



ISSN 1180-5218

Legislative Assembly of Ontario

First Session, 41st Parliament

Assemblée législative de l'Ontario

Première session, 41^e législature

Official Report of Debates (Hansard)

Tuesday 9 December 2014

Journal des débats (Hansard)

Mardi 9 décembre 2014

Standing Committee on General Government

Security for Courts, Electricity
Generating Facilities and
Nuclear Facilities Act, 2014

Comité permanent des affaires gouvernementales

Loi de 2014 sur la sécurité
des tribunaux, des centrales
électriques et des installations
nucléaires

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<http://www.ontla.on.ca/>

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



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

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
GENERAL GOVERNMENT**

**COMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES**

Tuesday 9 December 2014

Mardi 9 décembre 2014

The committee met at 0903 in committee room 2.

**SECURITY FOR COURTS, ELECTRICITY
GENERATING FACILITIES
AND NUCLEAR FACILITIES ACT, 2014**

**LOI DE 2014 SUR
LA SÉCURITÉ DES TRIBUNAUX,
DES CENTRALES ÉLECTRIQUES
ET DES INSTALLATIONS NUCLÉAIRES**

Consideration of the following bill:

Bill 35, An Act to repeal the Public Works Protection Act, amend the Police Services Act with respect to court security and enact the Security for Electricity Generating Facilities and Nuclear Facilities Act, 2014 / Projet de loi 35, Loi abrogeant la Loi sur la protection des ouvrages publics, modifiant la Loi sur les services policiers en ce qui concerne la sécurité des tribunaux et édictant la Loi de 2014 sur la sécurité des centrales électriques et des installations nucléaires.

The Chair (Mr. Grant Crack): Good morning, everyone.

Interjections.

The Chair (Mr. Grant Crack): We've got some fruitful discussions going on this morning, so I'd like to call the meeting of the Standing Committee on General Government to order. I'd like to welcome everyone this morning: members of the committee, Clerks' office, Hansard, legislative counsel, and of course stakeholders and staff.

I will commence by just going over how we will proceed this morning. We are authorized to meet Tuesday, December 9 from 9 to 10:15 a.m. and from 4 p.m. to 6 p.m. for the purpose of clause-by-clause consideration of the bill. On Tuesday, December 9 at 4 p.m., those amendments which have not yet been moved shall be deemed to have been moved, and the Chair of the committee shall interrupt the proceedings and shall, without further debate or amendment, put every question necessary to dispose of all of the remaining sections of the bill and any amendments thereto. Any division required shall be deferred until all remaining questions have been put and taken in succession, with one 20-minute waiting period allowed, pursuant to standing order 129(a). So, in essence, there can be discussion this morning; at 4 p.m. this afternoon, all motions will be deemed to have been moved.

We are here this morning to do clause-by-clause consideration of Bill 35, An Act to repeal the Public Works Protection Act, amend the Police Services Act with respect to court security and enact the Security for Electricity Generating Facilities and Nuclear Facilities Act, 2014.

Are there any questions or comments prior to commencing clause-by-clause consideration? There being none, we shall move to section 1.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall schedule 1, section 1, carry? Carried

Shall schedule 1, section 2, carry? Carried.

Shall schedule 1 carry? Carried.

We shall move to schedule 2. Schedule 2, section 1: We have an NDP motion. Mr. Singh.

Mr. Jagmeet Singh: Yes, thank you very much. I'll be asking for a recorded vote on the amendments, just beforehand.

The Chair (Mr. Grant Crack): Thank you.

Mr. Jagmeet Singh: I move that paragraph 1 of subsection 138(1) of the Police Services Act, as set out in section 1 of schedule 2 to the bill, be struck out.

The reason being is that this is—

The Chair (Mr. Grant Crack): Thank you very much. Further discussion? Mr. Singh.

Mr. Jagmeet Singh: Yes. Thank you very much—sorry. This is the section that requires something that no other province of the nine other provinces and one territory that all have court security, that all care about security in their province, that all have a record of maintaining safe courthouses—none of those other nine provinces and one territory at all require someone to provide information before they get into a courthouse. Respecting that a courthouse should be public, that everyone should be able to have access to it—none of those jurisdictions require you to provide information before you can get into the courthouse.

All the police powers that the police have exist, but this strikes out the requirement to identify yourself by law, that if you don't identify yourself, you'll be removed, and removing the requirement to provide information that could be anything—so to strike those out. That's why that I'm asking to remove that section.

The Chair (Mr. Grant Crack): Okay. Thank you very much. Any further discussion? Mr. Balkissoon.

Mr. Bas Balkissoon: Based on the discussions yesterday and today, this bill repeals the PWPA, and I think the government is looking at balancing security and protecting the public and those who work in our courthouses.

As we stated, and my colleague Mr. Yakabuski also stated, we feel that the bill has all the tools necessary to protect our courts if a situation arises, and it strikes the right balance. I think we can't support Mr. Singh and his motion on this particular one.

The Chair (Mr. Grant Crack): Further discussion? Mr. Yakabuski.

Mr. John Yakabuski: I just want to make it clear that we received these amendments, we appreciate them, and we will be voting against every one of them. So I don't need to talk every time. You've heard enough from me. I think the bill does strike a very good balance, and I want to keep the meeting moving. I will not be speaking to these amendments post this first one, because we will be voting against all the amendments for the reasons that Mr. Balkissoon has said and that I have articulated myself on more than one occasion.

The Chair (Mr. Grant Crack): Thank you, Mr. Yakabuski.

Mr. Singh.

Mr. Jagmeet Singh: I just want to make one more point clear: The Canadian Civil Liberties Association makes it very clear in their submission that these components of this bill are, in fact, unconstitutional. So the government is putting forward unconstitutional laws, laws that require people to violate—or laws that would violate the Charter of Rights and Freedoms in Canada that guarantee us protection from search and seizure—

Interjection.

The Chair (Mr. Grant Crack): Mr. Yakabuski.

Mr. Jagmeet Singh: So this is unconstitutional law that you are passing. I want to make very clear that the NDP will not support unconstitutional laws. That's why we brought forward an amendment to stop these unconstitutional laws.

In addition, I want the record to show that I supported the repeal of the Public Works Protection Act, which is already done in schedule 1. This is schedule 2, which is separate from schedule 1. Schedule 1 repeals the Public Works Protection Act; schedule 2 deals with courthouse security.

In courthouse security, there are some components—there are other parts of this bill that are okay. These specific requirements don't exist in other provinces. They don't use them in other provinces. Why do we need them in this province? We don't. It doesn't make the court more secure. It just allows for the same civil liberties violations that occurred in the G20, the same things that Justice McMurtry said we're not supposed to do—you're doing the exact same things in the courthouse. I just want to make sure that's clear.

The Chair (Mr. Grant Crack): Thank you, Mr. Yakabuski.

Mr. John Yakabuski: I do have to reply to that. I am not a lawyer, but I do know one thing: No one has ruled on the constitutionality of these clauses in the bill. So I think when Mr. Singh says that these are unconstitutional clauses, he's offering opinion and echoing the opinion of the Canadian Civil Liberties Association, but this bill has not—I repeat, not—been subject to a constitutional challenge. So I don't think you should make that statement. That is not a correct statement. It is not shown to be unconstitutional; you believe it is unconstitutional. The people you're representing here in your amendments believe it to be unconstitutional, and if you want to make that point, that's a fair point. But to say that it's unconstitutional is absolutely incorrect. If anyone wants to begin a constitutional challenge to this or any other law, it's their right as a citizen to do so.

I think we should keep this discussion to the facts. There is nothing that has been shown to be unconstitutional in this proposed law.

0910

The Chair (Mr. Grant Crack): Thank you, Mr. Singh?

Mr. Jagmeet Singh: The way it works is that you raise issues on a prima facie level that would violate the charter. If this bill talked about puppies—

Interjection.

Mr. Jagmeet Singh: —puppy dogs and talked about lollipops, then there would not be an argument that it violates the charter. By specifically requiring someone to provide information, it raises the issue that it's unconstitutional.

A court could find that despite the fact that it violates your right to be free from arbitrary search and seizure, which it clearly says—this will be arbitrary search and seizure, it is unconstitutional—the court may find that it's saved by section 1. But the reason why a challenge can be brought in the first place—

Mr. John Yakabuski: I said they could challenge—

Mr. Jagmeet Singh: —is because you would say that this is, by nature, requiring you to arbitrarily be searched.

Mr. John Yakabuski: You “may” be required.

Mr. Jagmeet Singh: It doesn't say “may.” It says “require a person.”

Mr. John Yakabuski: But in the first paragraph—

Mr. Jagmeet Singh: It doesn't say “may,” it says “require.”

Mr. John Yakabuski: —it says may, may, may. In the first paragraph, it says court officers may—

Mr. Jagmeet Singh: When “may” allows a power to exist, it's a language that says this power exists. That's all that “may” means.

Mr. Mike Colle: Point of order.

Mr. John Yakabuski: Okay, I'm done.

The Chair (Mr. Grant Crack): We have a point of order, Mr. Colle.

Mr. Mike Colle: I wonder if we could have a recorded vote on each amendment?

Mr. John Yakabuski: He's already asking.

Mr. Mike Colle: No, he didn't ask on each amendment.

Mr. John Yakabuski: Yes, he did. He's asking for recorded votes—

Mr. Mike Colle: Okay, I just wanted to put that on the record.

I'm not a lawyer like the honourable members in debate here. All I know is, the act reads that a court official may ask a lawyer or someone for an ID. I know the NDP member has already ruled on the constitutionality of asking for ID, but I think that's up to the courts to decide, if it's ever challenged—that asking someone for ID is unconstitutional. From an ordinary citizen's perspective, if they want safety in their courts, and if a court official asks a lawyer for ID, I don't think the average person sees that as infringement on anybody's rights, to ask for ID, for God's sake. That's all I have to say—as an ordinary citizen, not as a lawyer.

The Chair (Mr. Grant Crack): Thank you very much. Mr. Singh?

Mr. Jagmeet Singh: Funnily, lawyers are happy to provide ID. It's actually not about lawyers. Lawyers always provide their law society ID—

Mr. Mike Colle: It's always about lawyers.

Mr. Jagmeet Singh: It's really interesting that members of the committee pay great attention to this, all the testimony that's provided in deputation.

Lawyers are happy to provide their identification. By providing their identification, it allows them often to bypass a line, so it's actually not at all, Mr. Colle, about lawyers providing their ID. Lawyers don't mind that.

The issue is that for the public to have access to the court, which is the entire deposition of what the Canadian Civil Liberties Association said—which you clearly didn't pay any attention to—they spoke entirely about the public access to courts, and the fact that the public might be deterred from going to a court if they're required arbitrarily to provide information without any narrowing of what that information is, generally. If people are required to have to identify themselves to go into a courthouse, that would have a chilling effect. It would have a deterrent effect on people going into a public space.

Mr. Mike Colle: Yet it's only the lawyers that are complaining.

Mr. Jagmeet Singh: I'll give you a chance to speak when you're ready.

Mr. Mike Colle: Give me an ordinary citizen's complaint.

The Chair (Mr. Grant Crack): Mr. Colle, Mr. Singh has the floor.

Mr. Jagmeet Singh: The Canadian Civil Liberties Association exists for the protection of civil liberties for all people. They happen to be lawyers because they know the law, but they're speaking out about the civil liberties of all people. They're a group that's interested in the public and their issues were not about lawyers.

The Criminal Lawyers' Association did raise issues about lawyers having equal access to the courthouse. Their issue was, whatever the process may be, whether

it's for the prosecutors—it should be equally applied to defence and vice versa. That was their issue. There is not an issue about lawyers being upset about ID; this is about the public feeling that they're unable to access a public space. So I'm sure that's clear.

The other thing is that we have an opportunity now, before a law is crafted, of having legal experts come in and talk about potential problems with the law. This would be the time that it would make sense to actually correct it, versus saying, "Oh, we'll just put whatever forward, and then if it gets challenged, it gets challenged." That's pretty dumb, as a strategy to pass laws. You would think we would look at the legal experts' opinions and then craft laws that don't open us up to problems in the future. That, I would think, would be a logical way to proceed.

Mr. John Yakabuski: Chair, I have a question.

The Chair (Mr. Grant Crack): Mr. Singh has the floor.

Mr. Jagmeet Singh: I'm done. Thank you.

The Chair (Mr. Grant Crack): Okay. Any further discussion?

Mr. Bas Balkissoon: Mr. Chair, I'd just offer one comment.

The Chair (Mr. Grant Crack): Mr. Balkissoon.

Mr. Bas Balkissoon: I respect Mr. Singh and I know he's a lawyer, but I think the manner in which he's speaking, based on this piece of legislation—it is prepared by lawyers in our ministry. It is reviewed by lawyers all over our government. He seems to have one opinion, and we have a different opinion. And you know what? In my entire life, I've never met a whole bunch of lawyers who agree. So let's vote.

Mr. Mike Colle: They make money on disagreements.

Mr. Bas Balkissoon: That's right.

The Chair (Mr. Grant Crack): Okay. Thank you very much. Mr. Singh had requested a recorded vote on amendment number 1. I assume that he meant on all NDP motions. Mr. Colle has confirmed that by requesting, so we will be able to proceed on each amendment with a recorded vote. I shall call for the question at this point.

Ayes

Singh.

Nays

Balkissoon, Colle, Dickson, Hoggarth, Kiwala, Yakabuski, Yurek.

The Chair (Mr. Grant Crack): The motion is defeated.

We shall move to NDP motion 2: Mr. Singh.

Mr. Jagmeet Singh: I move that subparagraph 2 ii of subsection 138(1) of the Police Services Act, as set out in section 1 of schedule 2 to the bill, be amended by striking out "or in which the person is a passenger".

This is the portion of the bill that would allow a warrantless search of a car that you are a passenger in. You're not even driving the car but you're a passenger in that car and then, presumably without any reasonable grounds, without a warrant, that car could be searched. It's clearly offensive to the charter. It's clearly something that makes no sense. If there were reasonable grounds to search it, sure, but just to arbitrarily say you could search any car that a person was driving or was a passenger in is clearly offensive to the idea of civil liberties.

Mr. John Yakabuski: Call the question.

The Chair (Mr. Grant Crack): Thank you very much. Further discussion?

Prior to me calling the question, just for Hansard purposes, once the motion has been moved, please allow the Chair to ask for further discussion so that we can get some clarity between the end of the motion and the discussion.

Ayes

Singh.

Nays

Balkissoon, Colle, Dickson, Hoggarth, Kiwala, Yakabuski, Yurek.

The Chair (Mr. Grant Crack): The motion is defeated.

We shall move to NDP motion 3: Mr. Singh.

Mr. Jagmeet Singh: I move that paragraph 2 of subsection 138(1) of the Police Services Act, as set out in section 1 of schedule 2 to the bill, be amended by adding "and" at the end of paragraph i and by striking out subparagraph ii.

The Chair (Mr. Grant Crack): Just for clarification, it's at the end of "paragraph," I believe you said. For the record, could you correct that?

Mr. Jagmeet Singh: At the end of subparagraph ii.

The Chair (Mr. Grant Crack): It's subparagraph i.

Mr. Jagmeet Singh: Sorry—at the end of subparagraph i and by striking out subparagraph ii.

The Chair (Mr. Grant Crack): Thank you very much. Any further discussion?

Mr. Jagmeet Singh: Yes.

The Chair (Mr. Grant Crack): Mr. Singh.

Mr. Jagmeet Singh: Just to make it clear again, these are searches that are without a warrant. These are powers that are far beyond what is necessary. They are powers that infringe on civil liberties, and the major issue is that they're arbitrary.

If there were reasonable grounds, it would make sense—or if there was some evidence upon which someone needed to do a search. There's a great deal of case law that talks about when police officers can search, when they can detain and when they can do so without a warrant, particularly when it comes to searches. This basically dismisses all that case law and moves right to

warrantless searches, which is clearly contrary to civil liberties and clearly contrary to fairness and justice.

0920

The Chair (Mr. Grant Crack): Thank you, Mr. Singh. Any further discussion?

There being none, those in favour of NDP motion number 3?

Ayes

Singh.

Nays

Balkissoon, Colle, Dickson, Hoggarth, Kiwala, Yakabuski, Yurek.

The Chair (Mr. Grant Crack): The motion is defeated.

We shall move to NDP motion number 4: Mr. Singh.

Mr. Jagmeet Singh: I move that subparagraph 4 i of subsection 138(1) of the Police Services Act, as set out in section 1 of schedule 2 to the bill, be struck out and the following substituted:

"i. if the person refuses to submit to a search under paragraph 2,"

The Chair (Mr. Grant Crack): Thank you very much. Further discussion? Mr. Singh.

Mr. Jagmeet Singh: This would be a subsequent change that would flow from the previous, if they had been passed, to ensure that we limit the powers to strictly—if someone doesn't allow them to be searched on the way into a courthouse, that should certainly be grounds to remove someone. That should certainly be grounds to not allow someone to enter a courthouse, if they don't submit to a search while entering. But the other issues that I've raised are unfair and unjust measures that go beyond the scope of the powers that should be allowed in the court security circumstance or context. That's that.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Singh.

Further discussion?

I shall call the question. Those in favour of NDP motion number 4?

Ayes

Singh.

Nays

Balkissoon, Colle, Dickson, Hoggarth, Kiwala, Yakabuski, Yurek.

The Chair (Mr. Grant Crack): The motion is defeated.

We shall move to NDP motion number 5: Mr. Singh.

Mr. Jagmeet Singh: I move that subparagraph 5 i of subsection 138(1) of the Police Services Act, as set out in section 1 of schedule 2 to the bill, be struck out and the following substituted:

“i. if the person refuses to submit to a search under paragraph 2,”

The Chair (Mr. Grant Crack): Thank you very much. Further discussion? Mr. Singh.

Mr. Jagmeet Singh: It’s the same rationale as before. I’ll have more comments for the next motion, but essentially this is an opportunity to fix something before, down the road, there are all sorts of violations that occur and then we look back and say, “Why did these parliamentarians pass this unfair law that provides vague and broad powers?” the same criticism that Justice McMurtry had for the PWPA, and then we’ll point to all the people in this room who voted against amendments that would have made it better.

The Chair (Mr. Grant Crack): Further discussion? There being none, those in favour of NDP motion number 5?

Ayes

Singh.

Nays

Balkissoon, Colle, Dickson, Hoggarth, Kiwala, Yakabuski, Yurek.

The Chair (Mr. Grant Crack): The motion is defeated.

We shall move to NDP motion number 6. Mr. Singh, enjoy the read.

Mr. Jagmeet Singh: All right. In the interest of civil liberties, I move that subsection 138(1) of the Police Services Act, as set out in section 1 of schedule 2 to the bill, be struck out and the following substituted:

“Powers of a person providing court security

“(1) A person who is authorized by a board to act in relation to the board’s responsibilities under subsection 137(1) or who is authorized by the commissioner to act in relation to the Ontario Provincial Police’s responsibilities under subsection 137(2) may exercise the following powers if it is reasonable to do so for the purpose of fulfilling those responsibilities:

“1. Require a person who is entering or attempting to enter premises where court proceedings are conducted or who is on such premises to submit to a security screening under paragraph 3.

“2. If there is reason to believe that a person in premises where court proceedings are conducted is in possession of a weapon, require the person to return to the area where security screenings are conducted and submit to a security screening under paragraph 3.

“3. If a person submits to a security screening, search, without warrant, the person and any property in the cus-

tody or care of the person for the purpose of locating any weapons in the person’s possession.

“4. Search, without warrant, using reasonable force if necessary,

“i. a person in custody who is on premises where court proceedings are conducted or is being transported to or from such premises, and

“ii. any property in the custody or care of the person.

“5. Refuse to allow a person to enter premises where court proceedings are conducted, and use reasonable force if necessary to prevent the person’s entry,

“i. if the person refuses to submit to a security screening after being directed to do so under paragraph 1 or 2,

“ii. if there is reason to believe that the person possesses a weapon and is not authorized by the regulations or by a security officer to possess the weapon on premises where court proceedings are conducted, or

“iii. for any other reason relating to the fulfilment of the board’s responsibilities under subsection 137(1) or the Ontario Provincial Police’s responsibilities under subsection 137(2).

“6. Demand that a person immediately leave premises where court proceedings are conducted, and use reasonable force if necessary to remove the person,

“i. if the person refuses to submit to a security screening after being directed to do so under paragraph 1 or 2,

“ii. if there is reason to believe that the person possesses a weapon and is not authorized by the regulations or by a security officer to possess the weapon on premises where court proceedings are scheduled, or

“iii. for any other reason relating to the fulfilment of the board’s responsibilities under subsection 137(1) or the Ontario Provincial Police’s responsibilities under subsection 137(2).”

The Chair (Mr. Grant Crack): For clarification, number 6 ii: I believe you said the wrong word.

Mr. Jagmeet Singh: I should read it again, then: “iii. for any other reasons relating to the fulfilment of the board’s responsibilities under subsection 137(1) or the Ontario—”

The Chair (Mr. Grant Crack): No, number 6 ii: “if there is any reason to believe”. I can’t recall the word, but the word you used is not “conducted.” I think you’d want to—

Mr. Jagmeet Singh: Sure. I’ll read it again: “if there is reason to believe that the person possesses a weapon and is not authorized by the regulations or by a security officer to possess the weapon on premises where court proceedings are conducted”.

The Chair (Mr. Grant Crack): Thank you. Any further discussion?

Mr. Jagmeet Singh: This is a rewrite or modification of the way the current bill is written. It allows for all sorts of powers of search. It allows for all sorts of abilities to screen people for a limited purpose of ensuring that weapons don’t get into a courthouse. That’s exactly what goes on now. In a courthouse, you can be wanded down; you can put your bag on a conveyor belt and that bag is searched for its contents with an X-ray machine; you

walk through a metal detector that can search for any weapons, the purpose being that in a courthouse, you don't want weapons.

In this specific circumstance, when you're entering a courthouse, the Supreme Court of Canada has made it clear that that type of warrantless search is appropriate. Entering a courthouse, because of the security concerns, you are allowed to search someone without a warrant and it can be arbitrary. That is something that we've agreed upon; the court of this land has agreed upon it. So allowing all sorts of powers to screen someone for a weapon is appropriate, is just and is not contrary to the interests of justice.

This is what our power should be limited to. Someone going into the courthouse shouldn't bring a weapon that could hurt other people, but beyond that, there is no reason to be doing anything further. If by chance something does occur where there is an additional investigation required, the powers of the police exist. The reason why it's so important not to put those extra powers in legislation is because the powers of the police are developed over years and years with case law. That case law defines what is the scope of their powers, what is appropriate and what is not appropriate. Cases have been tested. Judges have made decisions. This all allows for us to make sure that decisions made in terms of what investigation is done, what detention flows from an investigation and what searches flow from any sort of investigation are done in an appropriate manner.

This is how we limit the powers of the police so that people aren't mistreated. This is how we address issues that we've seen when police powers go unfettered. When there aren't proper checks and balances, we see the situations that occur in the States. We could prevent the potential of that happening here in our courthouses if we ensure that the laws that we craft are very specific to protecting people from weapons.

It goes into great detail about the various ways in which people can be searched, but it doesn't require people to have to provide information about themselves. It doesn't require people to have to identify themselves. For the purpose of court security, identity and information are not necessary.

Now, just to reiterate, if a person is acting in a manner which is some way suspicious, if there are reasonable grounds to then conduct a further investigation, the police always have those powers. They're not stopped just because someone is in a courthouse. Those police powers exist in a courthouse, outside of a courthouse, in a park, in a playground, in a mall. They exist everywhere. There is no reason to add extra powers that have no jurisprudence that don't have any case law to define what they are. That's the main issue here.

0930

The Chair (Mr. Grant Crack): Thank you very much, Mr. Singh.

Further discussion? There being none, I shall call the question.

Ayes

Singh.

Nays

Balkissoon, Colle, Dickson, Hoggarth, Kiwala, Yakabuski, Yurek.

The Chair (Mr. Grant Crack): The motion is defeated.

We shall move to NDP motion number 7. Mr. Singh.

Mr. Jagmeet Singh: I move that subclause 138(2)(a) of the Police Services Act, as set out in section 1 of schedule 2 to the bill, be struck out.

The Chair (Mr. Grant Crack): Further discussion? Mr. Singh.

Mr. Jagmeet Singh: Yes, sir. Again, I guess this is another opportunity for us to ensure that a law that we pass is constitutional, doesn't open itself up to a constitutional challenge, doesn't open itself up to future problems. We can correct it now instead of, down the road, having to look at it again and say, "Okay, we made a mistake." I implore you all to reconsider what you're doing.

The Chair (Mr. Grant Crack): Any further discussion? I shall call the question.

Ayes

Singh.

Nays

Balkissoon, Colle, Dickson, Hoggarth, Kiwala, Yakabuski, Yurek.

The Chair (Mr. Grant Crack): The motion is defeated.

We shall move to NDP motion number 8. I would ask Mr. Singh if he would still be interested in moving it as it will be out of order because it would be dependent on NDP motion number 6 passing, which was recently lost.

Mr. Jagmeet Singh: Right, right. If it's out of order, I don't think it's appropriate to move it.

The Chair (Mr. Grant Crack): You will withdraw?

Mr. Jagmeet Singh: Right. I will withdraw.

The Chair (Mr. Grant Crack): Okay. So NDP motion number 8 is withdrawn?

Mr. Jagmeet Singh: Yes.

The Chair (Mr. Grant Crack): We shall move to NDP motion number 9. Mr. Singh.

Mr. Jagmeet Singh: I move that clause 139(1)(a) of the Police Services Act, as set out in section 1 of schedule 2 to the bill, be struck out.

The Chair (Mr. Grant Crack): Any further discussion? Mr. Singh.

Mr. Jagmeet Singh: This would remove the offence if a person didn't identify themselves in trying to enter a

courthouse—it would remove that as an offence. Right now, as it stands, you try to go to a courthouse, you don't want to identify yourself, you still subject yourself to a search, you're wanted, there's no weapons on you, you're asked to identify yourself, and you don't—this makes it an offence to not identify yourself. This would strike that out so it's not an offence. Much like it's not an offence to not identify yourself if you go to a park, much like it's not an offence if you don't want to identify yourself if you go to a mall, it shouldn't be an offence to not identify yourself to go into a courthouse. Making it an offence to go to a courthouse essentially makes it no longer a space that is a public space that is encouraging for people to attend; it's a bad thing to do. Don't vote—I mean vote with me.

The Chair (Mr. Grant Crack): Any further discussion? I shall call the question.

Ayes

Singh.

Nays

Balkissoon, Colle, Dickson, Hoggarth, Kiwala, Yakabuski, Yurek.

The Chair (Mr. Grant Crack): The motion is defeated.

Similar to motion number 8, I would ask Mr. Singh if he would wish to move NDP motion number 10 as I will be calling it out of order as it was dependent on motion number 6 passing, which was lost.

Ms. Ann Hoggarth: Point of order.

The Chair (Mr. Grant Crack): Point of order, Ms. Hoggarth.

Ms. Ann Hoggarth: I didn't think you could withdraw something if it was out of order. You have to put it in the record that it's out of order.

The Chair (Mr. Grant Crack): I'm just giving him the option. I can't withdraw; he can withdraw. Again, it's an option that I'm presenting. Technically, it's not a withdrawal, but he's not moving it. I'm just giving him the option.

If you would like to read it, you're more than welcome to read it, but I would rule on it after.

Mr. Jagmeet Singh: Certainly. There are certain motions that were connected upon previous motions that would have all had to follow together, and so this is one of those motions that flowed from a previous amendment, and if that amendment is not passed, then this amendment essentially doesn't work without that other amendment being passed.

I fully support it and believe in it, but I don't want to move it at this time because the other amendment has been defeated.

The Chair (Mr. Grant Crack): Well said. Thank you very much, Mr. Singh.

We shall move to NDP motion number 11. Mr. Singh.

Mr. John Yakabuski: You're hoping this one will fly, too.

The Chair (Mr. Grant Crack): Good luck.

Mr. Jagmeet Singh: Thank you so much.

I move that section 1 of schedule 2 to the bill be struck out and the following substituted:

“(1) Part X of the Police Services Act is amended by adding the following sections:

““Weapons prohibited

““138. No person shall possess a weapon on premises where court proceedings are conducted unless authorized to do so by the regulation or by a security officer.

““Screening before entry

““139. (1) A security officer may screen a person for weapons before the person enters premises where court proceedings are conducted.

““Refusal of entry

““(2) A security officer may refuse a person entry to premises where court proceedings are conducted if the person,

““(a) refuses to be screened for weapons; or

““(b) has possession of a weapon and the possession is not authorized by the regulations or by a security officer or is in violation of any prescribed terms or conditions.

““Screening after entry

““140. (1) A security officer may require a person on premises where court proceedings are conducted to move to a place, on those premises or elsewhere, where screening is routinely conducted and may screen the person for weapons.

““Eviction

““(2) A security officer may evict a person from premises where court proceedings are conducted if the person,

““(a) refuses to be screened for weapons; or

““(b) has possession of a weapon and the possession is not authorized by the regulations or by a security officer or is in violation of any prescribed terms or conditions.

““Screening to be minimally intrusive”—this is a good one.

““141. The screening of persons under this part shall be conducted in a minimally intrusive manner.

““Reasonable force

““142. A security officer may use reasonable force in refusing a person entry to premises where court proceedings are conducted, or in evicting a person from premises where court proceedings are conducted, if the security officer first provides a reasonable opportunity for the person to leave.

““Accommodation

““143. If a security officer exercises a power under this part with respect to other persons, he or she shall ensure that those persons are accommodated in accordance with the Canadian Charter of Rights and Freedoms and the Human Rights Code, and this includes accommodation in connection with creed or disability.

““Offences

““144. (1) A person is guilty of an offence if the person,

“(a) possesses a weapon on premises where court proceedings are conducted and the possession is not authorized by the regulations or by a security officer;

“(b) enters premises where court proceedings are conducted after a security officer has refused the person entry to those premises;

“(c) enters premises where court proceedings are conducted after refusing to be screened for weapons by a security officer; or

“(d) refuses to leave premises where court proceedings are conducted when asked to do so by a security officer.

“Penalty

“(2) A person who is convicted of an offence under this section is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than 60 days, or to both.

“No derogation

“Re judicial powers

“145. (1) Nothing in this part derogates from or replaces the power of a judge or judicial officer to control court proceedings, or to have unimpeded access to premises where court proceedings are conducted.

“Re powers of persons providing court security

“(2) Nothing in this part derogates from or replaces any powers that a security officer otherwise has under the law.

“Privilege preserved

“(3) Nothing in this part shall operate as to require the disclosure of information that is subject to solicitor-client privilege, litigation privilege or settlement privilege, or permit the review of documents containing such information.

“Regulations, court security

“146. (1) The Lieutenant Governor in Council may make regulations,

“(a) governing the authorization of persons to possess weapons on premises where court proceedings are conducted, including specifying such persons and establishing criteria, such as training requirements and other qualifications, that such persons must meet;

“(b) respecting the weapons that authorized persons may possess on premises where court proceedings are conducted, including the terms and conditions on which they may possess those weapons;

“(c) governing the search methods that may be used by security officers to screen persons for weapons, including imposing limitations, conditions and restrictions on the power to conduct searches;

0940

“(d) governing the accommodation of persons in accordance with the Canadian Charter of Rights and Freedoms and the Human Rights Code;

“(e) governing the expedited access by persons who provide identification indicating that they are legal counsel or paralegals to premises where court proceedings are conducted, including providing that one or more provisions of this part do not apply, or apply with specified modifications, in respect of such persons.

“Same

“(2) A regulation made under subsection (1) may be general or particular in its application.

“Review of part and regulations

“147. A committee of the Legislative Assembly shall begin a review of this part and any regulations made under section 146 no later than two years from the date on which section 1 of schedule 2 to the Security for Courts, Electricity Generating Facilities and Nuclear Facilities Act, 2014 comes into force, and shall, no later than one year after beginning that review, make recommendations to the assembly concerning amendments to this part and the regulations.

“Definitions

“148. In this part,

““premises where court proceedings are conducted” means a building or part of a building used by a court for the purposes of conducting court proceedings;

““screen” means to screen in accordance with this part and the prescribed methods;

““security officer” means a person who is authorized by a board to act in relation to the board’s responsibilities under subsection 137(1) or who is authorized by the commissioner to act in relation to the Ontario Provincial Police’s responsibilities under subsection 137(2);

““weapon” means a weapon as defined in the Criminal Code (Canada).”

The Chair (Mr. Grant Crack): Thank you very much, Mr. Singh. I think there are three points of clarification. If we go to the first page on 138, I believe you said “regulation.” I believe you might want to say “regulations”; I don’t want to put words in your mouth.

Mr. Jagmeet Singh: Sure, yes, “regulations.” Thank you.

The Chair (Mr. Grant Crack): “Regulations” it is. Thank you.

It would be 145, number 3: “Nothing in this part shall operate”—I believe you had missed a word, which was “so,” so maybe you could just—

Mr. Jagmeet Singh: Yes. Please enter the word “so.”

The Chair (Mr. Grant Crack): Okay. So “Nothing in this part shall operate so as to require....” Thank you very much.

Mr. Jagmeet Singh: Thank you.

The Chair (Mr. Grant Crack): Then on the last page, under 148, ““screen’ means to”—I believe you had said “screen,” but I believe you meant “search.”

Mr. Jagmeet Singh: “Search.” Yes. Thank you.

The Chair (Mr. Grant Crack): So we’ll clarify that it would be “search.”

Any further discussion on the motion?

Mr. Jagmeet Singh: Yes, please. This was alluded to by both the Canadian Civil Liberties Association, as well as the Criminal Lawyers’ Association. This is borrowing many of the elements—essentially all of the elements—from the Manitoba Court Security Act, which is a court security act that’s implemented in Manitoba. It’s an act that exists. It has been in existence for some time. There haven’t been any issues in Manitoba in terms of court

security. This is something that they did before us. So Ontario doesn't have a court security act; we're enacting one now. Manitoba has already had one.

This act has actually gone to the Supreme Court of Canada. It has been challenged and has been defended, or has been successfully maintained, in the Supreme Court of Canada. This is an example of legislation that is thoughtful, that is complete, that has been tested, that works.

We have legislation that we're proposing, or the Liberals are proposing, which has not been tested, which has never existed before. We're borrowing from legislation that has been implemented, that is actually working in another province.

This legislation offers, again, all sorts of very exhaustive means by which you can search someone entering a courthouse—a very thorough manner to search someone—but none of these search provisions require you to identify yourself or to provide information about yourself. This is, again, one of the nine other jurisdictions that have a court security act which does not require you to have to provide information before you get to go into a courthouse.

In addition, it specifies very clearly the boundaries of these powers. One of the issues that was raised yesterday was that the current law, as the Liberals have written it, creates an unclear zone of what a court is actually defined as. The problem with that, which was brought up yesterday, is that there are courthouses that are often in shared spaces. There might be other provincial or municipal offices in the same building as the courthouse.

I quote my colleague from yesterday: The “gnarliest” example would be College Park, which is a courthouse collected on a second floor of a building on the corner of Yonge and College. In that same building, there are a number of retail locations. There is a food court. There is a Tim Hortons. Above it, there is a lovely event space. Without having a clearly defined definition of what the premises are, the powers that are extended in this Liberal-proposed piece of legislation could apply to the entire building, could apply to folks who are in the food court, could apply to folks who are wherever in that building, unless you define very clearly what that boundary is.

This proposed amendment, amendment 11, would clearly define where the court boundary ends and begins, and what the definition of “premises” is. It would narrow the scope of the Court Security Act to specifically deal with court security. It would not violate some of our charter-protected rights of being free from unreasonable search and seizure.

This bill has been tested by the Supreme Court of Canada and has been found to be constitutional. It has been challenged and found to be appropriate. So we have legislation that we know works, that we know is appropriate, that we know the Supreme Court of Canada has ruled on.

The legislation that the Liberals are proposing has not been tested in that same manner, so why not benefit from

legislation that works? Why not benefit from jurisprudence that has already been established?

That's why I'm suggesting this amendment. It would protect our civil liberties in a real way. It would respect the recommendations of both the Canadian Civil Liberties Association and the Criminal Lawyers' Association, and in fact the 2012 recommendations by the Ontario Bar Association when it comes to, specifically, the civil liberties aspect. Recognizing the expertise of these individuals and these groups, this amendment would satisfy all their concerns. They specifically refer to the Manitoba Court Security Act as being a strong piece of legislation. These are essentially those elements incorporated into this amendment.

The Chair (Mr. Grant Crack): Thank you very much, Mr. Singh. Any further discussion?

There being none, I shall call the question. Shall NDP motion 11 carry?

Ayes

Singh.

Nays

Balkissoon, Colle, Dickson, Hoggarth, Kiwala, Yakabuski, Yurek.

The Chair (Mr. Grant Crack): NDP motion 11 is defeated.

Shall schedule 2, section 1, carry? Those in favour?

Mr. Jagmeet Singh: Recorded vote.

The Chair (Mr. Grant Crack): I think we've asked for a recorded vote—oh, those were just on the motions. A recorded vote?

Mr. Jagmeet Singh: Yes, on all the next.

The Chair (Mr. Grant Crack): On all the next?

Mr. Jagmeet Singh: Yes.

The Chair (Mr. Grant Crack): Okay, thank you very much.

Shall schedule 2, section 1, carry? There has been a request for a recorded vote.

Ayes

Balkissoon, Colle, Dickson, Hoggarth, Kiwala, Yakabuski, Yurek.

Nays

Singh.

The Chair (Mr. Grant Crack): The motion is carried.

Mr. John Yakabuski: Can we do the same votes?

The Chair (Mr. Grant Crack): Shall schedule 2 carry?

Interjections.

The Chair (Mr. Grant Crack): Are you requesting a recorded vote?

Interjections.

The Chair (Mr. Grant Crack): Sorry. Shall schedule 2, section 2, carry? There has been a request for a recorded vote. Those in favour?

Mr. Mike Colle: Same recorded vote.

The Chair (Mr. Grant Crack): It's a recorded—can you do the same?

Mr. Mike Colle: We can say “same recorded vote.”

Interjection.

The Chair (Mr. Grant Crack): Okay. Is there agreement of the committee to have the same recorded vote?

Interjection: Yes.

Mr. Jagmeet Singh: Sure.

The Chair (Mr. Grant Crack): All right. Shall schedule 2, section 2, carry? It's the same recorded vote as the previous vote. Carried.

Shall schedule 2 carry?

Interjections.

The Chair (Mr. Grant Crack): Same recorded vote. Carried.

To the members of the committee: Schedule 3 has, I believe, nine sections. Would the committee wish to lump all schedule 3 sections?

Interjection: Yes.

The Chair (Mr. Grant Crack): We have agreement that we shall lump schedule 3, sections 1, 2, 3, 4, 5, 6, 7, 8 and 9. Shall those sections carry?

Interjections.

The Chair (Mr. Grant Crack): Same recorded vote.

Mr. Jagmeet Singh: This one I'm in support of.

The Chair (Mr. Grant Crack): I shall put the question: Those in favour of schedule 3, sections 1 through 9?

Ayes

Balkissoon, Colle, Dickson, Hoggarth, Kiwala, Singh, Yakabuski, Yurek.

The Chair (Mr. Grant Crack): Schedule 3, sections 1 through 9, is carried.

Mr. Jagmeet Singh: Just one comment on the record.

The Chair (Mr. Grant Crack): Mr. Singh.

Mr. Jagmeet Singh: For schedule 3—this is the security for electricity generating facilities and nuclear facilities—there isn't the same public interest in having an open space. There isn't a similar open electricity generating facility principle as there is an open court principle. So for schedule 3—

Mr. Mike Colle: We're in the middle of a vote.

The Chair (Mr. Grant Crack): Not yet.

Mr. Jagmeet Singh: For schedule 3, I have no issue with the provisions of security. I have no issues with the requesting of information, and the NDP has no issue with the enhanced security for our electricity generating facilities. Again, the public doesn't have the same level of interest in accessing those facilities in an open manner, and having these additional requirements, (1) is not contrary to the public interest of being able to access them, and (2) because there isn't a public interest in accessing them,

the same constitutional arguments perhaps wouldn't be as strong given that a court has the open-court principle.

The Chair (Mr. Grant Crack): Thank you, Mr. Singh. We shall move to schedule 3 in its entirety. Shall schedule 3 carry?

Interjection: Recorded vote.

The Chair (Mr. Grant Crack): I believe earlier we had a request from Mr. Singh, and from Mr. Colle following, to have recorded votes, so I'm going to try to honour that. There are only a few left. Those in favour of schedule 3 carrying?

Ayes

Balkissoon, Colle, Dickson, Hoggarth, Kiwala, Singh, Yakabuski, Yurek.

The Chair (Mr. Grant Crack): Schedule 3 is carried. Shall the title of the bill carry?

Interjections: Carried.

The Chair (Mr. Grant Crack): Let's do the recorded votes.

Ayes

Balkissoon, Colle, Dickson, Hoggarth, Kiwala, Singh, Yakabuski, Yurek.

The Chair (Mr. Grant Crack): There are none opposed, so the title of the bill is carried.

Shall Bill 35 carry?

Ayes

Balkissoon, Colle, Dickson, Hoggarth, Kiwala, Yakabuski, Yurek.

The Chair (Mr. Grant Crack): Bill 35 is carried. Shall I report the bill to the House?

Ayes

Balkissoon, Colle, Dickson, Hoggarth, Kiwala, Yakabuski, Yurek.

The Chair (Mr. Grant Crack): The motion is carried. I shall report the bill to the House.

I'd like to thank all members of the committee—

Mr. John Yakabuski: So we're not coming back at 4 o'clock then?

The Chair (Mr. Grant Crack): Mr. Yakabuski has requested whether or not we'll be back at 4.

Mr. John Yakabuski: I haven't requested; I've asked.

The Chair (Mr. Grant Crack): All the committee business with reference to clause-by-clause consideration is now complete, so there will be no need to reconvene at 4 p.m.

I'd like to thank all members for their good work here this morning, and we shall see you soon. Thank you very much. This meeting is adjourned.

The committee adjourned at 0954.

CONTENTS

Tuesday 9 December 2014

Security for Courts, Electricity Generating Facilities and Nuclear Facilities Act, 2014,
Bill 35, Mr. Naqvi / Loi de 2014 sur la sécurité des tribunaux, des centrales
électriques et des installations nucléaires, projet de loi 35, M. NaqviG-289

STANDING COMMITTEE ON GENERAL GOVERNMENT

Chair / Président

Mr. Grant Crack (Glengarry–Prescott–Russell L)

Vice-Chair / Vice-Président

Mr. Joe Dickson (Ajax–Pickering L)

Mr. Mike Colle (Eglinton–Lawrence L)

Mr. Grant Crack (Glengarry–Prescott–Russell L)

Mr. Joe Dickson (Ajax–Pickering L)

Mrs. Lisa Gretzky (Windsor West / Windsor-Ouest ND)

Ms. Ann Hoggarth (Barrie L)

Ms. Sophie Kiwala (Kingston and the Islands / Kingston et les Îles L)

Ms. Eleanor McMahon (Burlington L)

Ms. Lisa M. Thompson (Huron–Bruce PC)

Mr. Jeff Yurek (Elgin–Middlesex–London PC)

Substitutions / Membres remplaçants

Mr. Bas Balkissoon (Scarborough–Rouge River L)

Mr. Jagmeet Singh (Bramalea–Gore–Malton ND)

Mr. John Yakabuski (Renfrew–Nipissing–Pembroke PC)

Clerk / Greffière

Ms. Sylwia Przewdziecki

Staff / Personnel

Mr. Eric Chamney, legislative counsel