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Official Report of Debates (Hansard)

Wednesday 30 November 2016

Journal des débats (Hansard)

Mercredi 30 novembre 2016

**Standing Committee on
Regulations and Private Bills**

**Comité permanent des
règlements et des projets
de loi d'intérêt privé**

Children's Law Reform
Amendment Act (Relationship
with Grandparents), 2016

Loi de 2016 modifiant la Loi
portant réforme du droit
de l'enfance (relation
avec les grands-parents)

Chair: Ted McMeekin
Clerk: Christopher Tyrell

Président : Ted McMeekin
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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 30 November 2016

Mercredi 30 novembre 2016

The committee met at 0934 in committee room 1.

**SOUND BAY PROPERTIES INC.
ACT, 2016**

Consideration of the following bill:

Bill Pr53, An Act to revive Sound Bay Properties Inc.

The Chair (Mr. Ted McMeekin): The Standing Committee on Regulations and Private Bills will now come to order. I've been informed that the applicant for Bill Pr51 has withdrawn their application, so there is only one private bill on the agenda for consideration this morning.

MPP Walker, go ahead.

Mr. Bill Walker: Thank you very much, Mr. Chair. I'm pleased to introduce Jeff Armstrong, from Sound Bay Properties, from the great riding of Bruce-Grey-Owen Sound. He's here to revive Sound Bay Properties Corp. It was inadvertently closed down, and he needs to revive it to be able to take care of business and move forward in their corporate needs.

I'll turn it over to Mr. Armstrong.

The Chair (Mr. Ted McMeekin): Mr. Armstrong?

Mr. Jeff Armstrong: Thank you, Mr. Chairman. I apologize for being tardy, with the traffic.

Yes, inadvertently, somehow the directorship got miscommunicated and then cancelled. I had asked our lawyers to make sure that the directorship was in place, and I guess they neglected to do that, so inadvertently, the corporation was cancelled.

The corporation really only holds one piece of property, and we would like to sell it. We do have a closing date of December 16. We're just trying to get that done so we can address the sale of the property and then dissolve the corporation.

The Chair (Mr. Ted McMeekin): Okay. Are there any other interested parties here? No? They're all stuck in traffic, I guess.

Interjections.

The Chair (Mr. Ted McMeekin): Any comments from the government side? Hearing none, any questions or comments from other members of the committee? Ms. French.

Ms. Jennifer K. French: Thank you very much for coming. My question is, when you say "inadvertently," what did that look like, and was it something that could inadvertently happen again?

Mr. Jeff Armstrong: No, I don't think so. I think that the paperwork we received from the Ontario government was to clarify the director of the corporation, which is my wife. I had handed that to our lawyers. I said, "Can you please deal with this?" Because I believed they were able to do something online and file the director of the corporation. They're the ones who are corporate lawyers. I think, honestly, the secretary didn't do it, so somehow it got cancelled.

Ms. Jennifer K. French: Okay, so it was missed paperwork.

Mr. Jeff Armstrong: Yes. It wasn't anything on behalf of the government. It was probably me not following up and making sure that it was done.

Ms. Jennifer K. French: Okay, thank you.

The Chair (Mr. Ted McMeekin): Any other comments? Okay.

Are the members ready to vote?

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed? Carried.

Mr. Bill Walker: Mr. Chair, just because there is a time expediency, could we please make sure that that gets to the House today?

The Chair (Mr. Ted McMeekin): We'll do it today.

Mr. Bill Walker: Thank you very much.

The Chair (Mr. Ted McMeekin): We will do it today. We stand adjourned—

Interjection.

The Chair (Mr. Ted McMeekin): No, recessed until 4 p.m. in committee room 2.

You have a couple of letters from ministries that have been distributed to you.

The committee recessed from 0938 to 1600 and resumed in committee room 2.

The Chair (Mr. Ted McMeekin): We'll call the Standing Committee on Regulations and Private Bills to order.

As members may or may not recall, we're in two sections today. The first was to deal with two private members' bills, one of which was withdrawn, and the bill by Bill Walker, which we went through and was reported to the House today, so that's good.

This afternoon, we're called together to deal with Bill 34, An Act to amend the Children's Law Reform Act with respect to the relationship between a child and the child's grandparents. We in fact are splitting this portion of our meeting today into two parts. The first will be to hear from folks who have indicated a desire to speak to members of the committee. There are three groups of people—people, or groups of people.

Then, starting at 5 o'clock, we're required by the Legislative Assembly to do clause-by-clause.

CHILDREN'S LAW REFORM AMENDMENT
ACT (RELATIONSHIP WITH
GRANDPARENTS), 2016

LOI DE 2016 MODIFIANT LA LOI
PORTANT RÉFORME DU DROIT
DE L'ENFANCE (RELATION
AVEC LES GRANDS-PARENTS)

Consideration of the following bill:

Bill 34, An Act to amend the Children's Law Reform Act with respect to the relationship between a child and the child's grandparents / Projet de loi 34, Loi modifiant la Loi portant réforme du droit de l'enfance en ce qui concerne la relation entre un enfant et ses grands-parents.

ALIENATED GRANDPARENTS
ANONYMOUS ONTARIO

The Chair (Mr. Ted McMeekin): We'll start with the Alienated Grandparents Anonymous Ontario chapters. Perhaps they could come forward and introduce themselves to us, because I don't want to mispronounce your last name, or names. "Wanda Davies" is pretty simple. Frank and Sonya—

Mr. Frank Cianciullo: Cianciullo.

The Chair (Mr. Ted McMeekin): Welcome. You have officially four minutes to make your presentation, but the Chair is inclined to be a little bit flexible. If you go 15 minutes, we're going to cut you off, but at a couple of more minutes, we're okay.

Mr. Frank Cianciullo: Thank you very much for having us. Good afternoon. I'm Frank Cianciullo. This is Sonya Cianciullo and Wanda Davies.

We represent Alienated Grandparents Anonymous Ontario, a peer support group operating in 15 countries.

Since 2005, this is the seventh time that grandparents come to Queen's Park in an attempt to get amendments made to the Ontario Children's Law Reform Act.

Bill 34 makes only three key amendments to the current law in order to address major social issues.

First of all, I know that I'm not telling you anything new when I say that when grandparents go to Ontario courts for the ability to visit with their grandchildren, judges are telling them that there is nothing they can do because there's nothing in section 24 of the current act that directs them to consider grandparents when determining the best interests of the child.

Bill 34 rightly proposes that you add a subclause under section 24(2a), listing "the child's grandparents" as a consideration.

Secondly—and again, I know that I'm not telling you anything new when I say this—in the discussions held under previous bipartisan proposals to amend this act, it was outlined to you that there is a growing problem in Ontario affecting an estimated 300,000 children and 100,000 grandparents.

Some parents use children as pawns in divorce and in family disagreements. Not only do some spouses try to unreasonably and spitefully prevent kids from seeing their other parent but also loving grandparents, aunts, uncles and cousins. This issue is destroying thousands of families in Ontario—families like Gail's, in Toronto. Her son committed suicide five years ago, and Gail's daughter-in-law now won't let her daughter see the grandmother.

Or Noel and his wife, from St. Catharines. Their daughter became a born-again Christian 12 years ago and decided that her children could not see their grandparents anymore.

Or Linda, from Lucknow. Her son and daughter-in-law divorced three years ago, and the grandchildren now rarely see their grandmother.

There are thousands of cases like these that we have from all over Ontario.

Using children as pawns, and the denial of access or social isolation from family, is deemed to be emotional and psychological abuse by children's aid and the Public Health Agency of Canada.

Elder Abuse Ontario also says, on their website, that when grandparents are denied access to the grandchildren, it's psychological elder abuse.

Furthermore, the Public Health Agency of Canada and the National Seniors Council have documented the long-term effects of this isolation on the mental and physical health of children and their grandparents.

Bill 34 rightly proposes that you add a subsection under section 20(2.1), and it reads: "A person entitled to custody of a child shall not create or maintain unreasonable barriers to the formation and continuation of a personal relationship between the child and the child's grandparents."

Ladies and gentlemen, it would be totally immoral for all of us here to know that this emotional and psychological abuse is happening and we would choose to ignore the plight of those children and seniors and not amend section 20 of this act. Moreover, such a clause would actually push people to finally sit down and talk to each other, and it would help deter litigation.

The third proposed amendment addresses the cases where another person wants custody of the grandchildren—for example, foster parents. Bill 34 rightly proposes that you add a clause under section 24(2) outlining that that person must agree to continue to facilitate contact between the child and the grandparents, if such contact would be appropriate under the circumstances.

In conclusion, passing Bill 34 in its current wording will stop the use of children as pawns in a relationship

and protect them from abuse. It will upgrade and enhance the current, antiquated law and bring it into line with other laws in Quebec, five other provinces and the Yukon. It will alleviate some of the current, enormous downstream costs to society and to the juvenile justice and the health systems because of intergenerational transmission of abuse; delinquency and adolescent maladjustment; and the interventions by health practitioners. Finally, it will promote positive relationships between grandchildren and their grandparents that will enhance self-esteem.

We want to thank you very much for your time and for your effort to put families back together and to protect our grandchildren.

The Chair (Mr. Ted McMeekin): Thank you, and welcome back—for the eighth time, I guess.

We'll go to the government side for questions and comments.

Interjections.

The Chair (Mr. Ted McMeekin): Your presentation was so profound, they're taking a moment to kind of get their question together,

Interjections.

The Chair (Mr. Ted McMeekin): Is the government side ready to ask a question?

Mr. Joe Dickson: Mr. Chair? Thank you, sir—

The Chair (Mr. Ted McMeekin): Mr. Dickson.

Mr. Joe Dickson: It's good to have the three of you here. I want to thank you for your presentation. We appreciate your feedback. I can tell you that under the law today, a grandparent already has the ability to obtain an order or access to the grandchild if it is found to be in the child's best interests. Are the courts not doing enough to ensure that the best interests of the child are considered in many family law cases? I'm just looking for a yes-no kind of brief answer. I want to make sure we're all on the same track.

Mr. Frank Cianciullo: Wanda, did you want to address that one?

Ms. Wanda Davies: Yes, because I am a prime example of going to court to try to get access to my two granddaughters. This was just the first of this year.

I will quote to you what I was told. The judge did not speak to anyone in the courtroom except me. He looked me straight in the eye and said, "Madam, if you think that you are going to get access or visitation to your grandchildren, I need to let you know that you have a long row to hoe, because you have no rights. I am going to go by the black-and-white law that is in front of me, and I want the parties here to leave my courtroom and settle this"—after thousands of dollars and months preparing for it.

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Mr. Frank Cianciullo: If I could add to that, we have a situation where family law lawyers are literally telling people, "Don't waste your money."

Mr. Joe Dickson: Okay. And you would echo the same response? And the young lady on your left arm as well? Okay. Thank you very much.

Thank you, Mr. Chair.

The Chair (Mr. Ted McMeekin): We go to the official opposition: Ms. Martow.

Mrs. Gila Martow: Thank you very much for coming in. I'm sorry that you had to come in again, if you've come in before.

I just want to mention that I got a call from—I don't know if you know Wendy Margolis, in my riding of Thornhill. She's an aunt whose sister passed away. She's not a grandparent, but she feels a close kinship with your organization. What happened to her is that her sister passed away in 2015 and left two young children. The brother-in-law, who normally she would consider a brother-in-law—now she can't consider him a brother-in-law—refuses access to the aunts, uncles and friends and cousins, and very limited to her mother, the grandmother.

I think it's a real travesty for me to hear these kinds of stories, because I grew up with my grandparents living across the street. My grandmother would call my mother if I went out in the winter not wearing a hat.

I think that we rely sometimes on the courts, and we assume that the courts are doing what we're expecting them to do. But as Ms. Davies said, the courts oftentimes look at the law in black and white, and they look at the letter of the law, not what we're considering to be the spirit of the law. I support what you're trying to get done. But it is complicated.

I think that a lot of the time, parents have a supreme right, but I personally would like to see that judges have the ability to at least consider the grandparents' involvement and even other family circumstances.

My question to you is, you say "using children as pawns," but what I'm wondering is, are the grandchildren sometimes being used as pawns as a way to extract money or other favours from grandparents? Do you hear stories of that?

Mr. Frank Cianciullo: Yes, we do. We have examples where a daughter was asking for money, and the mother said, "I can't give you any more," and therefore the daughter simply said, "Well, then you're not getting to see the grandchildren." I don't know what you do with that.

I want to thank you for bringing up the other points, and thank you for your support. To reiterate again, this issue of the judges saying that there's nothing in the law that protects you—there's no mention of grandparents—is not new. If you refer back to the Hansard report of 2015, with Bill 142, MPP Cheri DiNovo brought it up again. It's not new. Everybody knows that this is going on, and we all have an obligation to fix it.

Mrs. Gila Martow: Okay. Thanks.

The Chair (Mr. Ted McMeekin): Mr. Mantha.

Mr. Michael Mantha: It's been a long journey, and that we're finally talking about it is a significant step. We're progressing about what this issue is, and the importance of having a grandparent and maintaining that nurturing environment around their children.

I can't commend you enough, Frank, Sonya and Wanda. You have provided me with a wealth of information over the last couple of years. I'm hoping that we're

going to be able to move the stakes forward. It's a sense that I'm getting.

I was hoping that you could provide us with a little bit more information in regard to how the barriers and the willingness—how important those are within the content of this bill. How important are those clauses to making sure they're there, and why do you need them there?

Mr. Frank Cianciullo: I'll let Wanda speak in a moment. I just wanted to say that I outlined in the statement what the three changes or amendments were that we supported, and why each one of them was important.

Certainly, the barriers one is important, because if we went simply with number one, the judge now has to listen to you and that's it. If you went with number two, then that's the one that is really key. That's the one that is the deterrent. That's the one that says to people, "Look, you can't unreasonably deny access of a child to his grandparents or to family when it's in the best interests of the child." We are perfectly okay—we understand it: Certain parents shouldn't have access to children. Certain grandparents shouldn't have access to children. Certainly, the judge can make a determination whether that barrier is unreasonable or reasonable, and whether it's in the best interests of the child.

Wanda, perhaps you want to add to that?

Ms. Wanda Davies: Yes. First of all, thank you very much, and I hope you bear with me here, because I know that we are here to talk about the law, but there is a personal side to this as well.

I don't know a grandparent who actually wants to take their family to court. What we would really love to see happen is the law would uphold and instruct not only judges but lawyers on what the law is. The term "unreasonable barriers" would go a long, long way to preventing litigation. Wilson and Deschenes did studies on this in 1982 in certain states, and, yes, absolutely, litigation did go down when laws like this were implemented.

I'm going to use my case again. The reason why I can't see my granddaughter and haven't seen her for over two years is because I gave her cotton candy four years ago at the Shrine Circus. I would like a lawyer to be able to say to my daughter-in-law, "I don't believe that is a reasonable barrier. I think you need to talk to your mother-in-law or, better still, let me refer you to a mediator."

I don't think many of these cases will ever go to litigation if we have that clause, "unreasonable barriers," to work with.

The Chair (Mr. Ted McMeekin): That wraps it up. Thank you very much.

MR. MARK GIL

The Chair (Mr. Ted McMeekin): Is Mark Gil there?

Mr. Mark Gil: Yes, I am on the phone.

The Chair (Mr. Ted McMeekin): Welcome, Mr. Gil.

Mr. Mark Gil: I'm sorry I couldn't be there. Thank you for having me.

This is my first time presenting. I'm here to talk on behalf of children and parents in regard to Bill 34. I'd just like to oppose this bill, and I'd like to tell you briefly about my family.

My wife and I will be happily married for 10 years next October. Together, we have two beautiful children: a wonderful boy, age eight, and a beautiful daughter, age five. We are a typical single-income family with a house and a mortgage, two cars and a cat. Our children play sports, and we try to do everything as a family together.

There's a loving set of grandparents in our lives, who love and care for the children. The children have the loving relationship bond that is present between grandchildren and grandparents. That's the happy side of our life.

To give you a brief overview of the nightmare of Bill 34, grandparents' rights—make no mistake, this bill is solely grandparents' rights. I'd like to tell you our story, and I'll be as brief as I can.

Unfortunately, for many years, we have been in an abusive relationship with the other set of grandparents, but due to typical social beliefs and pressures such as, "Oh, but they're your parents," and, "Children need their grandparents," and such, we endured the abuse and, unfortunately, punished our children and ourselves through this process.

We tried to coach the grandparents to change the way they acted toward the children and to us, as the parents. Unfortunately, none of these coaching methods worked, and the abusive relationship continued. Events then came to a head during the summer of 2015. Children's aid was brought to our house with a malicious complaint specifically targeted at my wife, with claims of her inability to look after our own children and describing her essentially as the worst mum in the world.

I'd just like to add, the children's aid worker was exceptionally professional and removed all the negative stereotypes that I had about children's aid.

We co-operated fully with the investigation and provided all the information she had requested. During the investigation, our children, age three and six at the time, were interviewed for abuse. This included questioning for physical abuse and sexual abuse. No child should unnecessarily have to go through these questions.

Based on these malicious complaints, we concluded that it was the grandparents who had made the complaints, or had someone call on their behalf. We could not take this any longer and so, in response, we sent them a letter requesting they leave us alone and that when the situation changes, we will be in contact with them. "Leave us alone."

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Sometime later, children's aid contacted us, indicating they were closing their file as there was no abuse or neglect happening in our family. Unfortunately, a short period later, we were once again contacted by children's aid in regard to another investigation into our family. In addition to the original complaints of my wife being a terrible mother to our children, the complaints were

intensified to include my wife abusing alcohol and being mentally unstable. We had two house visits by children's aid and our children's school was yet again contacted. They were very professional. After the events that followed, children's aid once again closed its case with no allegations of abuse.

The whole situation then once again changed late on October 29, 2015. There was a knock at the door, at which we were served papers. I was handed an envelope, but inside the envelope were 82 pages of paperwork indicating we were being taken to court by the grandparents for access to our children. The paperwork indicated that this was deemed urgent and we had to be in court one week from being served the paperwork. What was at stake? They were demanding one visit each weekend, either Saturday or Sunday, and a visit after school until 7:30 p.m.

The next day, we were frantically looking through the phonebook to try and find a lawyer. Most lawyers could not see us for many weeks. There's a lot of family law in Sarnia. Fortunately, one of the best lawyers in town heard our story and agreed to take our case. Unfortunately, she was unable to attend the imminent court appearance and we had to request that duty counsel postpone the court appearance to a later date to allow us time to prepare our paperwork. We were given one week. In this time frame, we had to meet with our lawyer, reply to their 82 pages, which are lies, and provide information as to why it was not in the children's best interests to spend any time with these abusive people.

As the parents, the court system did not allow us to have the opportunity to properly organize, prepare and reply to the 82 pages. We, as the parents, had to rush our defence to prevent abusive people from taking our children. All the while, our two wonderful children suffered immensely as we tried to reply to their original 82 pages of paperwork and the 29 pages that followed as they replied to our paperwork.

The grandparents were asking the court for immediate access to our children. Fortunately, our lawyer argued successfully that it was not urgent. This case was then moved to another court date to follow the standard litigation process. Here, the grandparents were asking for the following—more like they were demanding: alternate weekends from Saturday at 10 a.m. to Sunday at 7:30 p.m.; one midweek visit each week from after school to 7:30; each December 26, from 10 a.m. to 7:30 p.m., regardless of the access schedule; other times during statutory holidays and for family celebrations; and other access that could be arranged between the parties.

The nightmare of this litigation lasted 11 months. At a settlement conference last August, the litigation ended with the grandparents having no access and having to pay a small cost payable to our children's RESP. Throughout the litigation, our children suffered immensely as the stress of this litigation caused an immense strain on this family. There has been no damage or harm to our children from not seeing these people. As I said, they have a lovely, healthy and meaningful relationship with the other set of grandparents.

For the unsuccessful party, the grandparents, the litigation cost them less than the vacations they take each year. To our family, this money represented no more money being paid into the kids' education fund for at least another couple of years. There will be no big family vacations for many, many years. Home renovations have been stopped and the family is back to living paycheque to paycheque as we had to pay for this litigation on our line of credit. This will take years to pay back. The children do not know it, but they are suffering. A lifestyle they could have had is gone. What we could have offered them—we still love them; they have a loving family—is gone, and when it comes time for their secondary education, they will be unnecessarily burdened with school debt.

Should this law be amended? My family, like tens of other families, will be brought back to court to go through the hell—and it is hell—of access litigation by people who believe grandparents have a right. They do not understand that this is a privilege; it is not a right.

As a parent, what do I want for my child? For them to be happy and healthy, to love and to be loved. If, God willing, I am a grandparent, I'm going to want the same for my grandchildren: to be happy and healthy. As I am part of this extended family, I would get to watch this core family grow. I would want to love and support my children and their children. Never, ever would I take away from my children or their children.

If my wife and I received a letter saying, "Leave us alone," we would look into what we had done to cause this. We would look at ourselves and find out why we were part of this small number of 75,000 grandparents who do not get to see their grandchildren instead of being with the tens of millions of grandparents who get to see their grandchildren.

Right now, grandparents are not getting their way in court because Ontario has parents' rights. The core of the family is currently protected. The court needs to put children's rights first. The first people to defend those rights are the parents. We know what is in the children's best interests. We are under attack by a Norman Rockwell image of what a grandparent is. Parents would be deprived of protecting our children from harmful people.

I'm not sure if anybody in that room has gone to the Alienated Grandparents Anonymous headquarters website. You'll see what this organization is truly about. They give information on how to present this as children's rights instead of grandparents' rights. Fundamentally, this is grandparents' rights. On the website, there is no self-help section to determine if the grandparents are the issue. Instead, they will fill the reader's mind with the hate of their own children or that of the in-law child as the problem, not them. On the website, they are the victims.

There are 10 suggestions for grandparents. It is terrifying. This is their self-help section. It demonstrates how to infiltrate the family after you've been denied access. It gives ways to break up the family and provides information after they're dead and gone to attempt to

once again break up a family between a parent and a child. This is not a helpful website for grandparents that are being alienated, but that's what they call it. There needs to be self-help here.

I've gone quiet here. Am I still transmitting?

The Chair (Mr. Ted McMeekin): Yes. We'll go to some questions, Mr. Gil, if you're up to it.

Mr. Mark Gil: I am, very much. I hope so.

The Chair (Mr. Ted McMeekin): We'll go to the official opposition.

Mrs. Gila Martow: Hi. Thank you so much, Mr. Gil, for phoning in. I'm sorry that you had to go through this.

The fact is that right now there is no law; we're discussing having a law. Yet, you still went through this whole process. Lawsuits happen. It's unfortunate that you went through this, but my question to you is, do you think that the outcome in court would have realistically been any different if the law was changed?

Mr. Mark Gil: At the settlement conference, the judge was very, very sympathetic to the grandparents. Yes, absolutely. If this were law, then this would have gone to a trial. Would the outcome have been different? I don't know. My lawyer said that at trial things can happen.

From what I've heard of the system, judges have a lot of cases before them. Do they get to go in-depth into them, read them? They can make mistakes. There's a risk, an inherent risk, in this, that you are removing a parent's right to say who they can spend their time with and enhancing grandparents' rights. They currently have access. They currently do. In the court system right now, they do.

Will the grandparents try this again with the current law? I don't think they will. There has been no material change of circumstances. When this law goes through, if it does, absolutely, I will be back in court.

Mrs. Gila Martow: I think that we'd all like to see better relationships between grandparents, children and grandchildren. I think for most family situations, the grandparents are a huge bonus when they're involved in kids' lives. We need to deal with things when there are difficult situations.

Nobody is saying that all grandparents are perfect or that all grandparents should even have access. But I think that if you have a legitimate complaint, then you have to present that to the judge. Thank you.

The Chair (Mr. Ted McMeekin): Okay. We'll go to Mr. Mantha.

Mr. Mark Gil: Can I—oh, sorry.

The Chair (Mr. Ted McMeekin): We'll go to Mr. Mantha. He's got a question for you.

Mr. Michael Mantha: Mr. Gil, I cannot begin to understand the frustration that you experienced. You are one of those parents that has been dealing with the other extent of this bill, which is grandparents who are not the perfect fit for your family. I heard it through your voice, through your various comments that you made, how difficult this is for you and your family to deal with.

I started working with a lot of people from AGA, which is Alienated Grandparents Anonymous—and there

are different splinters, or different organizations, a variety of who they are. I have yet to meet one of those members representing this group who is looking as far as how to infiltrate. Basically, what they're looking for is to be considered and to continue having that loving and nurturing relationship with their grandchildren.

Again, all that we're trying to do with the amendments, the changes under this bill, is to continue doing what the courts have been doing now but putting a little bit of a greater consideration for grandparents, where to the other extent, as far as what you're not experiencing, other grandparents are being wilfully, spitefully denied access to their grandchildren, and the grandchildren are the ones that are losing out on a relationship with their grandparents.

1630

Mr. Mark Gil: But they're not. They're not losing out. This is a gain for our family. We are protecting our children from them. Through our court case, if children's aid was not involved, it would have come down to our word against theirs. Their paperwork was very, very well written. Unfortunately for them, the children's aid report invalidated all of their points.

It comes down to a court now. You're a judge. You're a grandparent. What are you going to do? Are you going to believe the parent that these people are abusive? Or are you going to say, "They should have a relationship with them"?

Mr. Michael Mantha: I've heard from many, many grandparents, court after court, case after case, where they are being first told by legal representation, "You have no case to go in front of a judge," or even when they do get in front of a judge, the judge will look at them and say, "Listen, you've put a valiant case in front of me. I am fully empathetic towards the case that you put towards me but, unfortunately, under the law, there is no consideration for your rights as a grandparent."

Mr. Mark Gil: But it is currently in the law. The judges should be held accountable for the law as it is, but to elevate a third party above a parent, to the same level as a parent, is not at all acceptable. We are the parents. We know what is best for our children. There are 75,000 grandparents—according to data, which I don't know how accurate it is, compared to tens of millions—who have gained access to their grandchildren. Why is it the court wants to allow 75,000 grandparents, who the parents are saying should not see their child, when there are tens of millions of parents that are also saying, "You should see our child"? There's an issue with 75,000 grandparents. To put this on the parents is unacceptable.

The Chair (Mr. Ted McMeekin): Okay, we'll go to the government, Mr. Gil. Government questions?

Ms. Daiene Vernile: Thank you. Good afternoon, Mr. Gil.

Mr. Mark Gil: Good afternoon.

Ms. Daiene Vernile: My name is Daiene Vernile. I'm the MPP for Kitchener Centre. I'm sorry that you can't be here with us today but I'm so glad you did call in. I just want to set for you a visual of what we have

happening of here this afternoon. We're in a committee room here at Queen's Park. There are eight MPPs sitting around the table. We have legislative staff, and while you were speaking, I want you to know that everyone was listening very attentively.

Mr. Mark Gil: Thank you.

Ms. Daiene Vernile: Situations like this are just so difficult and so heartbreaking. You have presented us with a different point of view this afternoon. But when you listen to parents like you, or to grandparents—just before you we had some deputants who gave us their point of view on this, and their story, again, was very heartbreaking: Grandparents who, through divorce of children, are being denied access to their grandchildren. Like Mr. Mantha said, it's because you see activity that is very spiteful and wilful.

You said one thing, though, that really jumped off the page for me. You said you want to see children's rights put first. I believe that Bill 34 does that. Would you agree?

Mr. Mark Gil: No, I don't agree. Children right now need the protection of the parents because, depending on their age, they can't speak for themselves. The parents need to speak for them on their behalf. Our voice is for the children. Yes, children need to be protected. Basically, we as parents know the grandparents. We know them. Why would anybody say, "Oh, you're allowed to make decisions in everything else except who they can spend time with"?

That's the most important thing: where our children spend time, who they spend time with. We're saying no. We don't want them spending time with these people, for whatever reason. Through divorce, how is it that one parent can say, "No, you can't see my children," when divorce encompasses two people? Why isn't the grandparent's child saying, "You can see my children"?

Ms. Daiene Vernile: In a situation, though, in divorce—and you hear many of these cases. I'll tell you that before becoming an MPP, I produced and anchored a weekly news and current affairs program in Kitchener. I'm going to say that at least once a year I covered this issue. I'd have grandparents in front of me saying that they had been cut off from seeing their grandchildren because an in-law had decided that they weren't going to see them. The children were being used at pawns in the situation. Can you see that point of view?

Mr. Mark Gil: But what's the percentage, the risk? You are looking at the in-laws saying this, but what about their child? Does their child have access to their own children? And if they do, then the grandparents should be able to see their grandchildren. If they don't, then you have to call into question as to why he does not have access to his own children.

Ms. Daiene Vernile: I want you to know that we've listened very closely to what you've said, and I thank you so much for calling in this afternoon.

Mr. Mark Gil: Thank you.

The Chair (Mr. Ted McMeekin): Mr. Gil, thank you. Our time is up. But I want to reinforce that; thank you for calling in, sir.

Mr. Mark Gil: Thank you for having me.

RICKETTS HARRIS LLP

The Chair (Mr. Ted McMeekin): Members, we'll go to Paul S. Pellman, family lawyer, Ricketts Harris LLP. Mr. Pellman.

Mr. Paul S. Pellman: Thank you for having me today. Let me first tell you a little bit about my background. I am not a member of any organization that speaks for grandparents. In fact, I was counsel for the parents in the first reported decision in Ontario on grandparents' rights, a case called *Lusher v. Lusher*, where the grandmother was unsuccessful in getting access to her grandson. To this day, I continue to represent some parents against grandparents, but largely the work I do in family law with respect to custody and access involving grandparents is on behalf of those grandparents.

In addition to that, my wife and I raised our grandchildren, so I have a personal interest. I also have a professional interest, and I can advise you that I have spoken to the provincial court judges of this province about this particular issue. I am overjoyed that, finally, there is some legislation that is being proposed that is going to change the current landscape. I'll disagree with Mr. Gil and I'll go through in some detail what the law really is right now, the way it's really practised and the way judges, for the most part, really think.

Let me first start by saying that when I spoke with the provincial court family division judges seven or eight years ago, one of the judges took me aside in the morning before I began and said, "Paul, I want you to know that we are not all on the same page on this issue." What that meant to me was that there is no consensus among the judges about what they ought to do. I know there are many Family Court judges, like Mr. Gil described, where you have an older person on the bench, who probably has grandchildren and in their heart is sympathetic to those grandparents. But I will tell you, they are now becoming in the vast minority. In fact, since 2001, when the Court of Appeal of this province, in a case called *Chapman v. Chapman*, set out the criteria for what you need to get access, and the subsequent case law, it has become more and more difficult for grandparents to have access rights.

By the way, in my opinion, the current law is lagging behind the reality. The reality is, in this country and in the United States, grandparents play a large part in the upbringing and the care and the love that most children get. That doesn't mean that all grandparents are perfect; certainly, no parents are all perfect. But the reality is that, right now, as our law is—my friends who just spoke before are quite right when they say that when you approach a family law lawyer, most of the time the family law lawyer is going to say to grandparents, "Unless it's really unique and your relationship is spectacular, you're not going to succeed. You've got to prove that the parents have acted"—and I'll go through this—"arbitrarily, not just unreasonably."

1640

By the way, Mr. Gil's example is probably a bad example. Any grandparent who undermines a parent—that's simple: They should not be given those rights of access if they're undermining the main parental unit. That makes perfect sense. I get that. Most of the grandparents that I come across are not doing that. What has happened is, like the member of Parliament for Thornhill said, they've lost a loved one. Those are the most heartbreaking cases: daughters and sons killed in car accidents or by heart attacks, where suddenly the surviving spouse does an about-face and does not allow access rights.

In my opinion, the current state of the law is what I call parental autonomy. It's not children's rights; it's parents' rights. What it means is, unless you can demonstrate that a parent is acting arbitrarily, they get to call the shot.

Here's the test:

(1) Does a positive grandparent-grandchild relationship already exist? We already know currently that in most of these cases, the grandparents have been cut off for a little while before they even get to court. So, does one already exist? Possibly not. That's a big problem for the grandparent.

(2) Has the parents' decision imperilled the positive grandparent-grandchild relationship? You hope we can say it has.

(3) Has the parent acted arbitrarily? This legislation uses much more reasonable language: "unreasonable barriers," not "arbitrarily."

I will tell you that recently, I dealt with a case which I thought was the high-water mark for a grandparent.

What is the most involved that a grandparent could ever be, other than raising grandchildren? Well, the example is simple. Mom and Dad have a baby. Mom goes back to work after a year. The daycare providers are the grandparents—every day, five days a week. You'd think that's a pretty stable relationship. No evidence that the child has ever been harmed. A bedroom for the child, toys—you name it, it was there.

But one night, the grandparents and their daughter had an argument about her wanting to move to Cambridge, Ontario. There were things said in that argument that were not acceptable to either party, and the mother said, "You are cut off. I am moving and that day-to-day relationship is over."

We were able to get into court. Bringing in an emergency, like Mr. Gil says, is very difficult to do—very difficult. We finally got in front of a judge, and a very good, senior Superior Court judge in this province found this:

(1) Did a positive relationship exist between grandparent and grandchild? Absolutely.

(2) Has the parents' decision imperilled that relationship? Absolutely.

(3) Her Honour felt that the parents had not acted arbitrarily. As a result of that, that relationship died. That child lost that stability, lost that safety net. And those

grandparents—their lives, in terms of that grandchild, are now over.

I thought if there was any case that was strong, that would be successful, it was that one.

Of course you could say, "Well, they could appeal," or "They could keep pushing it."

Judges practise the law, but they also are full of expediency, which means courts have to be efficient. They don't have an hour or two every day to hear every case. So the next time we went back to court—the final time—we were trying to get mediation going, to work together, to work something out. The parents said, "You have no rights. We're stonewalling you."

A judge met the parents for about five minutes or less, and came to us and said, "They seem like really nice people," a.k.a. "They're doing the right thing, so why don't you just walk away?" A terrible result.

This legislation, I think, finally gives mention of the grandparent relationship as something that is worth supporting. And it really is important, because at the end of the day, the people who are going to suffer here are the children.

As was pointed out previously, we're behind the ball in terms of other provinces. Other provinces already have legislation that assists us, but I can tell you this: The courts are not going to change their approach to grandparent access unless the law changes and this law gives you the opportunity.

The Chair (Mr. Ted McMeekin): Okay. Thank you very much.

Mr. Paul S. Pellman: My pleasure.

The Chair (Mr. Ted McMeekin): We'll begin with Mr. Mantha.

Mr. Michael Mantha: Thank you so very much for coming in. I think everybody around the table here was enjoying the description you were providing us with. I want to have a quick chat with you in regard to the importance of including grandparents under the act.

But first, the act reads: "A parent of a child or ... other person." Two things: How do the judges look at other persons, and what is the significance of adding "grandparents" to the act?

Mr. Paul S. Pellman: Great question. I compare it to a horse race, where the number one track is mum and the number two track, but close by, is dad. The others? They're in about the eighth lane.

The problem with the wording as it currently exists is that it minimizes the role of these third parties, be they grandparents or aunts and uncles. So the reality is that these "others" are given very little status, but at least now with the specification of grandparents, the courts can say, "Aha, the Legislature, in its wisdom, has chosen to include grandparents because the voters of this province believe that, generally speaking, grandparents play an important role." So the inclusion of that makes all the difference. The use of the word "other," in my opinion, has become impotent.

Mr. Michael Mantha: How would a judge be considering the word "other"? When we hear that individ-

uals—like from parents and we heard it from government in some of their responses, that grandparents already have those rights. “Other” does not incorporate grandparents?

Mr. Paul S. Pellman: Well, it does. It does incorporate them, but the problem is the way “other” has been used or, basically, abused. The case law that has developed about parental rights, coming out of the Chapman decision—their rights are so neutral as to be effectively non-existent. That’s why you really need to have the specification of this particular area.

Remember, aunts and uncles can be the “others.” I had a case several years ago, regrettably: The mother committed suicide. The father stepped forward. In the midst of this, a police investigation was undertaken and the father was suspected of possibly killing her—this was a doctor—with insulin. He got so upset, so frightened about the potential criminal charges and the end of his career, he committed suicide. So now we have two parents, three little kids, no parents. Aunts and uncles of the mother became involved and took custody. I acted for dad’s mother. A very difficult time, really difficult.

So there are instances where other people get involved. Remember, we’re talking about people who have been significantly involved with grandchildren. We’re not talking about the normal grandparent-grandchild relationship where they may see each other twice a month. These are for people who have been significantly involved, that this will all make some real difference for and who have now been cut off.

The Chair (Mr. Ted McMeekin): Okay—

Mr. Paul S. Pellman: I want to say one other thing.

The Chair (Mr. Ted McMeekin): One other thing.

Mr. Paul S. Pellman: In my experience, what happens in these cases is—I call it revisionist history. The parents come forward and suddenly, they create this story of their upbringing that is like a fairy tale: “My father abused me. My mother was a drunk.” Suddenly, stuff that had never come up before arose and then they play the conflict card: “My parents being involved will cause more conflict for my children. Avoid the conflict; keep them out.”

The Chair (Mr. Ted McMeekin): Okay, government.

Mr. Grant Crack: Thank you, Mr. Pellman, for providing us with some of your insight.

Mr. Paul S. Pellman: My pleasure.

Mr. Grant Crack: You have some first-hand experience, obviously, and it’s much welcomed by us all here. I, as a grandfather of three, as well, would be completely devastated if I was unable to have that relationship with my grandchildren, so I think that this is an important piece of legislation.

Do you think that this legislation before us today provides that balance, where it doesn’t promote one particular entity, which is the parents, over the grandparents? Is this balanced enough, or is there anything that you would recommend?

Mr. Paul S. Pellman: I think that’s a great point. I think it’s balanced. By using the words “unreasonable

barriers,” I think that parents’ rights will still be at the forefront, but the test will be a little different and a bit more reasonable. The primary unit is still the parent, and they still play a big role in raising the kids, but the wording of this legislation is much more even-handed.

Right now, basically, parents can simply act unilaterally in cutting out their parents and then, after the fact, they figure out an excuse as to why they did it: “My parents are too controlling,” “My father sexually abused me,” “My father was a drunk,” “My mother was abusive to me,” or, “My parents abandoned me at 16 and told me to grow up.” It’s terrible.

Mr. Grant Crack: Thank you very much.

The Chair (Mr. Ted McMeekin): Okay. We go to the official opposition.

Mr. Michael Mantha: Can I take some of their time, if they didn’t use it?

Mr. Grant Crack: We used the two minutes.

The Chair (Mr. Ted McMeekin): No, it was at least the two. They could have gone on a bit, but he chose not to.

The official opposition.

Mr. Bill Walker: I didn’t lose any of that time, I hope, Mr. Chair.

The Chair (Mr. Ted McMeekin): No. We would never take time away.

Mr. Bill Walker: Thank you very much, Mr. Pellman. A couple of quick questions: I’m aware that British Columbia, Alberta, Quebec, New Brunswick, Nova Scotia and the Yukon already have laws. The wording that’s given to me here is “recognizing grandparents’ access”—and these generally work well—and, “They have not caused significant problems in interfering unreasonably with the parent-child relationship.”

From your perspective, I think what I just heard in the last question is that in the proposed legislation in front of us, it would be there, and that you would concur that there has been no significant—I mean, there could always be one or two small cases—negative impacts to the child, who we’re really the most concerned about.

Mr. Paul S. Pellman: That’s exactly right. The new law is going to force people to think about mediation to try and work it out, instead of the law that currently exists, which is parents saying, “We don’t need to try. We’re good parents. Leave us alone.”

Mr. Bill Walker: Thank you very much.

This is the seventh time that this has come to the table. Can you share with me what you believe the rationale for the government has been to not initiate legislation of this kind when there is precedent from other provinces who have had a successful reality?

Mr. Paul S. Pellman: You’re not going to like my answer. I don’t like to speak against my own profession, but I will tell you that some members of the family law bar have been very happy to maintain the status quo. I think they have gotten the ear of the government before to say, “Leave it alone. The law is working fine.” The reality is, it’s not working fine.

Mr. Bill Walker: Right. I think you shared earlier that you have a number of judges who you have a professional relationship with, and many of them—I believe that there are counter-sides—are saying, “We are currently blocked. We can’t do anything with this because the law, as it’s currently written, does not allow us to err on the side of a grandparent, who may be in best interests of a child.”

Mr. Paul S. Pellman: The law and the case law.

Mr. Bill Walker: This would give that judge the ability, on a case-by-case basis, to truly take action to determine who is best fit and best suited for the child’s needs.

Mr. Paul S. Pellman: Absolutely.

Mr. Bill Walker: Thank you very much.

The Chair (Mr. Ted McMeekin): You’ve got four more seconds.

Mr. Bill Walker: That’s rare for me.

The Chair (Mr. Ted McMeekin): Thank you, Mr. Pellman.

Mr. Paul S. Pellman: Thank you very much.

The Chair (Mr. Ted McMeekin): The committee will stand down for five minutes and come back at 5 to—

The Clerk of the Committee (Mr. Christopher Tyrell): Seven minutes.

The Chair (Mr. Ted McMeekin): —seven minutes to do clause-by-clause. You can go get a drink of water or whatever else you have to do.

The committee recessed from 1653 to 1700.

The Chair (Mr. Ted McMeekin): We’ll open it up for any general comments that anybody wants to make on the bill. I think that’s what we normally do. Any questions or amendments could be referenced before going into clause-by-clause. Are there any opening comments that the government or other members want to make?

Mr. Michael Mantha: If you don’t mind, Chair?

The Chair (Mr. Ted McMeekin): Yes.

Mr. Michael Mantha: I’ve been at this for almost three years now. I’m so happy that Mr. Pellman was able to join us here today because I believe he’s provided the explanation that some of us were missing, as far as what’s happening in our courts and in front of our judges. I think he’s answered a lot of those questions. I think the committee just heard, quite eloquently, why we need to do this and why we need to agree to move on with this legislation, and to provide that nurturing and loving relationship that grandparents are so wanting to have with their grandchildren. Recognizing the ultimate roles and responsibility of a parent, of having the upbringing of that child at heart, grandparents just want to be able to provide a different love.

Over the course of the last couple of years, I’ve heard from various grandparents and parents. I’ve heard from parents where, “I’ve tried having a relationship with my parents. I’ve tried to establish something with my kids so they know who their grandparents are. You mean to tell me now all of a sudden they are going to be able to do it outside of what I’ve already been trying?” Again, having

that discussion with that particular parent, it’s a no, because they will have to make that effort in order to establish that relationship. They will have to make that step. They will have to make that case in front of a judge.

At the end of the day, if this triggers a discussion in order to benefit access or having that relationship between a grandchild and their grandparent, that’s a good piece of legislation, if we’re actually accomplishing that. I think that’s what we’re going to be doing here, to start a discussion where there was no discussion before. I think what we heard from Mr. Pellman is that this will trigger mediation. This will give an opportunity for parents and grandparents to have a meaningful discussion. Quite possibly, this will eliminate some of that pressure that we have on our courts.

So I’m looking forward to the clause-by-clause discussions that we’re going to be having here today. One of the key things that I think we need to take into consideration, which is what the presenters from Alienated Grandparents Anonymous said, is two key words: barriers and willingness. That is one of the biggest issues that they’re facing when they’re going into our courts: barriers that are being put in front of them by the parents, and then once those barriers are down, the willingness to letting that loving and nurturing relationship flourish. So I’m looking forward to our clause-by-clause discussions that we’re going to be having this afternoon.

The Chair (Mr. Ted McMeekin): Very good. Bill?

Mr. Bill Walker: I just find it very interesting, again, that it’s been here seven times. There are obviously some challenges that we’re hearing. I read the stack of concerns that were brought in.

I think if there are other provinces, that there could be some balance, and I would hope that all members of all sides of the House will look at it from the perspective of putting the child’s needs first. I think if we put good legislation in place, that gives the ability for every situation to be encountered. We have to balance against parents who may be malicious against the grandparents. There could be grandparents who are of the same mind.

I think what I’m hearing right now, really, is the judges saying, “Our hands are tied. We can’t do anything from this perspective.” I don’t think that’s an appropriate place if we’re truly looking at the best interests of the children.

It baffles me that it would come here seven times and we haven’t found some way, with all of the knowledge and resources at our disposal, to send it forward. I’m hoping we can do that as this committee.

The Chair (Mr. Ted McMeekin): Mike?

Mr. Mike Colle: Just some thoughts here: Someone said the other day that what is happening in Canada is we’re seeing that it’s no longer the rule of law; it’s the rule of lawyers. The only people who benefit from these family disputes, which can sometimes be dragged out, whether it be family law issues—in this case, with grandparents’ rights—is the incredible amount of time billed by lawyers. There are many lawyers who are very good

and are great representatives, but there is a tendency right now to have lawyers delaying processes essentially because of billable hours: The longer it goes on, the more money they can make.

If we think that this is going to solve a problem that occurs, unfortunately, by passing laws—it could help; I hope it does. But unless we start ensuring that families learn to take their responsibilities more seriously and that families are given supports in terms of counselling and mediation to stay away from the courts—right now, unfortunately, we have this growing tendency to use litigation, the courts and lawyers. The children don't win; the parents don't win; the grandparents don't win. Who wins is our lawyers, who are always stretching out these cases.

This is part of a problem that is growing and growing in Ontario, whether it be in family law issues—and I've sat in court with family law disputes, divorce disputes. The agony on all sides, the children especially, who are dragged for months through hell in courts, being attacked—literally, mother and father and grandparents being attacked by lawyers.

Let us not think that we are going to stop this very dangerous trend: that we are seeing more and more that it's the rule of lawyers. God bless lawyers; we all want one in our family. But it is something that we are, I think, adding to by trying to solve everything through the courts. Again, we should solve a lot of these family problems at home, by giving families support and counselling. That's where we need to spend our resources.

The Chair (Mr. Ted McMeekin): I agree with you, but we're not going to do that today, I suspect. We've got the bill before us.

Bill?

Mr. Bill Walker: I'm not going to disparage lawyers; I think a lot of lawyers do a lot of great things. What I heard here is that the judge has nothing in law that can actually make the decision, so a lot of those unscrupulous types that could do that could take a family through a long process, spend a lot of money in that process, and there's nothing there that the judge can do at the end of the day.

The Chair (Mr. Ted McMeekin): The point that Mr. Colle is making—exactly that, yes.

Okay. Ms. Vernile.

Ms. Daiene Vernile: I'll just be really quick. I want to thank Mr. Mantha for bringing this forward. It's such an important issue. As we heard this afternoon from the different deputants, it's such a polarizing issue. But I think that the one thing that everyone did agree on is that, whether it's parents or grandparents, everyone wants what is best for a child and the child's rights.

So we're happy that you brought this forward, and we look forward to going through clause-by-clause with you now.

The Chair (Mr. Ted McMeekin): Any other general comments?

Mr. Michael Mantha: If we leave here today, as Ms. Vernile said, with the ultimate goal of trying to do what's

in the best interest of the child, we're going to be accomplishing the ultimate goal of what the purpose and the intent of this bill was.

The Chair (Mr. Ted McMeekin): Very good. Well said. Thank you.

We'll go to section 1 of the bill.

Interjection.

The Chair (Mr. Ted McMeekin): Oh, Mr. Dickson, you want to speak, sir?

Mr. Joe Dickson: Through you, Mr. Chair, if I may, one quick comment: I think sometimes we should really take a look at ourselves as well. Sometimes we should take a look at ourselves when we deal with these scenarios. I know that we have some senior members here. They'd be the ones with a lot of white hair, such as the gentleman on my left. You would be excluded, of course, Mr. Chair.

1710

Two quick things: First of all, I thank Mr. Mantha, who has obviously done a lot of work and deserves credit. Congratulations to you.

A lot of the time, it just takes too long by government, elected people, such as us, and the bureaucracy. I know, in speaking with staff, that the grandparents act was in one way, shape or form in front of this Legislature some nine times. I remember over the years speaking to it at least three times. We should take a look at ourselves sometimes as well. We should move particularly on very sensitive human relations issues, such as this, and I for one am saying that to myself. When it comes to government and bureaucracy, I'm excluding present company, of course.

I also want to say that the legal professionals did have some initiative from their end to have more direction to restart things and not let it go. They've got to do their job and—God bless them, I'm not going to say anything negative about anyone today in this situation but, really, we can all do a lot better job.

Thank you, Mr. Chair. Sorry to hold you up so long.

The Chair (Mr. Ted McMeekin): Thank you. You caused me to reflect a bit. I've had, in my 16 years here, at least four bills that we've had to have three iterations of to get some final adjudication. It's the nature of the place and it needs to be improved, and I agree with you.

Any other comments? Mr. Clerk?

The Clerk of the Committee (Mr. Christopher Tyrell): Section 1.

The Chair (Mr. Ted McMeekin): We'll move to section 1. Any comments on section 1?

Shall section 1 carry? All in favour?

Mr. Michael Mantha: On section 1—

The Chair (Mr. Ted McMeekin): Do you want to speak to it? Go ahead.

Mr. Michael Mantha: Yes. Section 1, which is section 20?

The Chair (Mr. Ted McMeekin): Section 1 amends section 20 of the Children's Law Reform Act. Do you have some clarification here?

Mr. Grant Crack: Do you want me to go?

Mr. Michael Mantha: Yes, go.

Mr. Grant Crack: I recommend voting against section 1 at this point because we're going to be putting forward amendments that we feel will amend the Children's Law Reform Act to clarify the ability of grandparents to seek order for an access. That will be coming next. That's why we're voting this down, and I'll be proposing that motion after the vote on this particular section.

The Chair (Mr. Ted McMeekin): What are you moving we vote down?

Mr. Grant Crack: I'm just putting it on record that we will be voting against section 1.

The Chair (Mr. Ted McMeekin): Okay.

Mr. Grant Crack: It's just a notice.

The Chair (Mr. Ted McMeekin): Okay.

Mr. Michael Mantha: I'd like to make a motion to that.

The Chair (Mr. Ted McMeekin): Do you want to move that?

Mr. Michael Mantha: In order to assist on the explanation of what 20 would look like, 20(2), subsection (2.1), I'd like to add, "A person entitled to custody of a child shall not unreasonably deny access to the child's grandparents if such contact is in the best interests of the child."

That goes back to what I alluded to in my earlier comments in order to help clarify the role of a grandparent so that there are no barriers and that we can deal with the discussion of having willingness between the grandparent and the parent.

The Chair (Mr. Ted McMeekin): Okay. So if you're moving a new motion, which I think you are—there's nothing we have before us. We'll need to stand down the committee for a few minutes—I'm assuming you've moved that—so that it can be replicated and shared with all members of the committee. So we'll step down and we'll recess for a few minutes—five minutes.

The committee recessed from 1715 to 1728.

The Chair (Mr. Ted McMeekin): Okay, we'll reconvene. We have the most recent incarnation of the motion from Mr. Mantha, which I would invite you to read, sir.

Mr. Michael Mantha: "A person entitled to custody of a child shall not unreasonably deny access to the child's grandparents if such contact is in the best interests of the child."

The Chair (Mr. Ted McMeekin): Who's moving that? You're going to be moving it?

Mr. Michael Mantha: I move that.

The Chair (Mr. Monte McNaughton): Okay. Any discussion?

Mr. Michael Mantha: The only discussion that I wanted to add is, again, what we heard from the grandparents who were here today: the barriers and also the willingness to make sure that those issues are addressed.

The Chair (Mr. Ted McMeekin): Are we ready for the vote?

Mr. Bill Walker: Can I just ask for clarification, Chair?

The Chair (Mr. Ted McMeekin): Absolutely.

Mr. Bill Walker: Is this replacing 2.1? Is that what your intent is?

Mr. Michael Mantha: This is in addition.

Mr. Bill Walker: In addition. Thank you.

The Chair (Mr. Ted McMeekin): Are we ready for the vote? All those in favour? Opposed, if any? Defeated.

Mr. Clerk, do we go back to section 1 here? This was defeated.

The Clerk of the Committee (Mr. Christopher Tyrell): Yes. We go back to section 1. There are no other amendments; we'll be voting on the section.

The Chair (Mr. Ted McMeekin): No other amendments: We'll vote on section 1. Are we ready for the question? All those in favour? Nobody? All those in favour of section 1? Opposed? That, too, is lost.

We go to section 1.1. It's a new one. It's motion number 1.

Yes?

Mr. Grant Crack: Thank you very much, Chair.

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

"1.1 Subsection 21(1) of the act is amended by adding 'including a grandparent' after 'any other person'."

The Chair (Mr. Ted McMeekin): You're moving that?

Mr. Grant Crack: Yes, sir.

The Chair (Mr. Ted McMeekin): Okay. Any discussion?

Mrs. Gila Martow: Yes. Can you explain what the purpose of that is?

Mr. Grant Crack: The purpose of that is to make it clear that grandparents have the ability to seek a court order to have access, under the Ontario Children's Law Reform Act.

The Chair (Mr. Ted McMeekin): I'm instructed by the Clerk that I need to rule that out of order. This motion seeks to amend section 21 of the Children's Law Reform Act, a section which was not already opened by the bill.

Mr. Grant Crack: Point of order, Mr. Chair?

The Chair (Mr. Ted McMeekin): Yes.

Mr. Grant Crack: I would ask the committee for unanimous consent to consider this particular amendment.

The Chair (Mr. Ted McMeekin): Okay. Is there unanimous consent to consider this? Agreed. We'll consider it.

Mr. Grant Crack: Thank you very much.

The Chair (Mr. Ted McMeekin): You make my job easier.

Mr. Grant Crack: Do I need to read it into the record again?

The Chair (Mr. Ted McMeekin): No.

Mr. Grant Crack: No? Okay, very good, because I'd be more than happy to.

Interjections.

The Chair (Mr. Ted McMeekin): Dispense, dispense.

Okay. You've heard the motion. Any discussion? Mr. Mantha.

Mr. Michael Mantha: We heard from Mr. Pellman, who was here today, about the significance of adding grandparents: that now it will provide for the courts to specifically look at grandparents and not just "other" under the law, and give them the consideration that they're absolutely seeking in having that loving relationship established—

The Chair (Mr. Ted McMeekin): So you're speaking in favour.

Mr. Michael Mantha: I'm speaking in favour, yes.

The Chair (Mr. Ted McMeekin): Okay. Any other discussion? Are we ready for the vote? All those in favour? Opposed, if any? No? Hearing none, it's carried.

We'll go to section 1.2, motion number 2. Mr. Crack.

Mr. Grant Crack: I move that the bill be amended by adding the following section:

"1.2 Subclause 24(2)(a)(i) of the act is amended by adding 'including a parent or grandparent' after 'each person'."

The Chair (Mr. Ted McMeekin): Okay. Any discussion on this motion? Mr. Mantha.

Mr. Michael Mantha: Once again, including the grandparents under the law, to be considered when cases are going to be put, and giving them a specific recognition as something other than something different, will absolutely assist in granting them special consideration, so that they can have that nurturing, loving relationship—

The Chair (Mr. Ted McMeekin): So you're speaking in favour of it.

Mr. Michael Mantha: I'm speaking in favour of it.

The Chair (Mr. Ted McMeekin): Any further discussion? Mr. Walker.

Mr. Bill Walker: We'll speak in favour of it as well, Mr. Speaker.

The Chair (Mr. Ted McMeekin): Thank you, Mr. Walker, for that clarity.

Are we ready for the question? All those in favour? Any opposed? It is carried.

Any comments on section 2? Shall section 2 carry?

Mr. Grant Crack: No, that's not section 2.

The Chair (Mr. Ted McMeekin): We just finished 1.2.

Mr. Grant Crack: There are two new sections, 1.1 and 1.2.

The Chair (Mr. Ted McMeekin): We voted on those.

Mr. Grant Crack: That's correct.

The Chair (Mr. Ted McMeekin): Now we're on section 2.

Mr. Grant Crack: That's right.

Mrs. Gila Martow: Yes, but we don't vote on section 1?

The Chair (Mr. Ted McMeekin): We voted on it. It was defeated.

Mr. Grant Crack: We voted against section 1.

The Chair (Mr. Ted McMeekin): We voted on it, and it was defeated.

Mr. Grant Crack: Correct.

The Chair (Mr. Ted McMeekin): Okay. The two new sections, we have voted in favour of. Now we're on section 2. Comments on section 2?

Hearing none, are we ready for the vote on section 2? All those in favour? Opposed? It's lost.

That will move us to section 3. Any comments on section 3?

Interjections.

The Chair (Mr. Ted McMeekin): There is? Yes?

Interjections.

The Chair (Mr. Ted McMeekin): Ready for the vote? All those in favour? Opposed, if any? Carried.

Section 4, government motion number 3.

Mr. Michael Mantha: Actually—

The Chair (Mr. Ted McMeekin): Go ahead, Mr. Mantha.

Mr. Michael Mantha: I move that section 4 of the bill be struck out and the following substituted:

"Short title

"4. The short title of this act is the Children's Law Reform Amendment Act (Recognizing Relationships with Grandparents), 2016."

The Chair (Mr. Ted McMeekin): Any discussion? All those in favour? Opposed, if any? Carried.

Now we're on section 4, as amended. All in favour? Opposed, if any? Carried.

Mrs. Gila Martow: Can I ask a question?

The Chair (Mr. Ted McMeekin): On section 4?

Mrs. Gila Martow: No. We passed amendments for section 1, but we didn't vote on section 1, as amended. No?

The Chair (Mr. Ted McMeekin): We didn't have to, because we defeated it and then replaced it with two carried motions.

Mrs. Gila Martow: Okay.

The Chair (Mr. Ted McMeekin): Shall the title of the bill be carried? Any opposed? It's carried.

Shall Bill 34, as amended, carry? Any opposed? Carried.

Shall I report the bill, as amended, to the House?

Interjections.

The Chair (Mr. Ted McMeekin): Any opposed?

Mr. Mike Colle: I'll run it over myself.

The Chair (Mr. Ted McMeekin): Carried. Thank you, Mike. We might just take you up on that.

The committee stands adjourned. Thank you.

The committee adjourned at 1737.

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