that the police and the community will know what's to be expected and what to expect in terms of court security.

As I've already indicated, the current PWPA powers are not routinely applied at all times and in every courthouse. In fact, in most courthouses around the province you can enter the courthouse, conduct your business and

not even notice that there's court security. But at other times and in other circumstances, and in larger courthouses, as the Court of Appeal has recognized, the need for court safety and security will require that people be appropriately screened before entering the courthouse.

**The Chair (Mrs. Laura Albanese):** Thank you. The time has basically expired, but if you have a small conclusion, please go ahead.

**Mr. Jason Fraser:** Just my last point is that the police and court security officers in this province have been doing a commendable job of balancing the need for an open and public court and the need to keep courthouses safe and secure. That will continue if and when Bill 34 is enacted. Thank you very much, Madam Chair.

**The Chair (Mrs. Laura Albanese):** Thank you very much. Mr. Yakabuski.

**Mr. John Yakabuski:** Thank you, gentlemen, for joining us today. I want one bit of clarification here on your recommendations when you talk about subsection 138(1)3, regarding the search of a person in custody, and wanting it to be a stand-alone provision. I'm not aware of situations where a person is in custody of a private security provider. If someone is in custody, would they not be in the custody of the police?

**Mr. Jason Fraser:** Yes, exactly. This may just be the way, grammatically, this statute has been drafted, but right now, as it speaks, a police services board could hire private security to—

**Mr. John Yakabuski:** Are you aware of any police services board that has hired private security to deal with people in custody?

**Mr. Jason Fraser:** Not yet, and certainly I'm not aware of, currently, there being any lawful provision to do that. What we're suggesting is, we don't want that lawful provision added. It's a job that should be performed by the police.

**Mr. John Yakabuski:** Right, but I just didn't want there to be a misinterpretation of the current situation, and that was a concern that I had with where we may be preventing something that is not actually—or trying to stop something that actually is not happening.

**Mr. Jason Fraser:** True, but all that I'm saying is that the new act allows that, and we're suggesting, always in the interest of clarity of legislation, that the new act should make it clear that private security does not have a function—

**Mr. John Yakabuski:** Did the old act allow for it?

**Mr. Jason Fraser:** It doesn't speak to it at all. This act does.

**Mr. John Yakabuski:** Okay, I just want to clarify that we don't have a history of that. I don't expect police services boards to be going down that road. I think they recognize the importance of having trained personnel in dealing with persons in custody. I just wanted to clarify that.

The other thing I just wanted to ask—

**The Chair (Mrs. Laura Albanese):** One minute left.

**Mr. John Yakabuski:** The deputy commissioner of the OPP, when he was in here—I don't see anything

where you folks have addressed it, and we've had a number of submissions today with respect to giving an exemption to the wearing of a kirpan. The OPP had some concerns with it as being—it is an article of religious faith, but it could be used by someone else if they were able to get access to it. Do you have a position on it, as an association of chiefs of police?

**Mr. Jason Fraser:** Well, I do know the association right now is working with the Human Rights Commission and working with interested parties essentially to address that issue and formulate the appropriate policy so that we draw the proper balance between religious accommodation and respect for religions and cultures and the need for providing court security. I would suggest that any legislation is going to be followed by our police services in a manner that's consistent with the charter and consistent with the Human Rights Code.

1550

**The Chair (Mrs. Laura Albanese):** Thank you very much.

**Mr. John Yakabuski:** Thank you very much.

**The Chair (Mrs. Laura Albanese):** It's the turn of MPP Singh.

**Mr. Jagmeet Singh:** Thank you very much. That was a very good answer. Thank you for that.

Just building on some of the issues that have arisen, would you agree with me, sir, that the current practice in courthouses that do have security is that there is a wandering or a metal detector and then an airport-style screening of the bags?

**Mr. Jason Fraser:** There doesn't seem to be a consistent practice. I can say that for courthouses in the GTA—York, Durham, Toronto—that tends to be the practice on most days, but that practice may change depending on specific circumstances. For example, I know in Toronto when they were dealing with a trial involving organized crime, and in Brampton when they were dealing with a trial involving alleged terrorism, that the security that was required was altered and was increased. So it didn't follow that norm. But I would agree, at least in the GTA, that's sort of the norm on a daily basis. But outside the GTA, I would suggest that the security may be nothing more than having somebody wandering around the halls.

**Mr. Jagmeet Singh:** That was my next question. So in the GTA, what I have described with the wandering, the metal detector and the airport-style baggage screening is the norm. Outside of the GTA, in many courts throughout Ontario there is absolutely no security searching. Would you agree with me?

**Mr. Jason Fraser:** Well, I know Waterloo is adopting that—they have a newer courthouse now, so they are adopting a similar strategy as the GTA. For other courthouses, I've seen where that's not necessarily the norm but where that has been employed on a case-by-case basis, depending on the needs of the day.

**Mr. Jagmeet Singh:** Certainly. But you would agree with me that there are many courts where there's no searching at all?

**Mr. Jason Fraser:** Absolutely.

**Mr. Jagmeet Singh:** And certainly there's absolutely no court that regularly requires identification to be presented.

**Mr. Jason Fraser:** No, and I don't believe we're suggesting that identification should be regularly provided. Under Public Works it's always been there as a power, just like there have been many powers that have always been there as powers. One of the greatest issues is, how do you balance that power with the need for an open court? I think the answer goes along the same lines as why there isn't anybody wandering anyone in the court in, say, Stratford. Security is assessed on a courthouse-by-courthouse basis.

**Mr. Jagmeet Singh:** And you'd also agree with me that there's no one asking any reasons before someone is allowed to enter a court in any of the courthouses in Ontario?

**Mr. Jason Fraser:** Again, I know it has happened, depending on the circumstances, but it's not something that would happen as a matter of course.

**Mr. Jagmeet Singh:** And in terms of security in courthouses, there are a number of court security officers as well as police officers who are regularly walking around the hallways in most courthouses?

**Mr. Jason Fraser:** There are, but unfortunately at the same time there do continue to be acts of violence perpetrated in courthouses.

**The Chair (Mrs. Laura Albanese):** Thank you.

**Mr. Jason Fraser:** Actually—

**The Chair (Mrs. Laura Albanese):** No, sorry. Finish your thought.

**Mr. Jason Fraser:** As my friend has pointed out, some don't. In my own personal experience, I have been in a courthouse where 911 had to be called because there were no police officers there.

**Mr. Jagmeet Singh:** Certainly.

**The Chair (Mrs. Laura Albanese):** And now we'll go to the government side. Ms. Wong.

**Ms. Soo Wong:** Thank you, Madam Chair.

I just have a couple of quick questions for you. Thank you for being here today. With regard to your recommendation on the bottom of page 2, you talked about subsection 138(1)3, that that section should be stand-alone. Do you believe, in your opinion, if this section is stand-alone, it will strengthen the bill?

**Mr. Jason Fraser:** That's dealing with searching prisoners?

**Ms. Soo Wong:** Yes.

**Mr. Jason Fraser:** I certainly believe that it will strengthen the bill by ensuring that prisoner handling and searches are conducted by police professionals, by police officers and duly designated court security officers.

**Ms. Soo Wong:** My next question here is, there have been a lot of comments made today dealing with section 138(1), dealing with identification. In your organization, do you see any issues or concerns if we ask for identification?

**Mr. Jason Fraser:** Again, it's going to be specific to the circumstances. As I've already indicated, that's a power that's available now, but it's certainly not a power that's regularly used. But in the appropriate circumstances, it certainly is a tool that can enhance the security of courthouses.

**Ms. Soo Wong:** My last question to you, sir, is, do you have any issues with regard to the accommodation issues that have been spoken to earlier by previous deputants—any kind of accommodation, whether it's religious or physical disability?

**Mr. Jason Fraser:** I would suggest that accommodation is required in all pieces of legislation that empower the police. As it's currently written right now, accommodation will form part of Bill 34 because all of our members have to abide by and support and address the Human Rights Code and the Charter of Rights and Freedoms.

**Ms. Soo Wong:** Thank you.

**The Chair (Mrs. Laura Albanese):** Thank you very much. Any more questions? No.

Thank you for appearing before our committee this afternoon.

**Mr. Jason Fraser:** Thank you, ma'am, and thank you to the members of the committee.

**Mr. Gary Melanson:** Thank you.

#### COUNTY AND DISTRICT LAW PRESIDENTS' ASSOCIATION

**The Chair (Mrs. Laura Albanese):** We now call on the County and District Law Presidents' Association to come forward. As you've heard all afternoon, please clearly state your name for the purposes of Hansard. You will have up to 10 minutes for your presentation, and that will be followed by 10 minutes of questioning by all parties.

**Mr. Robert Zochodne:** Thank you very much. My name is Robert Zochodne, and I'm the past chair of the County and District Law Presidents' Association. Like most, we have an acronym: It's CDLPA.

By way of explanation, every county has a local law association. Those are voluntary associations of local lawyers. They deal with matters of local concern and obviously manage local law libraries within every county courthouse in Ontario.

CDLPA is an umbrella organization that speaks on behalf of those 46 law associations outside of Toronto. We also have a formal affiliation with the Toronto Lawyers Association. The members of our association are practising lawyers across Ontario.

Our members work every day in local courthouses. They volunteer their time sitting on local chambers of commerce, hospital boards, charities, even police services boards. Our members devote many hours to justice issues at the local level. They serve on bench and bar committees, local court security committees. We work with local judges, court officials and users of our courthouse.

At the provincial level, we at CDLPA have had a lot to say about court security. We've given input regarding public policy issues regarding court security. Most recently, the Ministry of the Attorney General asked us to comment on some court security standards consultations in 2011. We, with regard to that, responded quite positively to the creation of local court security committees in every county in Ontario.

We take the issue very seriously and we appreciate the hard work that local court security committees do and the difficult job that police services boards have in maintaining a level of court security in our courthouses. Court security, as you've heard, obviously is important to lawyers. Far too often, lawyers have been the subject of courthouse violence. Courthouses are lawyers' workplaces as well as many others.

You've heard from other groups today and otherwise regarding the wider implications of Bill 34. I'm here only to address the one, discrete issue in that regard, and that relates to the search powers for lawyers entering courthouses. We're seeking specifically only to have section 138(1) exclude lawyers from part 2 of the search provisions, provided that a lawyer entering the courthouse presents a valid law society identification card—the law society, of course, being the governing body for all lawyers. That is, I would submit, the status quo in many courthouses in Ontario. What we're just seeking to do is ensure that this legislation doesn't disturb what we see to be the status quo.

The reasoning for that is really simple, and you've already heard a lot of this, so I won't waste your time on that. But really, it comes down to three basic principles.

First, you've heard about solicitor-client privilege. This is, obviously, one of the law's oldest principles and requires us as lawyers to treat the information we have from our clients as confidential. Generally, we can't be required to divulge that. So we take this position not out of self-interest but in order to protect the information of our clients when we enter courthouses.

Second of all, our rules of professional conduct as lawyers require that we have a duty to the administration of justice generally, and if a lawyer breaches that, obviously, there could be serious discipline consequences. So we take that obligation to the administration of justice very seriously.

Thirdly, and you've heard this as well, we're officers of the court. We're not just participants in the court, but we're actually officers of the court. It is one of our canons of ethics that if we're aware of any breach of court security, it is our obligation to bring that to the attention of the powers that be.

**1600**

Just a brief comment about the Oshawa courthouse: My law firm has an office in Oshawa. I was born and raised there. It's our newest courthouse at the moment, although not for long. It was completed a couple of years ago. It's a state-of-the-art facility and it's just about literally in my backyard.

You may know that the issue of court security was the subject of some litigation when that courthouse was

opened two years ago. It arose from the expressed intention of the Durham Regional Police Service to search some lawyers upon entering that courthouse. It was my privilege to have acted on behalf of the applicant in that litigation, and I was even more pleased that the parties to that litigation were able to settle their differences. The differences were settled essentially on the basis that lawyers who now enter the Oshawa court facility are not subjected to a security search provided that they show a valid law society identification card. It's that solution, as we see it, between members of the justice system that ought to be a guide for your deliberations regarding the issue that I'm here addressing before you. Simply put, our position is that that solution should be incorporated in the legislation, exempting lawyers from the search provisions of the proposed section 138 as long as we have a valid card.

I thank you for the opportunity to be here, and we'll be happy to answer any questions.

**The Chair (Mrs. Laura Albanese):** Thank you. This round of questioning will be started by the NDP.

**Mr. Jagmeet Singh:** Just to touch very briefly on your first point with regard to the exception for lawyers: As far as you understand, that exemption for lawyers in terms of not being searched is an informal practice which exists across Ontario, it's currently ongoing and it's been ongoing for years where lawyers are exempt from that search?

**Mr. Robert Zochodne:** Yes.

**Mr. Jagmeet Singh:** As far as you know, there has been no incidence of any concern arising from giving lawyers that exemption.

**Mr. Robert Zochodne:** No. In fact, I'd go further and say that I'm not aware of any incident involving lawyers being the ones who may be a cause of a court security breach. Quite the contrary.

**Mr. Jagmeet Singh:** In respect of the exemption, some of the rationale for that is—would you agree with me?—the proper functioning of a courthouse, the efficient functioning of a courthouse, as lawyers are the vehicles through which court procedures continue. Would you agree with that assessment?

**Mr. Robert Zochodne:** Yes, I'd agree that lawyers, being officers of the court, are certainly part of the justice system and recognized in the eyes of the law. Most definitely.

**Mr. Jagmeet Singh:** With respect to some of the details of the provisions of the bill, have you had an opportunity to review some of the provisions under subsections 138(1) and (2)?

**Mr. Robert Zochodne:** Yes.

**Mr. Jagmeet Singh:** I'm going to raise some concerns with respect to the power that requires—currently, as security works, you agree with me that some jurisdictions have a searching protocol which involves wandering or a metal detector, similar to an airport security system searching of baggage. Is that correct, as far as you know?

**Mr. Robert Zochodne:** I believe so, yes.

**Mr. Jagmeet Singh:** Currently, there's no regular procedure which involves identification or requiring any information in order to enter the courthouse.

**Mr. Robert Zochodne:** I think that's right.

**Mr. Jagmeet Singh:** Do you have any concerns with the requirement to have to produce identification on the part of anyone entering the courthouse?

**Mr. Robert Zochodne:** We're not taking a position on that as an organization.

**Mr. Jagmeet Singh:** Fair enough. With respect to the search without warrant, are you taking any position on the powers of search without warrant with respect to vehicles?

**Mr. Robert Zochodne:** No, we've left that to other lawyer groups to deal with.

**Mr. Jagmeet Singh:** Fair enough. With respect to the requirement that a member of the law society present identification to identify themselves as a member of the law society, there's obviously no issue with that.

**Mr. Robert Zochodne:** No.

**Mr. Jagmeet Singh:** By providing that identification, having the benefit of that and being exempt from the search and exempt from any lineups.

**Mr. Robert Zochodne:** Quite so, yes.

**Mr. Jagmeet Singh:** Okay. No further questions.

**The Chair (Mrs. Laura Albanese):** Thank you. We'll go to the government side.

**Ms. Soo Wong:** I have a couple of quick questions for you. Thank you for being here.

Does your organization support the proposed Bill 34?

**Mr. Robert Zochodne:** We're only here to speak to the one discrete issue; that's it.

**Ms. Soo Wong:** This issue. That's all?

**Mr. Robert Zochodne:** Yes.

**Ms. Soo Wong:** And you have no opinion with respect to the identification that has been outlined in section 138?

**Mr. Robert Zochodne:** We're not taking a position on that. We've left it to the other lawyer groups to do so.

**Ms. Soo Wong:** So the only thing you're requesting is the exemption dealing with your colleagues and yourself with regard to entrance to the courthouse.

**Mr. Robert Zochodne:** Yes.

**Ms. Soo Wong:** Thank you. That's all I wanted to know.

**The Chair (Mrs. Laura Albanese):** Any further questions from the government side? Then we'll proceed to—

**Mr. Lorenzo Berardinetti:** Sorry, Madam Chair.

**The Chair (Mrs. Laura Albanese):** Yes.

**Mr. Lorenzo Berardinetti:** I do have a quick question. Thanks for coming out today. I still practise law but—well, I still have my law society form. When I was practising law in Scarborough, there was a metal detector, and everyone was forced to go through it. I showed my law society card, and everyone had to go through it, regardless of who you were, because of the high security requirements at the courthouse in Scarborough. You're asking for an exemption to that?

**Mr. Robert Zochodne:** Yes.

**Mr. Lorenzo Berardinetti:** Right. So how do you deal with a situation where you've got a courtroom with heavy security? This has been requested by the crown attorneys as well as the judges.

**Mr. Robert Zochodne:** One of the issues on court security is jurisdiction. This proposed legislation specifically recognizes that judges can make orders regarding court security. Judges will always make court security orders that will deal with that—

**Mr. Lorenzo Berardinetti:** But as far as I know, there has been no order made.

**Mr. Robert Zochodne:** Pardon me?

**Mr. Lorenzo Berardinetti:** As far as I know, there has no order been made.

**Mr. Robert Zochodne:** Right, but for specific courtrooms, judges have been known to make certain orders regarding the security of their courtroom and the entrances to it.

**Mr. Lorenzo Berardinetti:** The problem is the entrance into the building itself.

**Mr. Robert Zochodne:** Even in Durham, when I enter the Durham courthouse, I walk through a magnetometer or whatever you call that big airport-style security. I'm assuming it's off, but I don't know what would happen if a light went off and a bell rang. But certainly, as far as I'm aware, it's not activated.

**Mr. Lorenzo Berardinetti:** Okay, thank you.

**The Chair (Mrs. Laura Albanese):** Thank you. We'll pass on to the Conservatives.

**Mr. John Yakabuski:** I appreciate you coming in today. I have a similar concern. Currently, it's not the practice that lawyers are asked for ID or searched. We have a detector as we go into our chamber. We routinely are not asked to go through the detector as members of the Legislature, but there's nothing in writing. There's no law. There's no bill. There's no rule that says that MPPs don't have to be checked.

My concern would be that if we granted this particular exemption, then that's an edict. That's an absolute. Then the security people no longer have the option. We're all human beings. We're all subject to having things go sideways, just like any one of us or anybody else. If you give that absolute exemption that lawyers no longer are subject to the rules, it would, in my opinion, take away the ability of security—for example, maybe somebody has heard that, "Do you know what? Joe is going a little AWOL here. I think there are some real problems here in his life. Some strange things have been going on outside of his legal life. We're not really sure whether he's rational anymore. Oh, but Joe can't be asked for ID, or Joe can't be searched, or Joe can't be requested under certain circumstances—he's got the get-out-of-jail-free pass."

I have some real concerns that we just automatically say that just because you belong to the society, we can't check you anymore. I don't know how big of an infringement it could possibly be to your members. If the practice is that, for all practical purposes, you don't get

checked, why do you need this card that says, “I’m so special you can’t check me”?”

**Mr. Robert Zochodne:** From our point of view, if the legislation was passed without a recognition of that, it might well result in a change in what we consider to be the status quo. It would simply incorporate what the status quo is.

**Mr. John Yakabuski:** So our clogged-up courts would just clog up more, then.

**Mr. Robert Zochodne:** The harm is that, in our view, it abrogates a fundamental privilege that clients have that the information that we’re bringing into the courthouse is privileged, and it ought not to be searched by the state. That’s essentially the position—

**Mr. John Yakabuski:** We all have the presumption of innocence. We all have to be subject to reasonable controls.

**Mr. Robert Zochodne:** Quite so, but from our perspective, it’s not out of the self-interest of lawyers not being searched; the position we’re taking relates—

**Mr. John Yakabuski:** You’ve lived without it since 1939.

**Mr. Robert Zochodne:** Without?

**Mr. John Yakabuski:** The card, the special pass.

**Mr. Robert Zochodne:** Well, but there’s been a practice. Our concern is that this legislation, without dealing with it, might well be interpreted otherwise going forward.

**Mr. John Yakabuski:** There are a million things not addressed in this legislation. There are only a few things that are addressed. Is the rest of the world at threat too because it’s not addressed in this legislation? I really

actually have a problem with this request, to be honest with you.

**Mr. Robert Zochodne:** I understand the point. From our perspective as officers of the court, it’s no different than a member of the judiciary taking the same position, that they ought not to be searched going into the courthouse, or a crown attorney, who are members of the law society as well.

**Mr. John Yakabuski:** We could go on, but I think we’ve made our point.

**The Chair (Mrs. Laura Albanese):** Well, we only have 20 seconds left.

**Mr. John Yakabuski:** Thank you very much for the submission.

**Mr. Robert Zochodne:** Thank you for the opportunity.

**The Chair (Mrs. Laura Albanese):** Thank you. Have a good afternoon.

Before we adjourn, I would like to remind the committee members that amendments to the bill need to be filed with the clerk of the committee by 5 p.m. on Tuesday, April 24.

I also would like to remind everyone that the committee meets on Thursday, April 26, for clause-by-clause consideration of the bill.

*Interjection.*

**The Chair (Mrs. Laura Albanese):** I’m reading from our subcommittee report.

It’s Thursday, and we end with a note of good humour. We’re adjourned.

*The committee adjourned at 1611.*







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