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**Official Report
of Debates
(Hansard)**

Wednesday 2 April 2014

**Journal
des débats
(Hansard)**

Mercredi 2 avril 2014

**Standing Committee on
Regulations and Private Bills**

Committee business

**Comité permanent des
règlements et des projets
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS**

**COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ**

Wednesday 2 April 2014

Mercredi 2 avril 2014

The committee met at 0900 in committee room 1.

COMMITTEE BUSINESS

The Chair (Mr. Peter Tabuns): The Standing Committee on Regulations and Private Bills will now come to order.

Mrs. Donna H. Cansfield: Chair, I'd like to move a motion, please.

The Chair (Mr. Peter Tabuns): I recognize Mrs. Cansfield.

Mrs. Donna H. Cansfield: Thank you very much, Chair. I move that the Standing Committee on Regulations and Private Bills set aside clause-by-clause consideration of Bill 69, Prompt Payment Act, 2014—

The Chair (Mr. Peter Tabuns): Your motion is in order. Would you like to speak to it?

Mrs. Donna H. Cansfield: I'd just like to continue.

And that the committee next consider Bill Pr27, Toronto International Film Festival Inc. Act (Tax Relief), 2014.

The Chair (Mr. Peter Tabuns): Would you like to speak to that, Mrs. Cansfield?

Mrs. Donna H. Cansfield: No. I'd just like to be able to move this bill. We heard, I think, from many of the individuals who came to speak to us about Bill 69 that it required further consideration.

The Chair (Mr. Peter Tabuns): The member from Kitchener–Waterloo?

Ms. Catherine Fife: Thank you very much, Mr. Chair. When was the TIFF bill expected to be scheduled? Where is it in the schedule of debate?

The Chair (Mr. Peter Tabuns): The bill is scheduled to be heard on April 16. It's already set in our program of activities.

Ms. Catherine Fife: This is highly unusual. We do have people who have come here today to listen to Bill 69 clause-by-clause consideration. What is the rationale for putting Bill 69 aside and introducing the TIFF bill?

Mrs. Donna H. Cansfield: If I may, I think we had serious consideration from a number of individuals who spoke to this committee about the need for additional consultation to take place on this bill, and we listened to and heard from those individuals, as well as many other of our colleagues, and so we were asked to withdraw the bill.

Ms. Catherine Fife: If the TIFF bill comes forward next week—you know that we're supportive of it—it's just a delay of a couple of days, really. I'm not sure that rationale warrants changing the structure of the clause-by-clause consideration for Bill 69 today.

The Chair (Mr. Peter Tabuns): Further comments?

Mrs. Donna H. Cansfield: Again, I'm just suggesting that because we're setting the one aside we'll bring the other one forward. It's already set on the agenda. I don't think it's a difficulty to have that discussion.

The Chair (Mr. Peter Tabuns): Okay. I have Mr. McNaughton and then I have Mr. Hatfield.

Mr. Monte McNaughton: Thank you very much, Chair. I'm going to take a few minutes to offer some comments and feedback into the record here this morning.

As you will know, throughout this process, I have been pleased to meet and work with a number of stakeholders, industry associations and experts in the construction industry on behalf of the PC Party of Ontario. I've also been pleased to work across the aisle with MPP Del Duca.

Of course, we are baffled, along with a number of industry associations that are represented here today and that have appeared before this committee and previously in the House to support this bill or support portions of this bill. We know this bill is not a perfect bill—we heard that, as Mrs. Cansfield said—but most PMBs are not. But there are important elements of this bill that are worth debating and worth supporting.

MPP Del Duca brought this bill forward, and although our caucus has identified some major areas of concern, we have supported the principle of prompt payment throughout this whole process.

Coming from a small business, I can tell you that keeping your accounts current and keeping your receivables in check is a daily concern, and I think we can all agree to the principle that if you do the work, you should get paid. Much as it is at the hardware store, the barber and hairdresser, the gas station and the tack shop, if you receive goods or services, the expectation is that payment will be immediately forthcoming.

Chair, I wrote to Premier Wynne, then-Labour Minister Naqvi and MPP Del Duca back in October 2013, expressing my support for the idea behind this bill and asking for clarification on when and how this bill

would move forward. I rose in the House on two occasions and asked questions about how this bill would be moving forward, and again received nothing from the government: no answer, no responses, no details, nothing.

One thing that Premier Wynne did tell me in her response to my question was, “The bill will move through the normal course of the process in the Legislature. There will be an opportunity for debate and a vote.” Of course, those of us here today know that this is yet another statement that the Premier has turned her back on and even run away from, and we now know clearly the Ontario government will not be calling this bill forward.

Chair, this is not the normal process for a PMB, and this process is actually limiting our debate and halting our opportunity to vote on this important piece of legislation today.

I need not remind anyone that the construction industry employs over 400,000 hard-working men and women all across Ontario. This is equal to 6.4% of our total workforce, yet the construction industry has unique payment terms and processes, and this bill was an attempt to review and resolve some of these unique processes and to ensure fairness for our small and medium-sized businesses.

It is important to note that the majority of US states, the UK, Ireland, the EU, Australia and New Zealand already have prompt payment legislation in place and on the books. As we learned from our public consultations, the other legislation, quite clearly, is quite different than Bill 69.

Yes, Chair, I am disappointed today. The people here in the committee room are disappointed today. I’m sure that MPP Del Duca is a bit disappointed today as well. Unfortunately, I thought that he would be here for the last day of this.

All of us would have liked to see this process run its course, would have liked to be proceeding with clause-by-clause here this morning, and would have liked to dig into some amendments and discuss the merits and flaws that we all agree exist within Bill 69.

Killing a PMB like this, taking away our ability to review and debate this important subject here at the committee level, is not the type of democracy Ontario residents want. It does nothing to solve the problems that exist in the construction industry and just goes to show you that the government party, quite frankly, Chair, is in complete and utter disarray. They have no plan—no plan to reduce the size and cost to government, no plan to create private sector jobs in the province of Ontario.

By killing Bill 69 this way, the Liberal government has done a disservice to Ontario residents here today, and I think it’s important to get that onto the public record. Thank you.

The Chair (Mr. Peter Tabuns): Ms. Cansfield?

Mrs. Donna H. Cansfield: Yes, thank you, Chair. If I may, a number of individuals came forward and indicated their support, as has this government, for the concept and the principle of prompt payment.

But it also became evident, in listening to a significant number of those—municipalities, businesses and even some of the contractors themselves—that possibly putting in place another piece of legislation to deal with an existing piece of legislation, which is the Construction Lien Act—that it might be more appropriate to go directly to that act and make the changes there, because it’s a more appropriate place to do it.

I don’t think anybody is in disagreement with the whole concept or principle of prompt payment; neither is this government. Legislation is an important part of our process, but it’s really important to get it right. This is a private member’s bill. If we have an opportunity to take an existing piece of legislation and make sure that it is appropriately amended, it makes more sense than using another piece of legislation to amend an existing piece of legislation. That’s what we’re saying.

We listened to what people had to say. We agree, in principle. They want some more consultation, and there is the suggestion of opening up the Construction Lien Act, which makes far more sense than putting in place a piece of legislation to amend an existing piece of legislation.

I want to make sure that people know and understand that this government is in support of the principle of prompt payment; nothing has changed from that. But it is absolutely critically important that this be done correctly, properly and with the full consultation that we heard individuals indicate had not taken place. That’s an important part of this whole process around legislation.

The Chair (Mr. Peter Tabuns): I have Mr. Hatfield next.

Mr. Percy Hatfield: Thank you, Mr. Chair. I’d like to clarify a couple of points, if I could. First, I believe I heard Ms. Cansfield say that they are committed to the TIFF bill and want to rush it along to third reading and will support it there, and that’s the purpose for this. Thank you very much for that.

I know it will be in Hansard, but although this motion says, “set aside clause-by-clause,” I thought, Donna, when you spoke, that you said “withdraw.” I would just like to clarify: Are you withdrawing Bill 69 and turning your focus on the Construction Lien Act instead?

Mrs. Donna H. Cansfield: My understanding is, when you set aside clause-by-clause, that actually you are withdrawing. Is that not correct, Clerk?

The Clerk of the Committee (Ms. Valerie Quioc Lim): We can set it aside, but the bill will still be before the committee.

Mrs. Donna H. Cansfield: Right, but it’s not going to be on the committee’s agenda.

Mr. Percy Hatfield: So in effect, you’re withdrawing further consultation on it. You’re setting it aside and, instead, the focus becomes the Construction Lien Act.

Mrs. Donna H. Cansfield: That’s correct.

Mr. Percy Hatfield: Thank you for clarifying that.

Chair, I wonder if we could have a 20-minute recess, please?

The Chair (Mr. Peter Tabuns): Only with the concurrence of the committee. Is the committee agreed to the 20-minute recess?

Mrs. Donna H. Cansfield: Agreed.

The Chair (Mr. Peter Tabuns): Concurred. We are recessed for 20 minutes.

The committee recessed from 0910 to 0930.

The Chair (Mr. Peter Tabuns): The 20-minute recess is over. The committee reconvenes. Ms. Fife?

Ms. Catherine Fife: Obviously, this is a very unusual situation, I think, although I will say that it's more than encouraging that the Liberals are willing to move up the TIFF bill. Our member from Trinity-Spadina, Rosario Marchese, has been fighting for that for quite some time. I assume, because you're willing today to move it up, that you will move it immediately after it's reported by the committee to third reading. We look forward to your support in that. No games—it's long overdue.

That said, when we look at the process of how we all ended up here today, including people from the construction sector, the proposal of just amending the Construction Lien Act doesn't address one of the key issues that Bill 69 did address, which is strict timelines for payment, which I think in this environment should be an economic imperative for all of us. Contractors and subcontractors need to get paid on time to keep the economy going.

When we look at the history of trying to get prompt payment moved forward in this Legislature, there really is no reason why, for the last 10 years, the Construction Lien Act couldn't have been amended in the first place. So I think that the proposal of amending the Construction Lien Act doesn't address the problem at hand.

Of course we came to this table this morning with the understanding that Bill 69 did have some weaknesses, and we were certainly willing to do the hard work of amending it to make it work for the economy and for the construction sector. In fact, we brought forward a preliminary package of recommendations.

I'm very surprised to see that Mr. Del Duca is not here, the member from Vaughan. He introduced this at first reading with our support. It went through the consultation process. We heard feedback. We were willing to amend it. I think it's going to catch a lot of people by surprise today to see that the Liberals are willing to set it aside.

That said, I think we will definitely not be supporting the motion as presented.

The Chair (Mr. Peter Tabuns): Thank you, Ms. Fife. Any other comments? Mrs. Cansfield.

Mrs. Donna H. Cansfield: If I may respond: Again, as I said, there have been a number of people who deputed, who spoke to the need for further consultation. I think there is obviously a willingness to look through the Construction Lien Act to see whether or not these issues can be addressed, but I believe also, if you look at the release that was put out today, there's a willingness to look at, if it can't be addressed that way, how it can be addressed, ensuring that some of those weaknesses that were identified in the bill by my colleagues and some

issues that were problematic could also be addressed so that we would in fact have something that works.

The principle is sound, but the issue becomes—it says here, “reducing the financial risks companies face when they are not paid for services on time; making sure payment risk is distributed fairly among all industry participants; finding ways to ensure that companies pay for services and supplies on time.”

Those are the commitments that we are prepared to address. We want to be able to do that in a way that it addresses those issues but at the same time deals with the weaknesses or the problematic issues that are within the bill.

We still have our motion on the table and we wish to proceed with that motion.

The Chair (Mr. Peter Tabuns): Mr. Hatfield?

Mr. Percy Hatfield: I'm still new at this. Right? I'm on a bit of a learning curve. I came in on the committee during the presentation stage. We listened to two days of delegations, we heard the pros and cons. Many of the delegations presented, as Mrs. Cansfield has said, and suggested possible amendments might be able to fix this so that it would be more acceptable, and they asked for a wider consultation.

Several of them had suggested—I forget if it was six, seven or eight—amendments that might have, if tweaked, made the bill more acceptable to a wider audience, so I thought that's what the next stage of this would be. Then—I can't recall if it was last Thursday or last Friday—there was a government release put out that said they were going to look at the Construction Lien Act and do a new review on that. I remember thinking at the time, “I wonder if that will impact on the work that we've done in committee so far.” I didn't hear anything else about it.

I came today prepared to do the hard slogging of clause-by-clause and listen to the amendments that I thought Mr. Del Duca would be bringing forth in order to find wider acceptance for his private member's bill. Mr. Del Duca isn't here, and there are no proposed amendments coming forth.

Instead, the government side has suggested that they set aside further discussion on Bill 69, withdraw it and, instead, move the priority to the tax relief for the Toronto International Film Festival, which I fully support. My caucus fully supports tax relief for TIFF. Mr. Marchese has been promoting that for some time, and I'm pleased to hear that the government will make it a priority and will rush it along to third reading as soon as possible. That's the good news, I guess.

Having said that, I guess the bad news is that I'm told by some of the stakeholders that if we concentrate on the Construction Lien Act instead of on Bill 69, it will not address all of the issues that they wanted raised. I've heard it so many times. Everybody agrees on the principle of prompt payment. Nobody has yet come up with the perfect solution to it, but everybody says the principle is sound. We're all in favour of the principle. I'm not convinced that tinkering with the Construction Lien Act will be able to address the concerns that many in the industry feel.

I expect the government, somewhere—I'm not on the government side, obviously, but there's a larger strategy at play that I'm not aware of—

Interjection.

Mr. Percy Hatfield: Thank you—but I am disappointed that Mr. Del Duca wasn't here to shepherd this along. I think, regardless of how we would have had debate on the amendments that might have been put forward, or whether we would have stuck with the original suggestions in the bill, it would have made for a more interesting discussion. I guess I have a problem with the process as much as anything else.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hatfield.

There being no further speakers, we'll go to the vote. I note that Ms. Scott and Ms. Fife are not voting members of this committee. They knew that already, but observers might wonder why they were voting or not voting in a particular way.

All those in favour of this motion, please raise your hands. All those opposed? Abstentions? It is carried.

The business of this committee is done for the day, and we adjourn.

The committee adjourned at 0939.

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Also taking part / Autres participants et participantes

Ms. Catherine Fife (Kitchener–Waterloo ND)
Mrs. Jane McKenna (Burlington PC)
Ms. Laurie Scott (Haliburton–Kawartha Lakes–Brock PC)

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