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First Session, 40th Parliament

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**Official Report
of Debates
(Hansard)**

Wednesday 5 September 2012

**Journal
des débats
(Hansard)**

Mercredi 5 septembre 2012

**Standing Committee on
Social Policy**

Putting Students First Act, 2012

**Comité permanent de
la politique sociale**

Loi de 2012 donnant
la priorité aux élèves

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
SOCIAL POLICYCOMITÉ PERMANENT DE
LA POLITIQUE SOCIALE

Wednesday 5 September 2012

Mercredi 5 septembre 2012

The committee met at 1645 in room 151.

SUBCOMMITTEE REPORT

The Chair (Mr. Ernie Hardeman): I'd like to call the Standing Committee on Social Policy to order.

We are here to have public hearings on Bill 115. I believe somebody has a subcommittee report to present and proceed on. Mr. Delaney?

Mr. Bob Delaney: Thank you very much, Chair. It's good to be here.

Your subcommittee on committee business met on Wednesday, September 5, 2012, to consider the method of proceeding on Bill 115, An Act to implement restraint measures in the education sector, and recommends the following, subject to the referral of the bill from the House:

(1) That, as per the order of the House dated September 5, 2012, the committee hold public hearings in Toronto on September 5, 2012, from 4:45 p.m. to 8 p.m. and on September 6, 2012, from 9 a.m. to 10:15 a.m.

(2) That the clerk of the committee post information regarding the hearings on the Legislative Assembly website.

(3) That each party provide a prioritized list of six selections and three alternates to the clerk for the purpose of scheduling.

(4) That 15 minutes be allotted to each presenter.

(5) That the deadline for written submissions be 10 a.m. on Thursday, September 6, 2012.

(6) That, as per the order of the House dated September 5, 2012, the deadline for filing amendments on Bill 115 be 12 noon on Thursday, September 6, 2012.

(7) That, as per the order of the House dated September 5, 2012, the committee begin clause-by-clause consideration of the bill on Thursday, September 6, 2012, following routine proceedings.

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

This, Chair, is the report of your subcommittee.

The Chair (Mr. Ernie Hardeman): Thank you very much. The committee has heard the report. Any further discussion? Any errors or omissions?

Ms. Lisa MacLeod: Chair, thanks very much. He couldn't have written it any better, had we just taken

verbatim what we said at that meeting. It's great; I support it.

The Chair (Mr. Ernie Hardeman): Thank you very much. If there's no further discussion, all those in favour of accepting the report? Opposed? The motion is carried.

PUTTING STUDENTS FIRST ACT, 2012

LOI DE 2012 DONNANT
LA PRIORITÉ AUX ÉLÈVES

Consideration of the following bill:

Bill 115, An Act to implement restraint measures in the education sector / Projet de loi 115, Loi mettant en oeuvre des mesures de restriction dans le secteur de l'éducation.

DUFFERIN-PEEL OCCASIONAL
TEACHERS' BARGAINING UNIT

The Chair (Mr. Ernie Hardeman): We will then proceed on with our delegation. I want to thank all the people with us in the audience this afternoon and thank them for being here on, shall we say, kind of short notice for this process.

The first delegation that we are going to hear from is Dufferin-Peel Occasional Teachers' Bargaining Unit, Jean Smylie, president.

Thank you very much for being here; if you will have a seat there. As was just mentioned in our subcommittee report, you will have 15 minutes to make your presentation. You can use any or all of that time for the presentation. If there's time left at the end of the presentation, we will have questions from the committee. The questions this time will be from the government side.

With that, thank you very much for being here, and the floor is yours for the next 15 minutes.

Ms. Jean Smylie: Thank you. Good afternoon. My name is Jean Smylie, and I'm an occasional teacher as well as president of the Dufferin-Peel Occasional Teachers' Bargaining Unit for the past 13 years. I currently represent over 1,400 occasional teachers, better known as supply teachers.

It is so disheartening for members when newly graduated teachers are hired into long-term positions or even step right into permanent positions. The top priority for our members during this round of bargaining is a fair and

transparent hiring process for all long-term occasional positions and permanent positions.

1650

The memorandum of understanding's hiring practice process, as written, would provide this. Based on seniority and qualifications, teachers hired by the board and placed on the occasional teacher list would have a fair chance at obtaining permanent and long-term occasional positions.

The Dufferin-Peel board, on the other hand, feels that this process strips them of their management rights. This is simply not the case. The memorandum of understanding establishes an objective and transparent process for creating a list of the most qualified, experienced teachers from which the board can choose to fill their vacancies. The board would still retain the full responsibility for hiring of the teachers.

The Dufferin-Peel board's present hiring process is anything but fair and transparent. Permanent positions are neither posted nor shared with the unit. Our unit is unaware of any explicit process for selecting teachers to fill permanent positions. It can be proven that children, in-laws and other relatives of superintendents, principals, trustees and other board officials have been hired for permanent positions, bypassing occasional teachers who have been awaiting permanent positions for five years, 10 years and even more.

It appears that timing does play an advantageous role in the hiring process. For example, an occasional teacher, after completing a long-term position in a specific school, will be offered an additional long-term position in the same school by the principal without posting that position. As a result, the same occasional teachers profit from being in the right place at the right time.

According to the board's own statistics, to date there are 389 long-term positions for September 2012, of which 93.1% were exclusively filled by school administrators without posting the jobs. That leaves over 500 occasional teachers to apply for 27 posted long-term positions. The board requires that occasional teachers only apply for positions for which they are qualified to teach. Yet our findings show that in the last school year the board filled many long-term positions with teachers who are not qualified to teach the grades or subjects. The board hired teachers to teach math, chemistry, English and French even though they did not hold the required qualifications. At the same time, our unit has teachers with the required qualifications to teach these subjects but who are unable to apply for these positions as they are not posted, merely filled by the board.

In 2008, we negotiated a transparent process for long-term hiring. In discussions, the required information—school, grade, subject, names of the teachers interviewed and the name of the successful candidate—was proposed by the unit. Despite signing the collective agreement, the board's intent to develop an electronic tracking system for the long-term positions never materialized. There is still no transparency in Dufferin-Peel.

Recently, I had an occasional teacher call our office, who, after completing four years of long-term positions

in the same school, was told by the administrator that she was not on his priority list for this year's permanent or long-term positions as he had been asked by a fellow principal to hire her niece.

In another case, an occasional teacher was told by the principal that he was unable to give her the long-term position in September, as he needed to hire the secretary's daughter.

This is not only frustrating, but demoralizing for occasional teachers.

Nepotism and undue influence by board officials in the hiring process must stop. The board needs to be accountable. Dufferin-Peel needs a fair and transparent hiring process. The memorandum of understanding, as written, will provide this.

After reading the memorandum of understanding, an occasional teacher emailed our office: "Fantastic. At long last I will be able to move on with my life and career as my name moves up the seniority list. I will finally get a permanent position."

In order to address the lack of fairness, transparency, and accountability, I urge you, on behalf of occasional teachers, to maintain the hiring practice as outlined in the memorandum of understanding, to ensure a fair and transparent hiring process for all teachers. Thank you.

The Chair (Mr. Ernie Hardeman): Thank you very much.

We have about three or four minutes. Mr. Delaney?

Mr. Bob Delaney: Thank you very, very much for having come in, Jean. Many times in my constituency office, I've sat down with young teachers who are intelligent, motivated and enthusiastic about a career in teaching, and they've expressed to me in, their own words, pretty much the same sentiment that you have.

I know that one of the priorities in this one has been trying to find a balance between granting management the flexibility to choose staff, which is reasonable in the circumstances, but also to establish some fairness, to be able to publish a process and to adhere to that process.

I'm assuming that you're familiar with the proposals in the memorandum of understanding?

Ms. Jean Smylie: I hope so.

Mr. Bob Delaney: I hope so too. Is there any way you want to elaborate on how you feel that that's going to improve the fairness of hiring permanent teachers?

Ms. Jean Smylie: As stated, in Dufferin-Peel, for September, we have 382 LTO positions, and 93.1% were exclusively filled by school administrators—they weren't even posted. Twenty-seven positions were posted. In Dufferin-Peel, I have anywhere between 800 and 1,000 occasional teachers who are looking for permanent and LTO positions—so that leaves over 500 occasional teachers to apply for 27. It doesn't necessarily mean they're going to interview for those 27 positions.

I would like to see a fair and transparent process where they post all LTO or permanent positions; occasional teachers then apply for those positions, and, according to the seniority, experience and qualifications, hopefully the top five, four, will be interviewed; and then

the board can exercise their management rights in the interview process and choose the candidate who best suits the needs of the students in the position that they're looking for.

Mr. Bob Delaney: There being three Peel district MPPs here, in our continuing and ongoing discussions with the Dufferin-Peel Catholic District School Board and with our trustees whose jurisdictions overlap ours—I am frankly a little bit shocked by your statistic of 93% of postings filled by administrators. You may be certain that this will be an ongoing topic of discussion on which we're going to be extremely assertive as MPPs. This is a problem we very much want to have fixed, and I want to thank you very, very much for having come in.

1700

Ms. Jean Smylie: If you would like any documentation on that, I do have it on my computer.

Mr. Bob Delaney: Lay it on me. Thank you.

Ms. Jean Smylie: With pleasure.

The Chair (Mr. Ernie Hardeman): Thank you very much, Ms. Smylie, for your presentation this afternoon, and thank you for coming out and sharing it with us.

Ms. Jean Smylie: You're welcome.

ONTARIO CATHOLIC SCHOOL TRUSTEES' ASSOCIATION

The Chair (Mr. Ernie Hardeman): Our next delegation is the Ontario Catholic teachers' trustee association, Robert Murray.

Ms. Kathy Burtnik: Thank you for your indulgence. My name is actually Kathy Burtnik.

You said "teachers." We'll take the pay if—
Interjection.

Ms. Kathy Burtnik: Anyway, it's a joke.

The Chair (Mr. Ernie Hardeman): The trustees.

Ms. Kathy Burtnik: The trustees' association. Thank you.

The Chair (Mr. Ernie Hardeman): Very good. Welcome. Thank you very much for being here, and as the previous delegation, you have 15 minutes to make your presentation. You can use any or all of it for your presentation. If there's any time left over at the end, the questions will go to the official opposition for your presentation. With that, the next 15 minutes are yours. Thank you very much for being here.

Ms. Kathy Burtnik: Great; we appreciate it. Just for the record, my name is Kathy Burtnik and I am the vice-president of the Ontario Catholic School Trustees' Association.

The Chair (Mr. Ernie Hardeman): You made me wrong twice in the introduction.

Ms. Kathy Burtnik: No, that was our late timing etc.

Anyway, as I begin, I would like to sincerely thank the committee for allowing us the opportunity to present here today.

But before I comment on the legislation that sits before the committee, I believe it is really important to note that as we sit here today, both the September 1

rollover and the start of the school year have taken place and the fear-filled prophecies about both of these dates have proven quite untrue. There have been no strikes, no lockouts, and school boards are doing their very best to cope with the rollover of the previous collective agreements, despite the claims previously made about our ability to do so.

The entire education sector, ranging from support staff to teachers to principals to supervisory officers to directors of education and to trustees are all doing what they have committed their lives to doing, and that is putting students first. It is on this note that I'd like to discuss the proposed legislation that claims to do the same but, sadly, falls substantially short in its effort to address the needs of students.

The Ontario Catholic School Trustees' Association, in conjunction with the province's other three trustees' associations and with our fellow management partners, has been vocal in its opposition to the process leading to the proposal of the Putting Students First Act and some of the provisions included in the bill.

The most controversial element of this legislation is not a specific section or subsection, but rather it is the government's effort to legislate an agreement signed without any approval of an employer group in the education sector. The memorandum of understanding signed on July 5 was an agreement between one union, representing English Catholic teachers, and the Minister of Education. Not one of the 29 boards who actually employ OECTA's members signed at that time. Though four of our boards have subsequently exercised their rights to endorse the MOU, the overwhelming majority of our boards stand firmly opposed to the MOU being imposed without their desire or consent.

This point is very significant in that it speaks to the government's interpretations of collective bargaining, the democratic rights and responsibilities of democratically elected trustees, and toward the education sector as a whole.

By signing this MOU with our employee group, the Minister of Education usurped the legally prescribed steps in both the Education Act and the Labour Relations Act. The previous two rounds of labour discussions, in 2005 and in 2008, were an effort to bargain provincially, with the employee groups, being unions, and the employer groups, represented by trustee associations, working to find mutually acceptable provincial agreements that would then be ratified locally. While the Ministry of Education acted only in a facilitating capacity, this process has come to be known as the provincial discussion table, or the PDT.

There was no legislation legitimizing the PDT process, despite the calls from trustee associations and unions on the matter. Instead, the parties came to the table in the spirit of good faith and worked together in the instances of 2004 and 2008 to come to an agreement. It was also very clearly understood by all groups that if a provincial agreement could not be struck, the Labour Relations Act necessitated the parties negotiate locally, which means

that local units would bargain with individual school boards.

Recently, after five months of good-faith bargaining between OCSTA and OECTA, the process came to an end on July 4, after it was clear that a mutually acceptable agreement could not be reached. At this time, according to the Labour Relations Act, local bargaining should have begun to allow employee and employer groups to continue their discussions. Instead, on July 5, the Minister of Education, without legal justification, unilaterally usurped the rights of elected Catholic school boards by signing the agreement with our employee group.

Since that time, Ontarians have been literally inundated with contentions about school boards trying to lock out employees, about employees trying to strike and about a variety of other issues that have only served to create a climate of crisis. Having a firm grasp of our legislative obligations, school boards felt it in their best interest to file for conciliation in order to protect themselves from the financial implications of the September 1 rollover.

The justification for the memorandum of understanding, and now for the Putting Students First Act, has been the need for fiscal restraint in the education sector. From the outset of this process in February, not one union group or trustees' association has expressed any opposition to the need for financial restraint. However, what is clear in both the MOU and the pending Bill 115 is that the ministry has gone well beyond implementing restraint measures in the education sector and intends to fundamentally restructure labour relations in the province of Ontario. It is our position that no party in this province, including school boards, should be bound to an agreement that they did not voluntarily sign. School boards are legally recognized employers and have the right to determine what is best for the students in their schools under legitimate collective bargaining processes.

The memorandum of understanding and this legislation seeks to implement a new reality wherein the government can strip the legal bargaining rights of parties if they are so inclined. School board trustees are democratically elected by taxpayers to oversee the education system at the local level and to ensure the highest quality of education is being provided for our students. It makes no sense for the government to sing the praises of our education system in one breath and then to dismiss those responsible for its success in the other.

Beyond the actions and motives of the government that have led us here today, we remain steadfastly opposed to the inclusion of section 19(1)(e) in the proposed legislation. Hiring and assessment issues have absolutely nothing to do with fiscal restraint, but instead can only represent an incentive provided by the ministry for unions to sign an agreement with a party other than their employer.

Students deserve the best teachers in the classroom and, historically, boards have done an exceptional job of ensuring teachers meet the highest standards. This

legislation will remove boards' ability to hire the best person for the job, and instead turns the hiring process over to a political agenda that clearly has no place in our schools. This does not put students first.

Our most vulnerable students have traditionally received the best quality of education, based on the multi-disciplinary approach to diagnostic assessment, wherein a team including teachers, principals, social workers, educational assistants and, most importantly, parents work together to determine the ideal approach to assessment for a student's individual given needs.

1710

This legislation will eliminate that proven, successful, team-based approach and will provide sole discretion and control to teachers. This also does not put students first.

Our recommendation to the committee is both clear and simple: Remove section 19 subsection (1)(e) from this legislation, because it has no place in a bill focused on fiscal restraint, and it does not put students first. To include the hiring and assessment provisions in legislation simply because an employee group has signed a non-binding agreement with the minister is a violation of elected school boards' rights and responsibilities, and sets a very dangerous precedent in educational labour relations.

It is also noteworthy that the legislation, as currently presented, only erodes Catholic and French boards' rights on hiring and assessment. It is our position that unequal treatment among sectors is unconstitutional.

I previously stated that this bill will fundamentally restructure how the education sector negotiates and functions if it is passed in its current form. Make no mistake, ladies and gentlemen: This legislation will impact the classroom in almost every way.

Changing the democratic rights of employer and employee groups will not improve education in Ontario. In fact, it may do the very opposite.

The historical and future success of our education system is based on one fundamental component: the relationships between the partners responsible for the quality of education in Ontario. For over 10 years, we have had labour peace in the education sector because the government respected the rights of stakeholders to act in the best interests of students. The government's conduct throughout this process has, in many cases, negatively impacted these relationships, and in the end, that is not in the best interest of students.

The proposed legislation announced attempts to override several important pieces of legislation that have governed individual rights and protected citizens over many decades. The content of the proposed legislation does not, in our view, put students first.

As the vice-president of OCSTA, I pray and implore you to consider the gravity of this situation and the consequences this bill will have on education in the near and distant future.

By eliminating section 19 subsection (1)(e), the government would be able to achieve its fiscal targets without sacrificing the quality of education in this province or

eliminating parents from the decision-making process, while at the same time avoiding unconstitutional inequity among Catholic, French and public sectors of education.

I want to state our strong commitment to working collaboratively with all of our partners in education so that our schools can continue to contribute to the success of a system that is considered one of the best in the world and should remain to be considered one of the best in the world.

I thank you very much for your time, and if I can answer any questions, I'd be happy to do so.

The Chair (Mr. Ernie Hardeman): Thank you very much. We have about two or three minutes left. Ms. MacLeod?

Ms. Lisa MacLeod: Thanks very much, Kathy. Great to have you in.

Ms. Kathy Burtnik: Thank you.

Ms. Lisa MacLeod: You know what? We're going to be supporting this legislation. I think the government has made a case that we do need a legislated wage freeze across the education sector. We personally believe that there needs to be a legislated wage freeze throughout the broader public sector, and that this probably was the best way to do it.

But we do have a couple of issues with the bill. I found it refreshing that you came in to talk about school board accountability, transparency and hiring practices. I want you to know that we made a commitment early on to the public, and we've indicated to the government that we will be pressing for an amendment to restore those school board managerial rights.

The previous speaker talked about a 93% statistic, and I'm wondering if you can verify that statistic that that individual used.

Ms. Kathy Burtnik: Can I verify that statistic?

Ms. Lisa MacLeod: From the Dufferin-Peel Catholic board of education, that, correct me if I'm wrong, 93% of the jobs that were posted went to—

Ms. Dipika Damerla: Were not posted.

Ms. Lisa MacLeod: Were not posted. Is that true?

Ms. Kathy Burtnik: I can't comment on what happens in the internal workings of that specific board. I can tell you what happens in my local board, which is Niagara. We have a policy that dictates the hiring process.

Ms. Lisa MacLeod: Right—which you expect in a school board.

Would you do me a favour?

Ms. Kathy Burtnik: I will.

Ms. Lisa MacLeod: Can you go to the Dufferin-Peel Catholic school board and ask them to provide to this committee whether that number is true or not?

Ms. Kathy Burtnik: Yes.

Ms. Lisa MacLeod: I would like a verification from them. It's hard to go by what people want to say in committee. It might not be accurate, so I want to make sure.

Just so you're aware, we certainly believe that management rights shouldn't be stripped as a result of this

bill. We still believe that there needs to be some accountability on school boards, but they should have the right to hire and fire people, and it shouldn't just simply be because you're a member of a union and you've gone up the ladder with your seniority.

Ms. Kathy Burtnik: Okay, I appreciate it. Thanks.

The Chair (Mr. Ernie Hardeman): Thank you very much for making your presentation. That does conclude the 15 minutes allotted. Thank you for taking the time, Kathy. I'll now remember you're a member of the trustees' association.

CUPE ONTARIO

The Chair (Mr. Ernie Hardeman): Our next presentation is CUPE Ontario, Fred Hahn. Thank you very much, Fred, for being here and taking the time to come on such short notice. As with the previous presenters—I believe you were in the room as we gave them instruction—there's 15 minutes to make your presentation. You can use any or all of that time. Any time that's left—this time it will be the third party that will have an opportunity to ask questions.

With that, the floor is yours for the next 15 minutes.

Mr. Fred Hahn: Thanks very much. My name is Fred Hahn. I'm the president of CUPE Ontario. I'm here today because I have the honour to represent 55,000 support staff workers in schools all across the province—in big schools and in small, in rural and urban schools, in public and in Catholic boards, in elementary and secondary schools, both English and French.

Education workers who belong to CUPE keep our schools clean and safe and functioning. They are an integral part of young people's education. They are custodians, school secretaries, education assistants, early childhood educators, instructors, lunchroom supervisors, library technicians, all of the other support staff in our schools. The vast majority of our members are women. The vast majority of them are laid off every summer because they are 10-month employees. Their average salary is \$38,000 a year.

While the Premier and the Minister of Education keep talking about teachers, we know, and we believe the people of Ontario must know that there are tens of thousands of other workers in the education system who will be directly impacted by this legislation.

You don't have to be a constitutional lawyer to understand that this proposed legislation is an unprecedented attack on the civil liberties and constitutional freedoms and rights of educational workers. The Supreme Court of our country has held twice, in the health services case and in the Fraser decision, that our constitution guarantees the freedom of association and that that includes the right of all Canadian workers to engage with their employers in a process of good-faith collective bargaining.

Twice, the court has emphasized that legislation that overrides the rights of workers to engage in bargaining over the terms and conditions of their employment or which imposes collective agreements on workers is an

interference with the constitutional guarantee of the freedom of association.

What's more, the Supreme Court of Canada has ruled that the guarantee of freedom of association under the Canadian Charter of Rights and Freedoms must provide no lesser protection for Canadian workers than is recognized in international law. Under international law, the right to strike is regarded as a fundamental component of the freedom of association.

1720

Against these constitutional standards, the proposed Liberal legislation runs directly against the constitutional guarantees of the freedom of association and involves an unprecedented assault on the constitutional rights of Ontarians.

It purports to pre-empt any bargaining before it has even begun. Most of our local bargaining units, to this date, have not had a meeting with their school boards across the province.

It proposes to eliminate the right to strike before there's any strike or lockout or, for that matter, any threat of a strike or lockout.

And it would give cabinet the unprecedented and unaccountable authority to impose collective agreement terms as part of pre-emptive back-to-work legislation and the elimination of the right to strike.

Now, imagine: The cabinet would be forced to decide the language in hundreds of collective agreements. Clearly this is not just bad legislation but bad public policy. I must assume that the cabinet has better things to do.

In fact, until now, it has been the nearly constant norm and practice that when governments of any stripe move to eliminate the right to strike or to impose back-to-work legislation, they would provide that those collective agreement terms should instead be determined by an independent binding arbitration process, not unilaterally or arbitrarily by government fiat.

This proposed legislation is beyond disturbing, because it is a very affront to the democratic traditions of our province. In fact, even the Harper government in Ottawa, when it imposed back-to-work legislation on Air Canada and Canada Post workers, did so by way not of cabinet authority to unilaterally impose and arbitrarily write collective agreements. Instead, even the Harper government in Ottawa left the determination of those collective agreements to an arbitration process.

At the very least, as Ontarians, we should expect that our government would not undermine our constitutional rights and freedoms, including the constitutionally protected right of good-faith bargaining between school boards and the workers, who are represented by unions, who are educational workers and teachers. We should expect that our government will not act in bad faith itself in terms of taking away the right to strike; that it would not give itself power to impose terms before a bargaining process between school boards and workers has even begun.

But this is not just an affront to the rights of working people. The draft legislation represents a frontal attack on

school boards, whose trustees have been elected by the people of their communities to make decisions, including the outcome of collective bargaining.

We know that the Minister of Education has been clear that she believes that the legislation being proposed is constitutional, and I guess we should expect nothing less. But our union does know something about this topic, given our history. It was our union that brought forward the BC health case. In that instance, there was another Liberal government, of course in BC, that promised its citizens that its legislative power was constitutional, and it was found not to be so.

The Liberals' stated goal is to remove \$2 billion from the education system. You cannot honestly say to the people of Ontario that you are protecting education while removing \$2 billion from the system entrusted to educate future generations. Money gone is money gone; a cut is a cut; and Ontarians do not want the government of Ontario to balance the province's books by taking money out of their children's education. But this is not just about funding or money. The government's role is to fund the education system. It could have simply dictated budgets to boards and allowed bargaining to continue with whatever funds were made available.

There is not now an imminent threat of a strike or lockout, and there has never been any indication that school boards and unions would be unable to reach agreements if they were simply allowed to do so. It would appear to many that there is another impetus for this legislation.

While we're happy to see that there are public hearings occurring today and tomorrow, it is beyond reason to see why the government would pass a motion just today to allow for hearings that only have us spending a few short, precious hours debating something that is quite clearly, and found by many to be, something that is unprecedented and shocking in relation to people's constitutional rights.

The position that this legislation tramples on the constitutional rights of Ontarians is not just held by our union, CUPE, and by other unions in the sector. The Canadian Civil Liberties Association has also said it has grave concerns. Constitutional experts like Sack Goldblatt Mitchell—even the legal panel on AM 640—agree that Bill 115 tramples constitutional rights.

The recent freely negotiated collective agreement between the Ontario community colleges' association and the government underscores why Bill 115 is absolutely unnecessary. It's not only unnecessary because bargaining could start and be allowed, through its process, to reach agreements across the province, but it is also unnecessary because it will be unsuccessful. It will fail when challenged before the courts; we believe it will fail in the court of public opinion; and it will also cost the purse of the province of Ontario to defend an indefensible law in the courts.

It's not too late, we think, for this mistake to be undone. These hearings are for the purpose of reconsideration of any piece of legislation. We are here to say clearly

and firmly to government on behalf of our members in schools in every community across the province, both in English and French schools, public and Catholic schools, elementary and secondary schools: Please withdraw this legislation. It's okay to admit that you're wrong. Don't proceed with this undemocratic process instead. Allow collective bargaining to do the work that it has done for generations in our province.

Thank you very much.

The Chair (Mr. Ernie Hardeman): Thank you very much for your presentation. We have about two minutes.

Mr. Peter Tabuns: Thank you, Mr. Hahn. Your union was part of the lawsuit that found the government of British Columbia had ignored constitutional guarantees and thus was liable to substantial damages. I assume, then, that you've also made an assessment that Ontario is at risk of substantial damages, should this legislation go forward.

Mr. Fred Hahn: We have indeed. In fact, we sought advice from the same legal counsel that represented us in the BC health case. He was with us with the Canadian Civil Liberties Association last week in a press conference.

The advice from that law firm is very clear: that this legislation is, as was that legislation in BC, unconstitutional. In fact, there are several elements of this piece of legislation that go beyond the kinds of violations that were examined and found to be unconstitutional in the BC health case.

Mr. Peter Tabuns: It's interesting. We've heard from the Minister of Education here that the problem in British Columbia was that the union was simply given short notice; there wasn't any real consultation or negotiation. I gather from your comments that the problem is much bigger than simply that, and perhaps you could enlarge on it.

Mr. Fred Hahn: I guess ultimately these are questions that the court will decide. But I think it's important to understand that consultation and negotiation would imply some dialogue. It would not mean that people were called into a room and given a piece of paper by a bankruptcy lawyer who was never any part of the education sector, who said, "This is it. This is what the parameters are. You can talk about whatever you like, but at the end of the day we're going to come back to this. This is the only thing you can deal with." That's not collective bargaining. That's not even a consultation.

We hold that the voluntary processes whereby people were invited to come to these provincial discussion tables were only that: voluntary processes.

Our collective agreements are signed between the school boards, who are the bona fide employers of our members, and our local unions. Those processes of collective bargaining have literally not even begun. As I said, the vast majority of our local unions have not even had an introductory meeting to set terms of reference for bargaining, let alone begin any bargaining in earnest.

The Chair (Mr. Ernie Hardeman): Thank you very much for your presentation. We appreciate you being here on short notice, and we appreciate your presentation.

ASSOCIATION DES ENSEIGNANTES ET DES ENSEIGNANTS FRANCO-ONTARIENS

The Chair (Mr. Ernie Hardeman): Our next presenter is the Franco-Ontarian Teachers' Association. That's the interpretation that I make from it. That's not the way it's written.

1730

Thank you very much for being here, Pierre. Welcome. As with the previous delegations, we give you 15 minutes to make your presentation. You can use any or all of that. If you leave some time for questions, the questions will be from the government side in this round. So with that, the next 15 minutes are yours for your presentation.

M. Pierre Léonard: Merci, monsieur le Président. Il me fait plaisir d'être ici ce soir, de présenter au comité, dont j'ai eu la chance et l'opportunité de travailler avec certains députés—député Delaney, députée MacLeod, député Tabuns. Je crois qu'il est évident de vous dire que je suis ici dans des circonstances assez difficiles, quand on tient compte de certaines modalités du projet de loi 115 et des gains que le syndicat, l'AEFO, a pu obtenir dans les discussions avec le ministère de l'Éducation.

Je me présente. Mon nom est Pierre Léonard. Je suis le directeur général de l'AEFO, un syndicat qui représente environ 10 000 membres, dont tout le personnel enseignant des conseils scolaires francophones de la province, et du personnel de soutien, du personnel professionnel et administratif, dont certains employés du Conseil scolaire catholique Franco-Nord.

Nous avons reçu en février 2012 l'invitation du gouvernement de participer à un dialogue—un dialogue dans un contexte financier précaire, un dialogue dans une situation qui n'est pas encadrée par des modalités statutaires comme la négociation collective normale l'est. Nous avons tout de même accepté de rencontrer le gouvernement en présence des associations de conseils scolaires parce que l'AEFO est un syndicat, comme plusieurs autres, qui veut faire partie de la solution. Mais ce, pas à n'importe quel prix.

Néanmoins, nous avons rencontré les parties, et au tout début, vous savez autant que moi, on nous a présenté des paramètres financiers assez sévères. C'est surtout sévère sur l'AEFO, un syndicat dont plus de 60 % des membres ont moins de 10 ans d'expérience. Donc, les impacts financiers sur ces membres-là étaient très sévères, comme je viens de dire.

Nous avons indiqué au gouvernement et aux associations de conseils scolaires que l'AEFO était prête à explorer un moyen pour atteindre une entente provinciale qui serait gagnant-gagnant. Et ce qu'on a dit, c'est: «On est prêt à considérer des compromis financiers, si on peut obtenir des gains dans les conditions de travail non monétaires pour les membres.» Encore une fois, je répète, notre objectif était d'avoir une entente gagnant-gagnant. Et pour faire allusion à la dame qui représentait l'association des conseils scolaires catholiques anglophones, quand l'argent n'est pas

négociable, quoi d'autre négocier? Négocier des améliorations de conditions de travail non monétaires, qui veut dire, dans plusieurs cas, encadrer des droits de gestion. Les conventions collectives contiennent déjà beaucoup de modalités où les employeurs ont laissé aller des droits de gestion ou ont accepté d'encadrer des droits de gestion en retour d'autres compromis. Donc, à mon avis, et à l'avis de l'AEFO, une entente qui négocie des droits de gestion est tout à fait normale. Rien de magique dans cette approche.

Nous avons poursuivi le dialogue et nous avons vite reconnu que les associations de conseils scolaires voulaient utiliser la situation—je n'ose pas dire exploiter la situation—pour sabrer davantage dans les conditions de travail non monétaires des membres. Donc, vous pouvez deviner que la réaction de l'AEFO était, il n'est pas question que les membres de l'AEFO vont être assujettis à des compromis monétaires, et en plus de ça, des compromis, des retranchements dans la convention collective de conditions non monétaires.

Nous avons donc choisi de quitter la table et nous avons indiqué, catégoriquement, clairement, aux parties à la table que l'AEFO quittait parce qu'on n'accepterait pas des compromis non monétaires pour les membres, mais qu'on gardait la porte ouverte si jamais on voyait que le gouvernement était plus flexible sur les paramètres, parce qu'à ce moment-là on ne voyait pas cette flexibilité, et si les associations de conseils scolaires retiraient leurs demandes de retranchement dans les conventions collectives.

Après que nos confrères et consœurs du syndicat OECTA ont conclu un protocole, on a vu une ouverture de la part du gouvernement dans les alternatives aux paramètres financiers. On a aussi vu qu'OECTA avait obtenu des améliorations importantes et intéressantes dans le domaine du non-monétaire, des objectifs que l'AEFO avait aussi. Donc, on est retourné à la table et, encore une fois, on a informé les parties qu'on est ouvert à des compromis financiers s'il y a des améliorations des conditions non monétaires. Le gouvernement, les représentants du ministère de l'Éducation, je pense, ont bien compris cela, mais les employeurs n'ont pas compris. Ils ont continué, non seulement à chercher des retranchements dans les conventions collectives qui existent déjà, ils ont voulu diluer de façon importante les conditions non monétaires qui étaient dans le protocole OECTA et du ministère de l'Éducation.

Donc, après plusieurs jours de discussion au niveau provincial, on a dit aux associations : « Il va être impossible de conclure une entente avec vous » et nous avons continué le dialogue avec le ministère de l'Éducation, qui nous a emmené à une entente que vous avez, j'espère, lue. Mais je veux quand même vous faire part des raisons pourquoi l'entente AEFO est importante pour nous et les membres.

Je vous dis important pour les membres parce que le protocole d'entente était remis à tous les membres de l'AEFO. On les a invités à des sessions où ils pouvaient voter par ballot secret et se prononcer pour ou contre

l'entente. C'était pendant les mois d'été, avant que l'école ne recommence, et était le nombre de membres qui se sont présentés pour voter plus élevé qu'une négociation normale, pour le dire ainsi. Et je vous dis que 100 % des unités de l'AEFO, des enseignantes et enseignants réguliers, le personnel suppléant, ont voté en faveur. Donc, selon nous, on a respecté un processus démocratique fort important.

Projet de loi 115 : pourquoi est-il important pour l'AEFO? Il protège intégralement le protocole d'entente que nous avons librement négocié avec le gouvernement. Quelques conditions dans l'entente qui sont très importantes pour nous, c'est que le protocole atténue de façon importante l'impact sur le pouvoir économique des membres de l'AEFO dont, je répète, plus de 60 % ne sont pas au maximum de leur grille; ils ont moins de 10 ans d'expérience.

L'entente crée un nouveau régime de congé de maladie. C'est vrai, l'ancien régime de congé de maladie avait plusieurs avantages, mais aussi des désavantages. Le nouveau régime de congé de maladie comporte des avantages importants encore une fois pour les jeunes de la profession qui n'ont pas accumulé un nombre important de congés de maladie et qui n'ont pas cette protection-là dans des situations médicales assez sévères—la grossesse, par exemple, et ainsi de suite. Donc un nouveau régime de congé de maladie—oui, avantages, désavantages. Les membres de l'AEFO ont fait la part des choses au niveau des avantages et des désavantages et ont voté en faveur.

L'entente met en place un processus d'embauche transparent et équitable. Il n'y a rien de magique encore dans ce processus-là. C'est un processus qui dit que les employeurs vont respecter l'ancienneté, mais sous réserve de qualifications. Quelle convention collective, qui n'a pas ce processus-là déjà en place, sauf pour le personnel suppléant? Le personnel suppléant, dont pour les conseils scolaires de l'AEFO, ne voit pas afficher, dans très, très peu de conseils, les postes réguliers. Et à mon avis, selon l'expérience que j'ai, le népotisme et le favoritisme pour l'embauteur des enseignantes et des enseignants pour des postes de longue durée et pour les postes réguliers est flagrant, et le protocole d'entente fait un pas dans la bonne direction pour assurer un processus transparent—donc, les gens vont comprendre les règles—équitable pour toutes et tous.

1740

Je vous fais grâce de la lecture parce que nous avons un mémoire à déposer, et à la page 3 vous pouvez lire d'autres avantages du protocole de l'AEFO.

Projet de loi 115 : je répète que c'est difficile pour un syndicat de demander l'appui, votre appui, pour un tel projet de loi. En anglais, on dit, si je ne me trompe pas : « the lesser of two evils ». Et c'est dans ce contexte-là qu'on vous dit que l'AEFO appuie le projet de loi. Nous allons demander, et nous l'avons déjà fait, auprès des trois partis devant moi, une modification au projet de loi. Selon nous, c'est une modification mineure, importante, et qui, à mon avis, devrait être acceptable aux trois

partis : c'est de s'assurer que pour les gens qui doivent rembourser les salaires qui sont payés en trop en début d'année, ce soit fait de façon humaine.

Je vous fais part du libellé de la modification; vous l'avez vu, vous allez le voir. Encore une fois, c'est mineure et ça va assurer que les conseils scolaires ne font pas ce qu'on voit souvent lorsqu'il y a une erreur de paie, peu importe le niveau de salaire, l'argent, pour que ce soit récupéré le plus rapidement possible. Ce qu'on vous demande, c'est d'assurer un mécanisme, par l'entremise du projet de loi, qui permettrait au gouvernement d'émettre soit une note, soit un règlement qui dit que la récupération de cet argent-là ne causera pas un fardeau financier indu au personnel qui se voit victime d'une situation où les conseils scolaires doivent respecter les conventions collectives en place en attendant que le projet de loi 115 soit adopté.

Les autres volets du projet de loi 115 que nous n'aimons pas, sans répéter ce que mon confrère Fred Hahn a déjà dit de façon plus éloquente que je ne le pourrais, sont la durée de la période de restrictions. Il y a une ouverture, comme vous le savez, dans certaines conditions qui ne touchent pas directement l'AEFO mais qui permettraient une prolongation du projet de loi pour une troisième année. Nous sommes totalement contre cette approche. Ce sont des situations extraordinaires, c'est fait sur une base exceptionnelle et temporaire, et ça doit être clair pour tout le monde que c'est temporaire, c'est deux ans. Au niveau des dialogues avec le gouvernement, on a toujours discuté de deux ans. Ce sont les règles qu'on connaissait et on vous demande de respecter ces règles-là.

Nous n'aimons pas, évidemment, les limites imposées aux droits de négociation, mais quand on regarde l'histoire, on sait que dans des situations extraordinaires et exceptionnelles, il y a différentes formes de négociations qui ont eu lieu. Et de façon volontaire ou non, par la gestion des conditions de travail, par budget et autres, les syndicats ont accepté de, j'ose dire, suspendre le droit de négociation temporairement, et c'est le point de vue que l'AEFO prend en ayant négocié le protocole que nous avons avec le ministère de l'Éducation. Nous acceptons de suspendre la négociation traditionnelle. Ce n'est pas parce qu'on est d'accord avec ça. On vous dit qu'on suspend ces droits-là dans le contexte d'avoir un protocole d'entente qui est équitable et qui est gagnant-gagnant pour le gouvernement, pour les membres et, j'ose dire, pour les employeurs, parce que le processus de dotation équitable et transparent—OK, il y a des pertes de droits de gestion. Moi, je vous dis plutôt, c'est encadrer les droits de gestion, et quand c'est transparent et équitable, il y a moins de griefs, il y a moins de poursuites et, à mon avis, c'est bon pour tout le monde.

Là-dessus, monsieur le Président, je m'arrête et j'accepterai des questions.

The Chair (Mr. Ernie Hardeman): Thank you very much for your presentation. It was well done, but that does conclude all the time that was allotted. Thank you for your attendance.

ONTARIO PRINCIPALS' COUNCIL

The Chair (Mr. Ernie Hardeman): Our next presenter is the Ontario Principals' Council, Ken Arnott, president.

Thank you very much for coming in and making your presentation. We appreciate you doing that on such short notice. As with the previous presenters, you will have 15 minutes to make your presentation. You can use any or all of that time. If any time is left over, the questions this time will come from the official opposition. If more than one of you is going to speak, if you could introduce yourselves in the microphones for Hansard so it will be in the record. With that, the next 15 minutes is yours.

Mr. Ken Arnott: Good afternoon. Thank you for the opportunity to present here today. My name is Ken Arnott and I am the president of the Ontario Principals' Council, the OPC. With me today is a member of our general counsel, Allyson Otten.

The OPC is the professional association representing over 5,000 principals and vice-principals in Ontario's public elementary and secondary schools. Bill 115 has a direct impact not only on our members' employment conditions, but also on the learning environment in our schools. As such, we feel very strongly that our views need to be heard and considered before this bill is sent back to the House for third reading.

First, let me state that we acknowledge and we understand the financial constraints faced by the government. Although it was not the public service or educators that caused the problem, our members are willing to be part of the solution to address the provincial deficit. However, we do not believe that legislation is necessary for this purpose, and it's our concern that Bill 115 has been brought before the House prematurely when the labour relations process already in place has not been permitted to run its course.

Let me provide you with some important context about principals and our right to bargain collectively. Principals have the charter right to associate, for our members in the OPC, for the purpose of negotiating our terms and conditions of employment. This includes the right to engage in meaningful consultations about those terms and conditions of employment before they are amended.

In 2010, after extensive consultation with principals and school boards, this government issued policy program memorandum 152, better known as PPM 152, in recognition of these charter rights. The purpose of PPM 152 was to set out provincial standards to assist school boards and principals' associations in establishing the terms and conditions of employment for school leaders with a view to good succession planning and to acknowledge the need to respect the important role of principals.

Notwithstanding the charter and PPM 152, our members have not been given the opportunity to begin discussions for the purposes of reaching a negotiated settlement provincially, despite the fact that, according to the government, hundreds of hours have been spent

negotiating with teachers and support staff over the past six months. We requested this opportunity in May, but never received a response from the minister. Instead, an MOU was signed with the Catholic teachers' union earlier this summer. In that MOU, the terms and conditions of employment for principals and vice-principals were negotiated into a teacher union contract without our knowledge, our involvement or our consent. The MOU includes provisions related to salary, benefits, unpaid days and grid movement. We immediately expressed our concerns to the minister's office to try and remedy the situation and prevent similar language from appearing in any other teacher union contracts.

Unfortunately, we were told that the MOU would be the basis for every other contract in the education sector. In effect, an agreement reached with one teacher union is now expected to apply to every other education employee group in the province. Not only is this unfair, particularly for those of us who were never given the opportunity to even begin discussions, but in our view it is also a breach of good-faith negotiations.

Despite repeated requests from our organization over the past two months, the government has refused to negotiate directly with us and has replicated the OECTA terms in the subsequent French teacher MOU. The result is that a teachers' agreement now dictates key employment terms for our members without any good-faith negotiations having taken place with principals.

1750

Now that the government has opened the door to excluding principals and vice-principals from discussion and making school board agreements dispensable, we are deeply concerned that other matters negatively affecting students and interfering with management responsibilities may be bargained with teachers and support staff unions, to the detriment of the effective operation of our schools.

In addition to our concerns about the process, our members are also very troubled by the negative impact that some of the non-financial elements in the MOUs will have on student success, including:

- eliminating professional development days, which will make it increasingly difficult to implement the numerous initiatives that have been mandated by successive governments;

- restricting a principal's ability to direct diagnostic testing in their schools;

- forcing principals to hire long-term occasional teachers based on seniority as opposed to ensuring that the best teacher is in the appropriate classroom; and

- placing student safety at risk by restricting supervision so that a principal, who is legislatively required to ensure that a school is adequately supervised, can no longer do so.

If the government had taken the time to consult principals on these matters before entering into the MOU, it would have heard about our concerns regarding these elements of the agreement before it was too late. By failing to involve principals in the discussion, the government lost an opportunity to understand the impacts that

these provisions will have at the school level from the people who are responsible for maintaining the safety and integrity of the learning environment.

The MOUs now form the basis for Bill 115. As such, our recommendations to this committee are as follows:

(1) The Ontario Principals' Council should be prescribed in regulation as an employee bargaining agent under the act to align with the Charter of Rights and the overarching purpose of the PPM, which is to enable principals' organizations, for their members, to negotiate terms and conditions of employment for principals with their boards.

(2) Bill 115 should not include any terms that are not strictly necessary to implement the financial parameters. For example, it should not include criteria and processes to be used in the hiring of teachers or the use of diagnostic assessments. These terms, negotiated solely between the government and unions to the unions' benefit, negatively affect students, interfere with management responsibilities and are detrimental to the effective operation of schools.

(3) If there is an intention to change operational practices through regulation—hiring practices or diagnostic testing—then fulsome consultation must first take place and include school leaders, who are well positioned to provide advice about the impact that such changes will have on student learning.

(4) Bill 115 should be modified to eliminate all reference to agreements reached between the government and individual employee groups. It should stand on its own and, as noted above, include only those terms necessary to legislate the financial parameters.

(5) A provincial discussion table should be established to discuss future provincial bargaining for all employee groups, including principals and vice-principals. The OPC, for its principal/vice-principal members, must be given the opportunity to actively participate at this table.

(6) Finally, this legislation is premature and is unlikely to withstand a charter challenge. There is no crisis requiring legislative intervention. Teachers and students are back at school, and our members are working with both to ensure a smooth start to the school year. Teachers are bargaining with their employer school groups, and our members will undergo similar negotiations when those are completed.

We encourage the government to allow the normal labour relations process to work. Allow the parties who understand school operations best to negotiate agreements that respect the financial goals of the government.

Legislation should be a last resort and used as a shield to protect the public from harmful strike action or fiscal irresponsibility, not as a sword to force unions and employers into deals they do not want and do not believe are in the best interests of students.

Thank you for the opportunity to present the views of Ontario's public school leaders.

The Chair (Mr. Ernie Hardeman): Thank you very much. We have about four minutes for the official opposition. Ms. MacLeod.

Ms. Lisa MacLeod: Thanks very much, Ken. I appreciate you coming in today. It was a very thoughtful, helpful presentation, and I really appreciate the effort you put into it.

I want you to know that I feel very sympathetic to your points with respect to the criteria and processes with respect to hiring of teachers as well as with the diagnostic assessments, and I've indicated that to the Minister of Education. As we know, she is considering moving forward with it in any event, so I will put forward an amendment tomorrow, making sure that that is changed. I feel that this is stripping and, as you say, interfering with management responsibilities.

Can you give me an example of where this hiring based on union seniority may be detrimental in the schoolyard?

Mr. Ken Arnott: My experience is as an elementary school principal. On the elementary panel, we usually have teachers who are qualified for primary, junior and intermediate classroom teaching. However, we find that it takes a very certain skill set to deal with grade 1s and to work with grade 8s. Given the opportunity, we would like to keep that in consideration of who is qualified and who is best suited to deal with the nature of the students that they're teaching.

Ms. Lisa MacLeod: What do you say to the presenter who was here earlier who said that the hiring processes are never followed, the jobs are never posted, and that it's all about nepotism in the school boards and with the principals?

Mr. Ken Arnott: I'm in York region. We have a process that works very effectively, where every job is posted, and we have to interview a certain number of candidates, many of whom are already on our occasional teacher list and many of whom are already familiar to the school and the children and have a comfort level with the staff, the community and the parents. We offer them opportunities, as well as several new people who we feel would be a very good fit for the school as well.

These jobs are posted. A certain number of candidates are interviewed. They're all given feedback at the end of the interview process.

Ms. Lisa MacLeod: So sometimes it's the quality of the teacher, not just the quantity of years that they've been part of a union, I guess, is what you're saying, and there may be different fits.

Mr. Ken Arnott: We need the flexibility to say who is the best teacher to put in that classroom in front of our students.

Ms. Lisa MacLeod: Right.

Can we talk a little bit about diagnostics? I know I don't have a lot of time, but this seems to be another contentious issue, very controversial. You contend, and I agree, that principals must have the ability to be part of that. We are televised right now, and I think there are a lot of Ontarians wondering what kind of impact this will have down the road. Given your experience and expertise, can you talk a little bit about that?

Mr. Ken Arnott: In the broader context, assessment is used for accountability, but more importantly, it's also

used to improve student learning. If I have a large school and I have three teachers in the same grade, I want to make sure that the diagnostic tool that they're using is consistent so that I can work with them and prepare my school plan and what I need to provide in the way of resources to help them teach.

I also need to assure parents that whatever assessment tool is being used in one grade, let's say, in the spring—while it's communicated to the parents how well the students are doing—the following year, a similar assessment tool is used so that parents are able to track their students' progress just as well as I am, as a school administrator, and the teachers are, when there's a continuum of skills up the grade levels.

Ms. Lisa MacLeod: My little one started grade 2 yesterday, and I certainly appreciate the role of our teachers and our principals in the school system.

Thanks very much for your presentation. I know it's a busy time of year for you guys, so it's great that you took the time today.

Mr. Ken Arnott: You're very welcome. Thank you.

The Chair (Mr. Ernie Hardeman): Thank you very much, on behalf of the committee, for making your presentation today.

ONTARIO FEDERATION OF LABOUR

The Chair (Mr. Ernie Hardeman): Our next presenter is the Ontario Federation of Labour, Sid Ryan. Welcome to the committee. Thank you very much for coming here on such short notice.

As with the previous delegations, you will have 15 minutes to make your presentation. Any or all of that time can be used for the presentation. If there's any time left at the end of the presentation, the questions will come from the third party.

Since we have more than one person at the mike, if you would be so kind—if you're both going to speak—to introduce your colleague so that Hansard will know to put the name in the record.

The next 15 minutes are yours.

1800

Mr. Sid Ryan: My name is Sid Ryan. I'm president of the Ontario Federation of Labour. Duncan MacDonald is research director at the Ontario Federation of Labour as well.

Thank you for the opportunity to say a few words, on very short notice, to this committee dealing with Bill 115.

Of course, it's no surprise to anybody around this table that we sincerely believe that this bill is a cynical piece of legislation. We don't believe it is intended, shall we say, to address any serious concern that needs addressing in this Legislature. The schoolteacher unions and the support staff in this province have made it perfectly clear that they had no intentions of disrupting the start of the school year. They just wished to sit down with their respective school boards and negotiate.

As the past president of CUPE Ontario, I was involved in what they refer to as the provincial discussion table,

the PDT, which is the genesis of the dispute that's taking place today in many respects. The teacher unions and the support staff in CUPE voluntarily came to a negotiating table with the provincial government four years ago. There was no obligation on either parties; that's why they called it a provincial discussion table. Everybody recognized that the bargaining rights rest with each individual local, whether it be with the schoolteachers—in their case at that time it was CUPE—or with the respective school boards. That's who the official bargaining agents are. It's not the Ontario government. Today, to find out that the government at the time were resisting a central bargaining process—they didn't really want a process so they called it a provincial discussion table instead. It's ironic to turn around and see that they are now penalizing schoolteachers and actually bringing in the heavy hand of legislation to take away a right to strike before anybody has even gone on strike. It's unheard of in industrial relations anywhere in the developed world to see this kind of legislation.

It's ironic that they're now forcing this legislation upon schoolteachers at a time when they were telling them years ago, "You can't have central bargaining."

I don't understand the nature of this, except that it has to be a cynical ploy to attempt to influence an election down in Kitchener–Waterloo in particular. To coin a phrase that was already in the newspapers, I believe that Dalton McGuinty and Tim Hudak will both meet their Waterloo tomorrow night when the results come rolling in.

The anti-union rhetoric that has permeated the campaigns by both of these political parties—Frick and Frack are in bed together now. Tim Hudak, who has been bashing trade unions for the better part of six months now, has his opportunity. He has been bashing the unions down in Kitchener–Waterloo, which the Tories have held for 30 years. It will be very interesting to see tomorrow night just how well this message is beginning to resonate.

But just in case the Liberals are feeling a little bit smug after my comments regarding the Tories, here's a piece of despicable campaign material that was put into the doors of all the families down in the Kitchener–Waterloo riding beginning yesterday. It's from the Liberal candidate. At the top it says, "Teacher unions are planning strike votes." This sounds a bit like the Republicans last week when they go out and tell the lie, and pretend that if you tell it often enough the people will believe it. It says, "They don't like the Ontario Liberal plan to protect full-day kindergarten and class sizes by freezing wages and cancelling banked sick day payouts." Then it says, horror of horrors, "The NDP supports unions. They can't say no."

Now, McGuinty has made a career—

The Chair (Mr. Ernie Hardeman): If we could—

Mr. Sid Ryan: I'm getting into the issue. He's made a career of—

The Chair (Mr. Ernie Hardeman): Yes, we'll stick to the issue of—this is not the election forum.

Mr. Sid Ryan: I'm getting there. It's all about politics. This piece of legislation is not about protecting students in the classroom; it's all about politics and I'm speaking to the question of politics, sir.

The Chair (Mr. Ernie Hardeman): And you're quite welcome to speak to that, not to the election.

Mr. Sid Ryan: And the point I wanted to make is that McGuinty has gone out of his way to fashion himself as the so-called education Premier. Who does he think makes the education system work? Who does he think are in those schools? Only schoolteachers and support staff. They are the ones that are creating this world-class education system that we've got in this province, and this Premier now thinks it's politically expedient to go out and bash these schoolteachers and try and demonize them in a by-election down in Kitchener–Waterloo. That's what this is all about.

Today in the paper—he knows the numbers. He's doing the polling, right? My God, he's now been converted on the road to Damascus. Now he's basically saying, "I'm misunderstood. I understood where teachers are coming from." He feels their pain. Sure, he feels their pain. He feels their pain because he knows the result tomorrow night is going to hand him one of the largest electoral defeats in the history of the Liberals in this province.

But in any event, the point being, collective bargaining is sacrosanct in this province. We just came out with a report last week dealing with the growing poverty gap in this province, and part of the pathway out of poverty is in fact the ability to negotiate a collective agreement, to take people from meagre wages up into the middle class, if you will, and give them a bit of a pension plan when they retire.

We don't need Dalton McGuinty coming in with legislation. Take a look at just one section of this bill, which—honest to God, it's frightening to see that a Liberal government would bring in these kinds of powers. I say to the Tories that you ought to think about where the Liberals are going with this. Do you really want to give the Liberals this kind of power?

It says this is increasing the cabinet and ministerial powers. It gives the cabinet, rather than the Legislature, the right to restrict strikes and lockouts. It gives the cabinet the power to extend the provisions of the bill beyond two years without having the issue debated in the Legislature. It gives the Minister of Education sweeping powers to approve or change any contract negotiated between the school boards and the unions, and gives the Minister of Education authority over collective agreements that are governed by labour legislation under the jurisdiction of the Ministry of Labour.

Seriously, do the Tories really want to put that kind of power into the Minister of Education in Ontario? I doubt it very much. I certainly know my friends in the NDP don't want to do it, because we sincerely believe in the right to free collective bargaining. Allow the parties to go to the negotiating table, and allow the parties to decide what's best.

The teachers have already indicated, as I understand—and I heard Ken Coran say it many times, and I'm sure he'll say it again tonight. The teachers have offered zeros to this minister and to this Premier.

I was on the lawns on Queen's Park today when AMAPCEO was out there protesting. AMAPCEO have said exactly the same thing. They came forward and voluntarily offered wage freezes. Apparently, that's not good enough.

Interjections.

Mr. Sid Ryan: Am I interrupting a little conversation up here between the two of you guys? Am I interrupting something here?

The Chair (Mr. Ernie Hardeman): No, he's just—

Mr. Sid Ryan: Okay. Anyway, just to get back to the point, I'm out on the lawns of Queen's Park, and AMAPCEO are saying exactly the same thing as the schoolteachers are saying: They've offered these zeros. Why is the Premier peddling these myths outside that somehow these unions are not prepared to come to the table and do their best? They've already offered zeros. AMAPCEO have done the same thing, but behind the scenes, the negotiators are saying to AMAPCEO, "We want a 2% and 3% take-away."

The part that really got to me—and I see there's a minister—no, it's not a minister; sorry. It's Jane, an MPP. The Tories had the cojones today to actually come out of the Legislature and actually stand with AMAPCEO, as if somehow they're saying behind the scenes, "We're with you." They're saying, "We're with you"—

Ms. Lisa MacLeod: Point of order: Just so the individual here is aware, members of the assembly are allowed in any room in this facility without being stopped—

Mr. Sid Ryan: That's not my point.

Ms. Lisa MacLeod: —and we're allowed on the lawns of Queen's Park—

Mr. Sid Ryan: That's not my point. If I could continue now—I've got the microphone. If I could continue—

The Chair (Mr. Ernie Hardeman): That's not a point of order—

Mr. Sid Ryan: No, it's not. Thank you.

The Chair (Mr. Ernie Hardeman): —but I will ask the presenter to speak to the bill.

Mr. Sid Ryan: Okay, I will, and this is to the bill. The point I'm making is, I'm not caring where you go in the Legislature. But given that your party has got a position that's attacking unions and attacking their rights to free collective bargaining, it takes some gall to actually come out of the Legislature and stand with AMAPCEO and pretend that somehow you're their friends. That's the point I'm trying to make.

The Chair (Mr. Ernie Hardeman): I would stop you again, Mr. Ryan. Speak to the legislation that's before us. That's what we want to hear, not whether you agree or disagree with the politics of anyone—

Mr. Sid Ryan: I am, actually. I'm actually speaking to it. I'm trying to get the point across that this is nothing but crass politics being played by both the Tories and by the Liberals. The pawns in the game here are the voters down in Kitchener–Waterloo. Hopefully, tonight, people will be watching and seeing what this government has done and is attempting to do, with the support of the Tories. Tomorrow night, you'll all get your answer in terms of how well your little political games worked. That's all I have to say.

The Chair (Mr. Ernie Hardeman): Thank you. That's the end of the presentation. Any questions from the—

Mr. Peter Tabuns: I have time, Chair?

The Chair (Mr. Ernie Hardeman): Yes, you have about four minutes.

Mr. Peter Tabuns: Excellent. Mr. Ryan, thank you for coming down today.

The question that we've raised consistently in the House—you've touched on part of it in your presentation: the opportunistic presentation of this bill to win elections.

The other part of this, of course, is the huge risk to the people of Ontario that they will be stuck with a very substantial bill for damages, should this go to the Supreme Court of Canada, should it be shown to be unconstitutional. This was the experience in British Columbia. Parents out there are concerned that the money is there to make sure that the schools are in good shape. Clearly, if we put at risk hundreds of millions of dollars, those dollars are going to come out of public services at some point or other.

1810

You've been active in the trade union movement. I'm sure you're well aware of the British Columbia experience. If you could talk to the kind of risk that the Liberals are running in introducing this legislation and, frankly, going against the constitutional rights of the people of this province.

Mr. Sid Ryan: Thank you for the question. The ruling in British Columbia actually was with a CUPE entity called the HEU, which is the Hospital Employees' Union. The Liberal government out there, which are more like Tories than they are actually Liberals, decided that they would enter into negotiations with the HEU, but do it in a very cursory way, much like they've done here. The difference here of course is, as I indicated at the beginning of this presentation, the Ontario government does not hold the collective bargaining rights for schoolteachers in this province, and therein lies part of the challenge at the Supreme Court. The collective bargaining rights are vested in the school boards, and that's a legally binding vestment of the bargaining rights, likewise with the CUPE locals and with the schoolteachers.

So the fact is that they're not the appropriate bargaining agent to begin with; they have no right to come and demand that schoolteachers come to the table. Have you noticed that OSSTF, ETFO and CUPE—all three of them are essentially saying, "We want to continue to

negotiate with the appropriate bargaining agent,” and the government is saying, “No, you cannot negotiate with those folks. We want you to negotiate with us, and if you don’t, we’re going to legislate it”?

I don’t believe that will stand up in the courts, but I don’t think McGuinty cares about that because he just cares about the short-term goal, which is the election in Kitchener–Waterloo. Unfortunately, it’s a little bit like the power plant that got delayed or—sorry—scrapped in the west end of Toronto in the middle of the election. It cost us \$180 million, but so what? It helped him to win an election—

The Chair (Mr. Ernie Hardeman): I would caution again to stick to the bill.

Mr. Sid Ryan: It helped him to win an election, and it’s the same old scam again. Here we go. What do we care about taxpayers’ dollars—

The Chair (Mr. Ernie Hardeman): Thank you very much, Mr. Ryan.

Interjection.

Mr. Peter Tabuns: Thank you for your thorough answer to my question.

MS. CLAIRE LAUGHLIN

The Chair (Mr. Ernie Hardeman): Our next presentation is from Claire Laughlin. Thank you very much for coming in to make your presentation. As with the previous delegations, you will have 15 minutes to make your presentation. You can use any or all of it for your presentation. If there’s any time left at the end of the presentation, the questions will go to the government side.

With that, the next 15 minutes are yours, and thank you again for being here.

Ms. Claire Laughlin: My name is Claire Laughlin, and I thank you for the opportunity of making a presentation here today to speak with you regarding one component of the bill, the issue of assessment, and why I believe the provisions currently in the bill pertinent to diagnostic assessment are essential.

Assessment is an issue very close to my heart. It has always been a key tool of my professional practice and the practice of all teachers. Currently, I deliver workshops and other forms of professional development to teachers. This includes workshops on assessment to new full-day, early-learning kindergarten teachers, as well as elementary and secondary teachers. In addition, I have taught and now oversee additional qualification courses for teachers, including an additional qualification course on assessment and evaluations. Teachers will never be opting out of assessing their students with the most current and best practices available. The legislation gives them the ability to determine what to use, when to use it and whom to use it for. Restoring teachers’ ability to apply their professional judgment in this manner guarantees all assessment is most relevant to student learning.

I have just begun my 31st year of teaching. It actually seems a little scary saying that out loud. I have taught

kindergarten and special education classes and also worked as a special education resource teacher in classrooms with students and their teacher to ensure every child succeeds. From there, I continued as a special education consultant and, finally, as the coordinator of special education in the elementary schools of the York Catholic District School Board. In this role, I co-authored an assessment guide for special education teachers, provided various assessment workshops for new and experienced teachers and worked on the board’s assessment and evaluation committee, which authored the board’s policies and procedures for assessing, evaluating and reporting. I am a highly qualified educator with a bachelor of education, special education and primary specializations, a master’s degree in literacy, and various other courses.

With that brief introduction, let’s get to the heart of the matter. What is better for students: being assessed, or being taught and learning? Successful student learning is key to all teachers do. It is this very success that parents hope for when they send their child to school. Efforts and time are best spent on teaching students, rather than assessing them over and over and over again with the same instrument and/or instruments that measure very few curriculum areas.

What has happened to assessment, particularly diagnostic assessment, to have given it such a high profile? Quite simply, it became a tool for data gathering by schools and boards, and stopped informing teaching and learning. It has grown so far away from the purpose it was intended for.

Teachers are overwhelmed by the demands in a number of boards for gathering large amounts of assessment data. These demands left little or no time for instruction in between, because of the increasing frequency of required assessments.

Consider that in the London Catholic District School Board, teachers reported using between three and 13 assessments in kindergarten; similar numbers in grades 1 through 3; four to eight assessments in grades 4 through 6; and between five and 12 assessments in grades 7 and 8. The average time spent administering the tests ranged from 200 minutes in kindergarten to 462 minutes in grades 7 and 8. This does not include time for marking these assessments nor reporting them to the board, principal and sometimes the student’s school record.

To be clear, let’s consider this example: a grade 1 class of 20 students. At the start of the school year, the grade 1 teacher would expect that a few students may already have begun to read. Many others are starting to indicate some interest in words around them. They can for sure read McDonald’s, the ice cream store and probably Nintendo, while others, due to background experience, maturation, age, oral language level, may be indicating few, if any, beginning reading behaviours.

In the first few days and weeks of the school year, time will be spent teaching these students, engaging them in a variety of activities. Some they can do with ease, and others will be more challenging. The grade 1 teacher will

also have reviewed information from previous kindergarten report cards. As the teacher engages in these activities and makes his or her own observation, they gather insight into each student's learning, and plan the next steps for instruction.

However, the board requires that the teachers do a diagnostic reading assessment on every student prior to Thanksgiving. Given the children's age and relatively short attention span, this will be done individually, or perhaps with a few students if they are at the point of beginning to read. This now puts teaching and the students' learning on hold for days. What will other six-year-olds do while assessment is undertaken for all 20 students? They are able to do little independently. They need to be engaged, therefore, in activities familiar to them so they can be successful and engaged while the teacher has a suitable amount of time for testing.

Of course, the more a student struggles or is not yet ready to read, the longer the time spent trying to administer the test. By the time all 20 students have been assessed, the students will have completed lots of activities familiar to them in order for the teacher to be free to give proper attention to the student being assessed. However, any new teaching and learning will be limited, because time is so scarce.

The grade 1 teacher is likely to have to repeat this three or more times this year. It is this situation—duplication of effort and inability to use the information that the teacher has already gathered to inform instruction and planning—that is the heart of the issue. At the end of the assessment, most, if not all, of the results were as expected, given the activities already undertaken with the student or students. However, the board only wanted to deal with data as a single score.

If time permits, I can give you a similar example for grade 8.

You may wonder, then, why this issue came to discussion at a provincial dialogue table. It has become so cumbersome that in some boards, teachers could not find a suitable instruction window to address student needs through teaching and learning.

The Ministry of Education, in its policy, program and curriculum documents for teaching and learning, defines "diagnostic assessment" as the testing that is undertaken to identify a student's needs and abilities and readiness to acquire the knowledge and skills outlined in the curriculum. This type of assessment usually takes place at the start of the year, term, semester or teaching unit. It further states that it is a key tool for teachers in planning instruction and setting learning goals. That is what it should be. Nowhere does it state that a primary or secondary purpose of diagnostic assessment is school or board planning.

1820

The documents in this pile in front of me are a few of the ministry resource documents for teachers devoted solely to assessment, to assessment and evaluation, and to assessment as a component of a program document—in this case, full-day kindergarten. Many contain refer-

ences to a teacher applying their professional judgement to select the appropriate assessment tool based on information required, students' learning and the purpose for assessment. This should apply to all assessment. All of the assessment—not just diagnostic, but the assessing you do before teaching, the assessment you do while students are learning, and the assessment undertaken after a suitable time of teaching and learning, as well as evaluation and reporting referenced here—will continue in a teacher's practice, reinforced by the diagnostic assessment language remaining in the legislation.

Teachers are not opting out of diagnostic assessment, despite reports to the contrary. They are required and will continue to follow the parameters outlined in ministry policy and program documents. With the diagnostic assessment information piece included in the legislation, teachers will regain their right to use their own professional judgement to determine what tools from a board-approved list, to which students and how often.

Again, I must state that not assessing students before, during and after learning is not what is being sought with the language in the bill. No teacher could teach without using all kinds of assessments for all kinds of purposes.

Another erroneous claim is that students with special needs or those whose learning is of concern will not receive suitable support if the diagnostic piece remains. Let me say again: erroneous. Having spent nearly my entire lengthy career in special education, I can assure you that it is not the score that a student receives on a board- or school-required test or tests that determines an at-risk learner. It is the day-to-day performance of a student, closely monitored and observed by the teacher, that initiates support from special education.

As a matter of fact, many boards insist that all students, including students with special needs, participate in diagnostic tests which are not appropriate and only serve to undermine the confidence of a student who is struggling with learning. Teachers' use of a wide range of assessment practices to assess students' learning before, during and after instruction and learning indicated a student at risk—a fact the entire school team was already aware of through meetings and documentation already available and much more relevant.

You may now be concerned, if a school board does need data, about how this might be gathered. Data can be ascertained easily from two key sources: report cards and EQAO. Report cards, in particular, report student progress over many areas rather than simply reading, writing or math. These two data sources could easily inform any school or board improvement plan in any area of the curriculum.

A few boards have moved to reflect the professional judgement piece in their diagnostic assessment practice. Teachers are relied on to select the appropriate tool and administer at least once. Teachers are also encouraged to use their professional judgement to seek the tool most appropriate for their students.

Thank you.

The Chair (Mr. Ernie Hardeman): That does use up all the time, so we thank you very much for your

presentation, a very well-prepared presentation. We appreciate your coming in on such short notice.

CATHOLIC PRINCIPALS'
COUNCIL OF ONTARIO

The Chair (Mr. Ernie Hardeman): Our next delegation is the Catholic Principals' Council of Ontario, Carole Allen, president.

Interjection.

The Chair (Mr. Ernie Hardeman): The clerk will look after that and pass them around for you. Thank you very much for coming in today.

As with previous delegations, you will have 15 minutes to make your presentation, and you can use any or all of that for your presentation. If there's any time left at the end of the presentation, it will go to the official opposition for questions. With that, thank you very much, and the next—

Mrs. Jane McKenna: It's the government.

Ms. Cheri DiNovo: Mr. Chair, it goes to the government.

The Chair (Mr. Ernie Hardeman): No, it goes to the official opposition.

Ms. Cheri DiNovo: Despite the fact that they haven't had a chance to ask questions? Really? Interesting.

The Chair (Mr. Ernie Hardeman): I think the government will agree. But anyway, we'll deal with that afterward. Everybody gets the rotation of the three presenters, not of whether there was time for questions.

With that, thank you very much for coming in, and we look forward to your 15-minute presentation.

Ms. Carole Allen: Thank you. Good afternoon. My name is Carole Allen and I'm president of the Catholic Principals' Council of Ontario. I am an elementary school principal, I live in Barrie, and I represent the 2,100 principals and vice-principals in Catholic schools across this province. I do want to thank you for the opportunity to speak with you today.

I have been hearing from our members over the course of this summer who have serious concerns about the proposed legislation, the Putting Students First Act, 2012. We proudly celebrate that Ontario schools are now recognized as the best in the English-speaking world. Our goal is to ensure that this outstanding achievement and high quality of education is not threatened by political expediency but continues to grow in every classroom and for every student.

Having said this, Catholic principals and vice-principals were justifiably disappointed and disheartened this summer to learn, through the media, that our government expediently negotiated our terms and conditions of employment with the teachers' union and not with us.

To add insult to injury, the government completely ignored the process, PPM 152, that they created in 2010 for principals and vice-principals to establish terms and conditions of their employment.

Principals and vice-principals play an integral role in the success of students in Ontario's schools. We have

responsibility in law to supervise and be in charge of the instruction, the organization and the management of our schools. We are key players who orchestrate the necessary school improvement plans that animate student success and achievement in our schools. To do this, we need to have the necessary tools at hand to accomplish these goals. The Putting Students First Act does not provide these tools but, rather, diminishes the ability of principals and vice-principals to maintain and build on the existing student achievement record.

In addition, we were astounded to learn that the amendments to Bill 115 in section 19, subsection (1)(e), with respect to the hiring of teachers based on seniority and the use of diagnostic assessments of students, will be imposed upon Catholic and French school systems, while the public system will be exempt. How can this inequitable treatment be putting students first? If the amendments are in place to support students in public schools, why is it not necessary to support students in Catholic or French schools in the same manner?

The Ontario Leadership Framework, 2012, clearly states that recruiting and selecting teachers with the interest and capacity to further the school's efforts is a key school improvement task, done in many schools by a principal. Recruitment and selection criteria for hiring of teachers include exemplary pedagogical skills and an ability to collaborate with other staff members for purposes of instructional and school improvement. We firmly believe that selecting teachers simply on the basis of seniority does not support the goals of school improvement, nor does it allow principals to select the right person for a particular class and a particular group of students.

The first priority of education in Ontario is a high level of student achievement, and in particular in literacy and numeracy skills, which are the foundation for all other academic achievement.

The Ontario Leadership Framework, the School Effectiveness Framework, and Growing Success—all government documents—speak to the responsibility of the school principal for the creation of high performance expectations with all staff and students. These requirements include the collaborative development of common assessment tools, and assessment practices which are consistent across the school. Permitting teachers to opt out of using diagnostic testing undermines the very principle of school-wide, consistent practice. Tools used to track student progress and apply targeted intervention will be threatened in every school. How is this putting students first?

1830

Catholic principals and vice-principals are proud of the academic gains made by students in this province. Let us not diminish these gains but continue to work together to support the principal's responsibility for improvement of student learning and the school improvement process.

I thank you very much for your time today.

The Chair (Mr. Ernie Hardeman): Thank you very much for your presentation. We do have about five

minutes for questions or comments. We will give the time to the official opposition.

Mrs. Jane McKenna: Thank so much, Carole, for coming. It's a wonderful presentation. I know your schedule, obviously, is busy with just starting back. I'd like to say, I understand your frustration, because there was a process that's a proper process to get everyone under one roof and discuss things with them, and clearly this didn't transpire. I am sad, because I do hear what you have to say. It is vilifying one against the other, and then we lose the objective of what we're actually doing here right now.

I have five children and the principals, really, along with the teachers—my dad used to have a great saying. He used to say, "Fish smells worse at the head." I've always been very lucky to have wonderful principals for my kids, because the principals set the tone for the teachers and then the students; the coaches, then the team.

So I'd like to thank you so much for coming. I'm grateful to be part of this panel to have an opportunity to listen to you. Thank you so much.

Ms. Carole Allen: Thank you.

The Chair (Mr. Ernie Hardeman): Thank you very much for your presentation. We very much appreciate you coming on such short notice and making your presentation.

Ms. Carole Allen: Thank you very much for the opportunity.

ONTARIO SECONDARY SCHOOL TEACHERS' FEDERATION

The Chair (Mr. Ernie Hardeman): Our next presentation is the Ontario Secondary School Teachers' Federation: Ken Coran, the president. No? I don't know; as you're approaching the mike, it doesn't look like Ken Coran, the president.

Ms. Cindy Dubu : We're pinch-hitters for Ken tonight.

Ms. Leslie Wolfe: It takes two of us to fill in for one of Ken.

The Chair (Mr. Ernie Hardeman): As with the previous presenters, you have 15 minutes to make your presentation. You can use any or all of that for that. If you have any time left over, this round we will have the third party ask the questions. Thank you again very much for being here. The next 15 minutes are yours.

Ms. Cindy Dubu : Thank you very much. My name is Cindy Dubu . I am an executive officer with OSSTF provincial office. I'm also a support staff, a member of OSSTF.

People need to remember that support staff are also affected by this legislation, and they need to recall—each and every time it's in the media, it's just teachers—every time someone just mentions teachers, that support staff are also very much affected by this legislation. This legislation will mean that we no longer have the ability to collectively bargain with our employers, the school boards. It will impose a settlement with virtually no

ability to freely bargain solutions that meet the needs of both sides.

Local negotiations have been successful for many years in meeting the fiscal parameters of the government without excessive government intervention. Local negotiations need to continue so that effective solutions can be found between the two groups who know education the best—the union and our legal employers, the school boards—effective solutions that benefit students.

A couple of examples are: In many districts, we have jointly developed local programs for at-risk students and staffed these programs with staff-student ratios that promote a safe learning environment for students at risk, all through local bargaining; and we have negotiated class sizes that reflect the needs of local schools and individual students' learning, once again through local bargaining. We recognize that these solutions must be within the current fiscal parameters identified by the government, but we must have the flexibility to find solutions locally to ensure that the work continues.

Locally, we have negotiated working conditions for support staff who work 11 and 12 months of the year, not 10. This legislation does not recognize these individuals, another example of why this legislation is not a fix.

It has been reported that hundreds of hours have been spent negotiating over a six-month period when, in fact, what has occurred has not been negotiation. We were given the government parameters in February. In spite of many suggestions to save money, including accepting zero-wage increases over two years, the government repeatedly returned to the original parameters they set out in February. We moved to local tables, and the government responded by sending letters to boards of education that stated that any negotiated settlements must contain the government parameters. We were not given the opportunity to bargain freely with our employers or to freely discuss solutions to the government's fiscal parameters.

Together, the school boards and OSSTF want to find solutions outside of this legislation. Having legislation forced upon us is not the answer. Our members recognize the fiscal challenges and are ready to find solutions. But this legislation has made them feel powerless and defeated. This is not the way to ensure continued success in education.

This legislation will only serve to do significant damage to the positive relationships that have been built between education workers, school boards and the government, relationships that have undoubtedly helped to build the best education system in the world.

Ms. Leslie Wolfe: My name is Leslie Wolfe. I'm also an executive officer on the provincial executive of the Ontario Secondary School Teachers' Federation, and I'm a teacher. I was a teacher on the grid under Bob Rae; I was a teacher in adult education when Mike Harris cut the funding for adult ed by two thirds; and I was a teacher during the implementation of Bill 160. But never, ever have I experienced such an anti-democratic, frightening time in Ontario politics.

I want to thank you for giving me the opportunity to speak on behalf of our 60,000 members, teachers and support staff across Ontario and to tell you what our real issue is with this legislation. Bill 115 is not about asking teachers to take a pause. It is not about a pay freeze. Nor is it even about fixing the deficit. Far beyond those things, it is a piece of legislation which, if passed in its current form, will begin to turn democracy in Ontario on its head to such a degree that it should take away the collective breath of all of the citizenry in Ontario, regardless of political stripe.

Bill 115 gives the Minister of Education unprecedented powers over the working lives of tens of thousands of individual citizens in the publicly funded school system. It gives the Minister of Education and cabinet the right to use public education workers' pay, working conditions and benefits basically as a private bank account from which to make withdrawals at any time in order to refill the coffers of the government's deficit or, in fact, for any reason at all. There are no limits.

It allows the Minister of Education at any time to impose any working or earning condition on any group of public education workers in this province. It leaves those workers without recourse to arbitration or the human rights tribunal, and even attempts to discount recourse through the court system.

Bill 115 gives cabinet, rather than the Legislature, the right to restrict strikes and lockouts—on a whim. It intrudes into the collective bargaining process by allowing cabinet at any time to impose terms into existing collective agreements. It gives cabinet an independent and free-standing authority to impose by regulation a collective agreement on a board and employee group superseding all related provisions of the Labour Relations Act. It is a pre-emptive piece of “back-to-work legislation” before there is even any strike or lockout or, indeed, any real threat of either, and without providing for independent binding arbitration, as would normally be the case. It literally provides to cabinet limitless regulatory authority in this area.

This bill sets a dangerous precedent upsetting Ontario's history of democratic checks and balances by concentrating power away from the Legislature into one minister and cabinet. Certainly, no party in opposition should be supportive of this bill, as it serves to diminish in entirety their role and the role of the Legislature.

1840

Not only is it undemocratic; it is simply unnecessary. As my colleague noted, approaching collective bargaining by imposing one deal bargained with one union on all others in the sector in either substantially similar or substantively identical forms is not bargaining at all. It ignores all of the mutual problem-solving and successes in publicly funded education gained through real dialogue as opposed to one-way conversations.

On behalf of the members of OSSTF, 60,000 education support staff and teachers working in elementary and secondary schools in the Catholic and the French system across Ontario, I urge this committee to gut Bill

115. Tell the Liberals that democracy in Ontario will not be permanently transformed under your watch. Thank you.

The Chair (Mr. Ernie Hardeman): Thank you very much. We have about six minutes left. With that, Ms. DiNovo.

Ms. Cheri DiNovo: Thank you very much for the presentation today. One of the themes that has come through from a number of presenters is the unconstitutionality of this bill and the fact that it opens up the Liberal government and the people of Ontario, through our taxes, to perhaps tens of millions of dollars in damages. I'd just like to hear your opinion about that.

Ms. Leslie Wolfe: I'll share with you something—my father is a retired lawyer, and every time he reads the newspaper and hears more about the Liberals' bill, he says, “Oh, goody. More work for the lawyers. More money for the lawyers.” We have committed, along with the other unions, to filing a constitutional challenge to this bill. We believe that the government's stance that negotiating and achieving successful deals with OEFTA and AEFO—has nothing to do with whether it engaged in meaningful talks with the other unions involved. We are not one union; we are multiple unions, and we believe that “meaningful dialogue” means just that.

We intend to take this through the entire court system to the Supreme Court, and of course, that's not going to be inexpensive. Our members will pay for it through their dues and the rest of the citizens will pay for it through their tax dollars. In the end, if there are damages to be paid, the Liberals will be on the hook for explaining to citizens why their tax dollars were spent in such an egregious manner.

Ms. Cheri DiNovo: We've also heard—and this is another theme that has come forward—that this has more to do with the by-election in Kitchener–Waterloo than it does with anything in terms of putting students first; that students are a very small part of this, if at all part of this. A few of the messages that have been put out are things like: You've demanded money, you've demanded a raise, and the government has to step in to stop that raise; that you've threatened to strike, and the government has had to step in to stop that strike. Perhaps you could address those.

Ms. Leslie Wolfe: First of all, OSSTF did indeed have strike votes planned, and when the government began to use our rights under the existing labour relations act—which, by the way, it is also looking to suspend under this legislation—in the normal course of bargaining, OSSTF chose to suspend those strike votes. We have said from the beginning that we had every intention of being in schools, ensuring that the kids and young adults whom we are responsible for day in and day out have schools open and to go to. We also said that, given the opportunity to use the regular bargaining process, we were absolutely confident that boards and local bargaining units could achieve deals. Boards were given their budgets; bargaining units know what they are. We could achieve local deals and meet the fiscal targets.

This government instead, right on the heels of calling a by-election, chose to introduce legislation which completely distracts from the rest of their record and instead focuses on what was a non-existent fight between the education sector and the Liberals. Unfortunately, they have successfully created a crisis, and they are in for a hell of a fight.

Ms. Cheri DiNovo: Thank you very much, and say hello to Ken.

Ms. Leslie Wolfe: I will. Thank you, Cheri.

The Chair (Mr. Ernie Hardeman): Thank you very much for your presentation and thank you again for coming in on such short notice.

DR. LYN VAUSE

The Chair (Mr. Ernie Hardeman): Our next presenter is Lyn Vause. Thank you very much for coming in. I apologize, to start with, if I didn't pronounce the name quite right, but we do appreciate your coming in on such short notice to make a presentation to the committee. As with previous presenters, you will have 15 minutes to make your presentation. You can use any or all of that time for your presentation. If there is time sufficient after your presentation within the 15 minutes, the government side will be asking the questions. With that, the floor is yours for the next 15 minutes.

Dr. Lyn Vause: Thank you for this opportunity to speak to you today. My name is Dr. Lyn Vause, and I've been a teacher for 25 years. I have had various leadership roles at the school, board, Ministry of Education and faculty of education and, internationally, with UNICEF, all of which dealt with education and issues of assessment in one way or another. I also completed a master's and doctorate of education that looked at research in all areas of education, including assessment. I presently work at OECTA in the professional development department, where I have worked on several large-scale and long-term projects with teachers in the classroom that included issues and decisions around diagnostic assessment.

I would like to address some of the issues around teachers' professional judgment and diagnostic assessment as set out in the memorandum of understanding. As the MOU states, "in order to inform their instruction, teachers must utilize diagnostic assessment during the school year."

Teachers agree with this, but they also know that it is the professional knowledge they gain from the test that is most important, not a number on a data collection sheet that labels a child as reading level 8, 10 or 30. They find diagnostic assessments to be very valuable tools to inform their instruction if they are allowed to use their professional judgment about which assessment is best in which situation and with which students. However, teachers find that diagnostic assessment can take time away from good teaching and learning if it becomes an intrusive and time-consuming data collection endeavour for the board.

Many diagnostic tests overlap each other as far as what they are assessing and, therefore, waste classroom time. Diagnostic assessment is also only one part of the assessment puzzle and needs to keep its rightful place as a strategy for diagnosis of specific, discrete skills and not become misunderstood as a singular indicator of all-encompassing student achievement because it is limited in the scope of the actual amount of the curriculum expectations it assesses. When boards mandate too-frequent diagnostic assessment, based on pre-set and arbitrary timelines, it reduces and can eliminate the daily, weekly and ongoing, in-context formative assessment that is the better tool for propelling student learning.

The use of diagnostic assessment as a data collection device also waters down its effectiveness in the student/teacher assessment relationship, making students test-weary even in the earliest months of junior kindergarten. Diagnostic has its place in the learning and teaching cycle that occurs in the classroom, but once the cycle becomes too heavily dependent upon data collection of diagnostic assessments, then other more effective assessment and instructional strategies lose their rightful place as the core of good teaching.

There seems to also be a misunderstanding about what diagnostic assessments are and are not. The diagnostic assessment that is referred to in the MOU is primarily commercially or board-produced assessments that teachers use to assist in determining a child's level of understanding of some of the literacy expectations. Most of it takes place in junior kindergarten to grade 3 and grade 4 to grade 6. These tests were designed to let teachers determine such things as the level of a book a child should be reading and to identify discrete errors that a child might be making.

For instance, a teacher might note from a diagnostic test that a group of children are having difficulty with understanding something such as "ing" at the end of a word. The teacher would then use the appropriate in-class strategies to ensure that the children learn that concept in that moment with ongoing monitoring to make sure the concept sticks. To have to fill out paperwork which provides this data to the board serves little purpose other than that, in a distant future, someone from the board level can advise the teacher that the students are having difficulty with adding "ing," and she should do something about that. That is the basic problem with diagnostic assessments being used for data collection: They generate extensive red tape that is not useful for the student or the teacher in the immediacy of a learning situation if they're not used in the immediacy of the learning situation.

We also need to remember that diagnostic assessment is not the only assessment tool teachers use. Diagnostic assessment is part of a balanced assessment strategy that teachers use their professional judgment about every day. There's also formative, which is every-day assessment, and summative, which is the end of the unit/term and usually is indicated on their report card. The better assessment for instruction is the formative, which is fully

supported by all the research literature in the field. Many of the articles out of EQAO and other professional papers tout formative assessment as the most important component of high achievement.

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Formative assessment is an in-the-minute, daily and weekly assessment that teachers do to help students understand a concept. It is timely and consistent and specific to the diverse needs of students in that classroom. If a student doesn't get "ing" you do something about it in the moment. Formative assessment is robust enough that teachers can use all the components of good assessment, such as observations, portfolios, projects and quizzes, as well as the diagnostic assessment, to make a fuller judgment of children's learning and then put that on the report card so parents can understand it.

Excessive diagnostic testing is not beneficial for good teaching and learning. A diagnostic assessment is used to identify an initial level of literacy. After that identification, ongoing instructional practices such as guided and shared reading in the classroom keep the teacher informed of the child's progress on a day-by-day basis. In every moment of working with a student or group of students, teachers use their professional knowledge to determine when a student is lagging or advancing in their learning and what strategies to utilize to help them move forward.

Extensive, formal, diagnostic assessment of reading isn't beneficial if the child is progressing at an appropriate rate. In fact, excessive diagnostic assessment can be detrimental, as it tests students in a contrived context that is not part of their everyday real-world learning. You don't need two or three different tests to tell you that students don't understand "ing" at the end of a word. Teachers who are mandated to do frequent and overlapping assessment data collection find that it reduces their time for more important instructional activities.

Students react to constant testing. All children, no matter how young, know when they are being tested, and the isolation of the testing situation generates its own nervousness, which again impacts on children's achievement. Even children in the early months of junior kindergarten express their anxiety at doing the tests, even though they are pleasantly oblivious to the informal daily assessment that is done by the teacher, both of which measure the same thing. The daily assessment where children are reading to a teacher and being given immediate and explicit feedback based on the professional judgment of the teacher is the better route for student improvement and a lessening of anxiety.

A huge misconception is that diagnostic assessment is used to identify children with special needs. Diagnostic assessment submissions to the board level do nothing to assist in identifying children who have special needs. There are a plethora of protocols and tests that are used to identify children who do not appear to be progressing in the classroom. In fact, in many cases, overuse of diagnostic tests would just be detrimental for a child with special needs and give them undue stress. There are

many excellent strategies for helping children with special needs progress at a rate and with support not reflected in diagnostic tests, which were mostly not designed for special education purposes.

There is a need for board decision-making about improving student achievement. Summative assessment, such as report card data, can be used for board decision-making. It includes all of the aspects of a child's learning.

Within schools, a supportive school culture that includes parents, teachers and administrators is developed through the use and collection of report card data that provides not a narrow view of the child's learning but a holistic picture of how a child is becoming literate and how that literacy is affecting all other areas of the curriculum. It is the most important because it is the amalgam of a teacher's judgement about student learning across that whole range of social, emotional, and cognitive dimensions, and provides the best guideline for boards to determine targets and allocate support and resources for overall school achievement.

Board-mandated diagnostic assessment negatively affects the student-teacher assessment relationship. Concentrated focus only on formal diagnostic tests and the requisite paperwork impedes the work of teachers by taking time from the instructional, formative assessment student feedback loop that is the backbone of good teaching.

The moral purpose of education is to educate children in the most effective way possible. Data collected for data's sake detracts from this purpose. All students can learn and all teachers can teach best when the focus is on the assessment relationship between the students and the teacher. This close relationship ensures that assessment is occurring in the moment of need and feedback is given that is timely and specific. The further we move from that relationship into the accumulation of data at the board office, the less useful to the child the whole venture becomes.

It can also reduce children's feelings of self-efficacy. There is no point in constantly testing a child. They know it when they are not succeeding on a test. But a child who gets consistent feedback in the moment of and in the context of their daily learning is able to feel the small and large successes that come with good teacher instruction and feedback.

As a grandparent of children in the system, the mother of a teacher and the aunt, sister and friend of several teachers across the province, I know the fine work that teachers are doing with assessment in their classroom. They talk about the difference that all the work on good assessment in the past few years has done to the effectiveness of their practice. But I also hear from other teachers around the province, especially in kindergarten to grade 3, who say that their time is taken up doing lengthy, formal and time-consuming diagnostic assessment for data collection purposes. They want the time freed up to do the instruction and feedback piece that actually feeds student learning, not just measures it.

The MOU, as it now stands, opens up the possibility for professional knowledge and judgment to again come to the forefront, for the benefit of students. Thank you.

The Chair (Mr. Ernie Hardeman): Thank you very much. We have about four minutes. Ms. MacCharles.

Ms. Tracy MacCharles: Thank you, Dr. Vause, for being here. I think your presentation is extremely helpful. You've highlighted the helpful aspects of diagnostic assessments but also some of the downsides of it. I think that's very important. You have, I think, dispelled some of the myths associated with diagnostic assessments, and you've clarified some facts. I think that it's so important that people really understand what is being contemplated here in the MOU.

I just want to confirm if you're also aware that the ministry plans to undertake a full consultation process on this part of the MOU, leading to a policy and program memorandum, based on what's outlined in the MOU. I'm just wondering what your thoughts are about how best people should engage in that consultation process. I think a lot of people are unaware of this provision: that consultation is intended to be undertaken to build on previous work in this area.

Dr. Lyn Vause: I think consultation will certainly help with people, especially around the misconceptions that have come out, possibly more in the media than anywhere else—particularly if you're bringing parents into that discussion, because you don't want parents to think they're not part of it. Absolutely; all teachers want parents as part of the discussion about assessment. Just helping parents and other people out there to understand all those component parts of really good assessment and how we can—we know that we're a world-class system. We excel in everything that we do. We have world-class teachers; all the research says that. We are at this point now where we have teachers who can do very good diagnostic and other forms of assessment. They don't need to have the paperwork that goes with that. That would be for a different level of an education system, I would say.

Ms. Tracy MacCharles: In your view, would it be beneficial for teachers and administrators to also have input into this consultation process, in addition to parents, as you mentioned?

Dr. Lyn Vause: Absolutely. Certainly, administrators would need to part of that conversation. They would be very interested in what's happening in diagnostic assessment in their school. It is, of course, a very important part of their role. Our thing is around the paperwork done to send it to the board level, not with the administrator.

Ms. Tracy MacCharles: Of course. It makes sense to ensure we're adding value in the process. I think you've highlighted some important points about diagnostic assessments in those early years and how it impacts literacy.

Can you talk a bit more about how diagnostics help us track our students' success in the province or in the country or in the world?

Dr. Lyn Vause: I think it has to be as part of the rest of the assessment package. Diagnostic is in discrete

pieces. If you actually have a look at some of the kits and those sorts of things—in the moment of doing a diagnostic assessment with a child, you can glean some really good information, but they're all little pieces of information, and you've got to make a judgment based on other things that you've observed that child doing within their reading. I think you have to think about all of those pieces.

One thing where a teacher's judgment comes in all the time is—you can have several kids at level 6. That doesn't mean that they all need the same strategy. If you send that information to the board—"These kids are at level 6"—it may not look very good, or it may look excellent, depending on where they are in the year and what grade. But it doesn't give you information the way it gives to the teacher in that moment—because as soon as you finish that diagnostic assessment, you can do something around the issues that have come up in that moment of that diagnostic assessment. It isn't really useful assessment for tracking. It is part of a package of assessment that can become a good tracking tool, but to use that alone—it doesn't do that. You can't really make comparisons.

Ms. Tracy MacCharles: Thank you.

The Chair (Mr. Ernie Hardeman): Thank you very much for your presentation. It's much appreciated. Thank you for coming forward on such short notice.

ONTARIO PUBLIC SCHOOL BOARDS' ASSOCIATION

The Chair (Mr. Ernie Hardeman): Our next presentation is the Ontario Public School Boards' Association: Lori Lukinuk, first vice-president; Wayne McNally, director of finance; and Geoff Williams, director of labour relations. Have I got them all right?

Ms. Lori Lukinuk: Pretty close.

The Chair (Mr. Ernie Hardeman): Very good. Thank you very much for coming in and making a presentation today. As with the previous presenters, you have 15 minutes to make your presentation. If you change speakers in midstream, if you would start with giving your name for Hansard so we record the person speaking. If any time is left at the end, the questions will be from the official opposition. With that, the next 15 minutes are yours.

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Ms. Lori Lukinuk: Good evening. My name is Lori Lukinuk. I am the first vice-president of the Ontario Public School Boards' Association.

Joining me today is Geoff Williams, director of labour relations; and Wayne McNally, to my right, director of finance for the Ontario Public School Boards' Association. We thank you for this opportunity to address the Standing Committee on Social Policy today.

One of the key roles of school boards is to be responsive, at the local level, to the expectations of parents of school-age children and youth. Parents in Ontario expect school boards to protect the quality of education in the

classroom and protect the future of the education system by making decisions that are focused squarely on what is in the best interests of all students and the learning environment.

Today we want to alert the committee to those aspects of the Putting Students First Act that require caution—caution in terms of the unprecedented measures contained in this legislation, and caution in terms of provisions that are not in the best interests of students.

The Putting Students First Act has been introduced after more than five months of provincial discussions. At the end of these talks, which did not resemble negotiations in the context of traditional labour relations, the government signed agreements with only some of the employee groups. In the process, they disregarded the advice of school boards about issues that would negatively affect students. The signing of these agreements in itself was an unprecedented action that lies outside the provisions of the Ontario Labour Relations Act. That act recognizes collective agreements that are signed between the employer—that is the school boards—and the respective unions. The government may be the funder, but it is not the employer.

Today, more than 60% of the employee groups remain without a provincial framework, which would typically guide the bargaining of local agreements. Once the government signed its unusual deal with the Ontario English Catholic Teachers' Association, OECTA, school boards were told that in the few weeks remaining of the summer, they had to reach more than 400 collective agreements with various unions.

They were also told that if they failed to achieve these agreements, the government would bring forward legislation that would impose the unsatisfactory framework developed with OECTA.

What's more, the government knew that collective bargaining is a bilateral process. It takes both parties to reach a deal. School boards were in no position to impose an arbitrary deadline for the conclusion of joint negotiations between equal parties. Any reasonable person looking at these circumstances would judge the government's expectations to be unrealistic, unreasonable and unprecedented.

What we are now facing is a situation where the provisions of the Putting Students First Act, if passed, will be imposed on school boards and all school board employees. It will be imposed on both unionized and non-unionized groups, regardless of the context of existing local agreements and working conditions.

The bargaining process currently in place in Ontario works when school board employers and employees can sit down together to negotiate issues best understood by those parties. OPSBA strongly opposes any legislation that would so deeply circumvent the local collective bargaining process. School boards operate at the local community level. School boards understand the needs of students in their communities. Just as importantly, school boards have the moral and legal responsibility to represent student and community interests.

The proposed legislation fundamentally alters the labour relations landscape by impeding the right of employees to collectively bargain, while enabling the government to essentially impose collective agreements on boards and teachers. Furthermore, unlike back-to-work legislation, this bill would eliminate the right to strike or lockout even before such a right is exercised.

By taking away the ability of democratically elected local school boards to negotiate fair collective agreements with their employees, the provincial government, specifically the Minister of Education, will hold virtually all bargaining power. The minister would not be subject to any scrutiny by all MPPs in the Legislature.

The proposed legislation expressly prevents either the Ontario Labour Relations Board or any arbitrator from making a decision on whether any provisions of the Putting Students First Act is constitutionally valid.

In addition to overriding provisions of the Labour Relations Act, the proposed legislation seeks also to override provisions of the Employment Standards Act. It prevents challenges that might be based on provisions of the Ontario Human Rights Code. It would even rein in the jurisdiction of our courts.

The government insists on imposing conditions about how teachers are to be hired and how students are to be assessed. No meaningful policy debate or data to back up the need for such provisions has been put forward. Through the media, we have heard anecdotal stories about why these provisions found their way into the OECTA deal. For something that's this important to students, it's not good enough. These provisions are about two substantial practices that affect the quality of education in our schools, and they are not in the best interests of students, parents or Ontario's world-class education system.

We fail to see how they help to address the government's major concern of reducing the deficit. Instead, they will seriously undermine the primary mandate of school boards as spelled out in the Education Act: "to promote student success and well-being." School boards view the hiring of the most qualified and suitable teachers and the capacity to direct diagnostic testing to be a matter of protecting students' rights.

Hiring is based on the principles of equity and fairness. Assessment is based on well-established practices and protocols. Both hiring and assessment are determined by school boards.

New teachers are hired based on qualifications and experience, not by the amount of time they have worked as an occasional teacher. The objective is to hire the best-qualified applicant. Ontario is a vibrant and diverse society. Restraints on hiring may impede boards' efforts to ensure that their teachers collectively reflect our diverse communities.

As for student assessment, boards are purposeful in the assessments they use to achieve the best outcomes for students year over year. This is lost if teachers, outside of the board's improvement planning process, can choose which assessments to use, for which students, when and

how often. Teacher input into assessment tools is important, but the ultimate responsibility must reside with each school board. Diagnostic testing is one of the objective elements that informs the kind of strategic planning at the school and board level. Diagnostic testing is effective in improving outcomes for students.

Control over hiring and assessment was, without the consent of school boards, given away by the government to ensure that OECTA would agree to accept a wage freeze and other significant concessions. In so doing, the government ignored the strong objections of elected trustees, directors of education and supervisory officers. These educators were arguing for what is best for students. What was lost for students in the OECTA deal should not now become part of government regulations.

School boards in this province are committed to doing their part in Ontario's current fiscal climate, but school boards cannot and will not endorse a course of action that jeopardizes the education of students and the role of school boards in the democratic process.

We appreciate that recent action on the part of the government is driven by the need for fiscal constraint in Ontario's current economic climate. School boards have told the government repeatedly that we support the need for stringent financial parameters. Since the government believes it is necessary to legislate in order to achieve its financial goals, such legislation should only support achieving the necessary financial parameters for the defined two-year period.

The legislation should not have open-ended enabling language which would permit unfettered regulations or comparable orders that pave the way for subverting the legitimate collective bargaining process.

The legislation should not compromise the ability of school boards to fulfil their responsibility for ensuring student achievement and student well-being. By altering the hiring practices of school boards and undermining the student assessment practices of school boards, the government is weakening the quality of education of our students. There is no need to compromise quality education to achieve the government's fiscal objectives relating to employee compensation.

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For these reasons, we recommend that subsection 19(1), entitled "Regulations," be amended as follows:

—in part (a), the restraint period be changed from three to two years;

—part (e), which reads as follows, be deleted in its entirety:

"The Lieutenant Governor in Council may make regulations ...

"(e) prescribing terms and conditions that may be imposed in an employment contract or a collective agreement, including terms and conditions respecting,

"(i) criteria and processes to be used in the hiring of teachers by boards and any other matters related to the hiring of teachers, and

"(ii) the use of diagnostic assessments of students;"

We would ask the standing committee to amend the proposed legislation as we have suggested. We call on all MPPs to stand up for the rights of students in our schools by supporting these amendments.

And we thank you for considering this input. Thank you.

The Chair (Mr. Ernie Hardeman): Thank you very much for your presentation. The questions are for the official opposition. Ms. MacLeod.

Ms. Lisa MacLeod: Thanks, Lori; great presentation. I know you put a lot of thought into this, and the process has become what it has become.

I'll be very clear. As we have been upfront with everyone in education, our party has called repeatedly for, across the board, a broader public sector wage freeze. We'll be supporting this because we believe it is a step in the right direction in that regard. It doesn't meet all of our requirements.

That said, I've made a commitment—and I've been very clear on this with the minister over the past number of weeks—that we believe that section 19 needs to be reworked, that it isn't in the best interests of Ontario students. We have heard from principals and school boards that it's stripping away their managerial rights and their ability to do their jobs as laid out in the Education Act and, quite frankly, as expected by parents. So you have our commitment tomorrow to make sure that that goes forward as an amendment. It will require support, of course, from others around the table here.

I asked others this question. One of the first deputants, I believe it was the first deputant from the Dufferin-Peel school board—sorry; the Occasional Teachers' Bargaining Unit—said that 93% of positions where there's been hiring for teachers have not been posted, and I'm wondering if that's your experience or if you actually do post your jobs so that the best teachers, not just the ones with the most seniority in the union, get the job?

Ms. Lori Lukinuk: Thank you for your question and your comments. I appreciate that the amendments are hopefully going to be made or put forward. I think school boards handle things differently across the province. We have such a diverse province. We know that. I'm from the north. We have, in some of our schools, over 50% aboriginal population, so we need that ability to be able to hire teachers who will best fit our classrooms.

I'm not familiar, across the province with how the hiring practices are, so maybe I could direct that to Geoff Williams.

Ms. Lisa MacLeod: That'd be great, Geoff.

Mr. Geoff Williams: Sure. Posting practices are determined by the collective agreements that teachers have with their employers. So whatever the posting practices are have been bargained between the employers and the unions.

Ms. Lisa MacLeod: So union reps will come here today and say, "Well, that's not sufficient"—and they have done that. I'm very clear that I actually subscribe to your view, but I think that just for clarity's sake—because this is televised. There are people at home

wondering when this 93% of the jobs aren't posted, and the message gets out—would that be accurate? I know that's not your board, but I guess the question then becomes, is that the case province-wide, or do you actually put a little bit more into your hiring practices than just actually picking your best friend's daughter, like they did at Ornge?

I guess I would rephrase this: Would you actually put in place hiring policies in order to ensure that the best-qualified teachers are being hired, or is it simply, as was suggested earlier here, that it is based on nepotism?

Mr. Geoff Williams: Most boards have hiring policies in place that guide their hiring practices to specifically avoid practices like nepotism.

Ms. Lisa MacLeod: That's great. Finally—I know we're short on time—could you just talk a little bit more about diagnostic assessments and why that's important for principals and school boards to be part of that?

Mr. Geoff Williams: Your last speaker focused very closely on the use of assessment for individual students. Diagnostic assessment as it's envisioned in the memorandum of understanding is the kind of assessment that's done for the use by schools in determining their school improvement plans, and by school boards in improving their board performance and the overall perspective on how students in a board and in a school are doing, and they are incredibly useful when you're designing things like professional development for teachers.

Ms. Lisa MacLeod: That's great. Thanks very much for taking the time today to be here, and I look forward to working with you.

Ms. Lori Lukinuk: Thank you.

The Chair (Mr. Ernie Hardeman): Thank you very much for your presentation. That does conclude the 15 minutes. We, again, thank you for coming on such short notice.

PEOPLE FOR EDUCATION

The Chair (Mr. Ernie Hardeman): Our next presentation is People for Education, Annie Kidder. Thank you very much, Ms. Kidder, for being here today. As with the previous delegation, you will have 15 minutes in which to make your presentation. Any or all of that may be used in your presentation. If there is time left at the end of the presentation, it will be the New Democrats, the third party, that will ask the questions. With that, the next 15 minutes are yours.

Ms. Annie Kidder: Thank you very much. I will probably not take up very much of it.

Just so you know, I am the executive director of People for Education, which is an independent, non-partisan group working to support public education in Ontario's English, French and Catholic schools. We provide support to parents. We conduct research on education issues, and we publish an annual report on Ontario's publicly funded schools.

I'm here today because we are very concerned that this bill, which we consider a major bill, a bill that will

make major changes to education policy in Ontario, is being rushed through the Legislature.

We feel that our children in our schools in Ontario need stability. They need security. They need a sense that the grown-ups know what they're doing. This week, the first week of schools, parents should be talking to their kids about their own high expectations of their children and about how to manage the transition to school, not about a crisis, a kind of manufactured education crisis in education and this legislation and what it may or may not mean.

We're concerned that when our education system gets caught up in polarized debates like this, it's easy for all of us, as adults, to forget that the system is actually there for the students. It's not there for us. It's not about us. It's not for us to play power games. It's actually there to serve the needs of students. The adults are important, but schools are for children and young people. Our job, as politicians, as parents, as educators, as policy-makers, support staff, school trustees, all the people in this room, all of the people of Ontario—our job is to make sure that our students are getting the education they need so that they can have the kinds of futures that they deserve. What happens when we get into fights that are about money and power is that it takes away from that. To me, that's what this fight is about. It is about money and power.

We were very disturbed today to understand that the provincial government has allocated four and a half hours for public consultations on this bill, because it includes substantial changes to our education system and some of them, as you heard from the speakers before, can end up being permanent. Even though this bill is termed as a short-term measure, there are measures within the bill that will allow it to be permanent.

One of the most disturbing things to us is the major shift in control over our education system. We, too, happen to believe very strongly in school boards and in that local level of democracy, and we're very concerned about the province taking over major decision-making roles in terms of that local level of democracy.

The final bill gives the province a number of new legal rights, some of which seem extraordinary in their ability to circumvent the courts, the Human Rights Code, the Labour Relations Act, plus imposing contracts, banning strikes and lockouts and even banning people talking about strikes or lockouts.

Again, as I said, it's a significant shift of control up to the province from the local level, from schools and principals and school boards, and even though the law is in effect for two years, there is a right written in for it to go for three, and because of the regulations that are in there, it's possible for it to continue going.

Again, we're concerned that all of this is happening with no public consultation. I understand there have been negotiations going on, but there have been no public consultations, and all of this is happening under an air of, kind of a cloud of manufactured crisis.

I would like to remind you all—not that I agreed with everything that Don Drummond said, certainly, but I

want to read you part of the conclusion from Don Drummond's report, from the Commission on the Reform of Ontario's Public Services, which was written for the government and for the Premier. He said, "Ontario's finances do not yet constitute a crisis and with early, strong action, a crisis can be averted. Crises always spur action, but almost inevitably, they also bring forth bad public policy decisions. Faced with the need to make huge corrections in very short order, governments grasp at what look like fast and easy solutions, but too often meet the demands of the present by pushing off expenses for future generations to pay. The current actions of many US states as they cope with the recession and a terribly weak recovery should serve as a warning.

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"Almost all are bound by constitutional requirements to balance their budgets and many are responding to sudden revenue drops with spending cuts that are utterly inappropriate—like savage cuts to education budgets that will undermine the lives of their children for decades."

He goes on to say, "Tactics geared towards short-term fiscal gains such as wage freezes and limits on the number of civil servants should be avoided. Wage freezes damage labour relations and are often followed by wage catch-ups."

So with this bill, which takes care of two years, we will, I would assume, end up back here in two years having the same discussion. I am here to radically ask the committee to consider just sending this bill back to the Legislature with a request for more public consultation and that the vote be postponed. There is no need, there is no urgency, for a vote to happen on Monday. There are huge, important, major things in this bill that will have an impact on children, to do with the educational components in terms of assessments and teacher hiring but also in terms of the relationship between school boards and school principals and their employees. So I hope that the committee will consider this bill very, very strongly. I think it is making major changes to our education system in Ontario based on four hours of consultation and a lot of very acrimonious arguing between various players in the contract negotiations. Thank you.

The Chair (Mr. Ernie Hardeman): Thank you very much. With that, we have about seven minutes left for the third party. Mr. Tabuns.

Mr. Peter Tabuns: Thanks, Ms. Kidder. Could we have a copy of your speaking notes?

Ms. Annie Kidder: You should have. They did come.

Mr. Peter Tabuns: They'll get circulated?

Ms. Annie Kidder: Yes.

Mr. Peter Tabuns: Fabulous.

Ms. Annie Kidder: I gave 25 to somebody.

Mr. Peter Tabuns: Eventually they'll be circulated.

You touched on a lot of areas, including what we've argued is a manufactured crisis, but I want to go to the whole question of local control and autonomy. We see this as a very large-scale shift from the role of boards and schools having a relationship with teachers and education workers to it all coming out of Queen's Park. Can you set

out for this committee what you see as the long-term implications of this dramatic reduction in local control, responsibility and autonomy?

Ms. Annie Kidder: You know what? I can't. The reason I don't want to is I actually think that's the reason we need long public consultations. I think there are many implications. I can't say right now it's right or it's wrong. There are arguments for and against provincial bargaining, but to suddenly decide to make this move now without any sort of democratic process, I find very worrying. So I'm not here to say that aspect of this bill is absolutely wrong. I am here to say that to completely go around school boards and not consult with school boards before coming in autocratically and saying, "This is how it's going to work now," is very worrying. There was a clause in the memorandum of understanding that said that over the next two years we would talk about provincial bargaining. That is a very important discussion. I'm not here to say it's a bad idea. I am here to say it's a very important discussion, and we shouldn't be having it in four and a half hours at 7:30 at night before the bill is going for a vote.

I think these are fundamental changes to our system. I am not here to say right now which ones are right or wrong. I am very worried about the assessments. I am very worried about the teacher hiring. I'm very worried about the move to skip over school boards and miss that local level of democracy. But what I'm mostly worried about is that we're doing this all in this incredibly short timeline.

Mr. Peter Tabuns: I would agree with you, and I voted against this whole process of accelerating the decision-making because, frankly, I do believe as well that these are very fundamental questions, and they will reverberate through this society for a long time to come.

Do you feel you're in a position to comment on how this will affect the atmosphere in our schools for our children, should this legislation go forward?

Ms. Annie Kidder: That is the thing that we're worried about—and have been calling on everybody to take a deep breath. It's very hard to take a deep breath in the face of legislation. It was easier before the legislation. Everybody needed to calm down; everybody needed to stop talking to the press and arguing in public, and the tone of rhetoric needed to change. But the introduction of the legislation adds suddenly a sort of anvil hanging over this that's hard to avoid.

I hope that this won't affect students in the classroom. I think we have to be very careful about the rumours that fly around. Kids do need stability. They do need to feel that we all know what we're doing, and that they can go to school and learn and be happy and have fun. I would hope—I assume that this is going to end up in the courts; I assume everybody's going to argue about this for months now—that we try and keep it away from children as much as we can.

People for Education was founded in the middle of a crisis—a bigger crisis, probably—17 years ago because we didn't feel there was any voice for the system itself.

There was very much a kind of “he said, she said” or whatever—a polarized debate—and nobody speaking for kids and students. We’re concerned about that happening again.

I do feel very strongly that school boards have a very important role to play in these discussions. For us, we hope this stays away from students. We hope it does not affect schools at all on anybody’s side, by any of the unions or federations or by the provincial government somehow saying this is good for students—that everybody stay away from trying to use students to deal with this bill, which is about money and power. It’s not about education. To me, there is nothing in this bill that is going to make our students have a better education.

My worry about what’s going on right now is that it actually undermines public confidence, and one of the goals of the government is to increase public confidence. This kind of thing is the kind of thing that makes parents go, “Whoa, this isn’t a stable system.” In that way, I think it was a mistake.

Mr. Peter Tabuns: When we talk about stability and when we talk about the “crisis,” we, in our party, didn’t see large numbers of schools about to experience lock-outs or strikes, which is, in part, central to our criticism of the bill. Were you aware of strikes and lockouts that were about to happen and disrupt the school year?

Ms. Annie Kidder: Absolutely not. I think that from all of the people that we talked to, and we talked to a lot of people, there was a real sense that everybody wanted to be able to play this out slowly, calmly, without any strikes, without any job actions. The school boards were willing to keep talking. Many, many times, contracts expire and people keep on talking, sometimes for years, and it goes along like that. I think that everybody understood there is a financial problem. Everybody was trying to work with that. In that way, this seemed like declaring war as a sort of method of getting to the peace talks. It was worrying, in that way.

Mr. Peter Tabuns: Yes.

The Chair (Mr. Ernie Hardeman): Thank you very much for your presentation.

Ms. Annie Kidder: Thank you very much.

The Chair (Mr. Ernie Hardeman): That concludes the 15 minutes. Again, we thank you very much for coming in at 7:30 in the evening to make a presentation.

MR. STEVE KIRBY

The Chair (Mr. Ernie Hardeman): Our last presenter is Steve Kirby.

Mr. Steve Kirby: Good evening.

The Chair (Mr. Ernie Hardeman): Good evening. Likely you’ve heard the direction—

Mr. Steve Kirby: I’ve heard it all.

The Chair (Mr. Ernie Hardeman): You have 15 minute to make your presentation, and you can use any or all of it. If there are questions, it will be from the government side.

With that, thank you again very much for coming and sitting through the whole debate today.

Mr. Steve Kirby: I think it was worth it, because if you were going to, I figured I should too.

My name is Steve Kirby. I’ve been a teacher since 1969. I’m currently a retired Ontario College of Teachers member, working as an occasional teacher in the Catholic District School Board of Eastern Ontario. I’m also the president of the occasional teachers there.

I haven’t written this in this, but I should say that I have been in a position of leadership in Quebec. I was president of the Provincial Association of Catholic Teachers. I was a member of the Québec Superior Council of Education. I was a director of the Canadian Teachers’ Federation. I was a vice-principal and then I moved to Ontario in 1984, back to the classroom, teaching history and law. I’ve since served as a chief negotiator, a vice-president, a full-time president of the 2,000-member Toronto secondary unit of OECTA in the Toronto Catholic District School Board. I’m currently even a member of the OECTA provincial Council of Presidents—so I have been living this since February, not since mid-August.

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I’m one of the 55,000 teachers who signed on to the memorandum of understanding. I’m proud that my union had the wisdom and the courage to negotiate with the current government in good faith over many months, despite difficult economic times. I’m proud that my union, the Ontario English Catholic Teachers’ Association, OECTA, was willing to think and negotiate outside the box. It isn’t always about the money; it’s about respect, fairness and professionalism.

When we in eastern Ontario were preparing for bargaining this year—a long time ago now—we set the following as priorities:

- recognition by the school board of the professionalism of our members;
- professionals being treated as professionals by school and board administrators;
- to improve the ability of occasional teachers to make a living and a career in education;
- no more favouritism and nepotism; and
- fairness and respect.

When I read about Bill 115, the Putting Students First Act, I was determined to have my say in support of the basic principle of “fair and transparent hiring practices.” I’ve been glad to see the Tory MPPs today going after the hiring practices. I’ll come to that in a moment. There’s been a lot of misinformation put out by trustees and school boards, politicians and some teachers about the memorandum of understanding, about the recent labour discussions and about Bill 115.

Let me give you my take as a political junkie who still teaches as an occasional teacher and understands the politics of education. I’ve been here as long—and I saw when Annie Kidder’s group started. I was there in that crisis. I was there for the social contract in a leadership position. That was fun.

Many of my occasional teacher colleagues are young teachers looking to get hired as long-term occasionals or especially as regular full-time teachers. I hear their pleas for a fair hiring process. They don't dare to complain publicly that, too often, a job opening will go to a friend or relative of some trustee or administrator in the board. It's called cronyism. It's called nepotism. It's who you know, not what you know or what experience and qualifications you have. This has to end. We're public servants; we're not a privately owned company where the boss/owner can parachute his or her son or daughter into a job or position. We don't own the company—the school board—so principals, superintendents, directors of education, trustees, even teachers cannot and should not be in a position to hire their own friends or relatives.

The Minister of Education, Laurel Broten, said in the Legislature last week—I even read Hansard—“It will be management that will still make the ultimate decision about who to hire, but that role comes with a responsibility to create a process that can be equally accessed and understood by all those young teachers who want nothing more than to get in front of a classroom in Ontario and teach our kids.”

Bravo. That's what I'd like to see in all school boards—Catholic, public, whatever you want to call them. The son of the trustee or the niece of the superintendent may be fine young people, but they can get in the queue with everyone else.

This is one of the good things about Bill 115. Let's move on. Put me down as a supporter of this legislation. I sincerely hope my MPP, Steve Clark, will support it also.

I thank you for this opportunity. I do want to make very clear that when the question keeps coming about the hiring, my board posts, but the hiring goes off the rails after the posting and the relative gets in or the friend gets in. I'm saying that publicly because my young members can't dare say it.

Thank you.

The Chair (Mr. Ernie Hardeman): Thank you very much. To the government. Mr. Delaney, we have about six or seven minutes left.

Mr. Bob Delaney: Okay, well, thank you for leaving us a little bit of time for questions. Just out of curiosity, where did you live in Montreal?

Mr. Steve Kirby: I was in Lachine, at the end.

Mr. Bob Delaney: I see. Well, I'm a native of Pierrefonds—

Mr. Steve Kirby: Okay, west island.

Mr. Bob Delaney: —so it's nice to see the Montrealers here.

I also want, first of all, to let you know that my colleague Ms. MacLeod reminded me that our mutual friend, Steve Clark, your MPP, will, in fact, be voting for this—

Mr. Steve Kirby: And I'm pleased.

Mr. Bob Delaney: —so I'd just like to convey that as well.

You touch on something that all of us out in Peel region, which is where I live now—and the three of us

sitting here are all Mississauga members—have heard in very clear, repeated and often emotional terms from our constituents who have come in and related their stories about learning at teachers' college and about this endless wait in getting into the supply list and being eligible for a permanent position. I definitely want to thank you for being one of those who has repeated something that, as I said to an earlier deputant, we are going to be much more aggressive in pursuing with both school boards in Peel. I would imagine our colleagues will as well.

You've touched on something that, if nothing else has come out of this—and much else has come out of it. In the course of the discussions with OECTA in putting together the framework, this particular issue, the hiring issue, came to the fore. I think it's one that shows the virtues of sitting at the table and hammering out this particular framework.

I know I have a lot of very, very good friends in some of the two units that have not yet engaged in this. I do sincerely hope that they will before it's all over, because this is one benefit that came out of the contractual arrangements. It's a non-monetary thing, but it's a very, very important, significant thing for the long term.

Just as a way of expanding on it, do you have, in your time in Ontario, any personal anecdotes that you'd like to share, or those that have been shared with you?

Mr. Steve Kirby: No, I wouldn't name any names. But if you're talking about the hiring piece, I'm not sure with Dufferin-Peel what their language is. I know our language is clear that jobs be posted, and for the most part, they are. If they aren't, we would grieve. But it's once the posting is done.

Anecdotally, I know of too many situations where I'm given, chapter and verse, “I was thanked very much; they said I was a very good candidate—but.” Then I found out later whom they hired, and I know the name, and I think, “Good Lord.” These are people I work with when I'm negotiating, and they're hiring relatives and friends.

It's very hurtful to the morale. I've got people with five, six and seven years in teaching, and they can't get to third base or home to get the regular job. They're saying, “I'm beginning to become the old one. I'm used goods. ‘Why weren't you hired?’” Very much it's the luck of the draw and people being parachuted in. When I'm told in bargaining, “We're looking for the next Gretzky”—yes, sure, as long as the name is Gretzky and not the name of somebody I'm dealing with. That's the kind of thing.

By the way, I've had the pleasure of being involved at the council of presidents of OECTA. I'm not going to second-guess the other associations, but we went through hell. We have a mandate or parameters from the government that were very hard for us to stomach. We swallowed an awful lot to make sure that our young teachers stayed and got their grid, unlike what happened in the early 1990s. Six days was ridiculous; 10 days is tough enough. The accumulation will have to come back someday. We're dealing with illness all the time in our classrooms. Kids get sick; we get sick. But at any rate, we have a financial problem. We're trying to address it. We

addressed it by getting to 10. We addressed it by taking it to 90% if you've got cancer or something, not just playing American—this was in Arkansas. What we did is, we worked at it, and that's why I say we thought outside the box. That's why I can say I'm proud—I've been a union activist all my life, but earlier activists tonight—I can't go there. Sorry, Sid, but I have a different view of what went on since February.

Mr. Bob Delaney: Thank you. I believe Ms. Damerla has one question for you.

Ms. Dipika Damerla: Thank you, Mr. Kirby, for your very heartfelt presentation today. I really appreciate the fact that OECTA thought outside the box and we have this memorandum of understanding.

My question is: Do you think that the provision in our legislation that deals with fair and transparent hiring does what it needs to do to fix the problem that we've all been talking about?

Mr. Steve Kirby: Yes, because very often, what we had was weasel language that talks about "fair." But now we're talking "transparent," and we're going to use the MOU, the legislation, to make sure that our board and all boards are honest and above-board. That's what the minister said; that's what we said. And by the way, we came up with the data. We came up with the background. It's not all anecdotal. I'm sorry, Mrs. Kidder, or to the other associations or to OPSBA, but it wasn't just anecdotal.

Look, we have the data. We shared it with the government. We negotiated with the boards and with the government. At the last minute, because of hiring and the

assessment thing, the boards said, "We don't want to sign."

The Chair (Mr. Ernie Hardeman): With that—
Interjection.

The Chair (Mr. Ernie Hardeman): No, just a very short one.

Mrs. Amrit Mangat: Thank you, Chair. Thank you, Mr. Kirby, for the presentation. Based on your experience, what could you suggest that fair and transparent hiring practices should be so that the process doesn't go off the rails?

Mr. Steve Kirby: I think if you read the MOU, you see that it is there, that it has been put there. It isn't just seniority—and I want Ms. MacLeod to understand that; it's also qualifications. We're professionals. We don't want to put somebody in a grade 1 class when all they have is senior qualification. It's not just seniority; you have to have some seniority—you don't just jump in—but you have to have the qualifications.

That's how we think transparency will work. The boards will still hire. They hire the occasional teachers; they hire the LTOs; they hire the regular teachers.

The Chair (Mr. Ernie Hardeman): That concludes the time. We thank you very much for your presentation and for waiting all afternoon to be heard.

Mr. Steve Kirby: Thank you for your patience.

The Chair (Mr. Ernie Hardeman): With that, that concludes the meeting for today. We will reconvene here at 9 a.m. tomorrow morning in the same room. Until then, the committee stands adjourned.

The committee adjourned at 1943.

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