

Legislative  
Assembly  
of Ontario



Assemblée  
législative  
de l'Ontario

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**Official Report  
of Debates  
(Hansard)**

M-27

**Journal  
des débats  
(Hansard)**

M-27

**Standing Committee on  
the Legislative Assembly**

Protecting Ontario Elections  
Act, 2021

1<sup>st</sup> Session  
42<sup>nd</sup> Parliament

Monday 29 March 2021

**Comité permanent de  
l'Assemblée législative**

Loi de 2021 sur la protection  
des élections en Ontario

1<sup>re</sup> session  
42<sup>e</sup> législature

Lundi 29 mars 2021

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Chair: Kaleed Rasheed  
Clerk: Tonia Grannum

Président : Kaleed Rasheed  
Greffière : Tonia Grannum

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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE  
L'ASSEMBLÉE LÉGISLATIVE

Monday 29 March 2021

Lundi 29 mars 2021

*The committee met at 0900 in room 151 and by video conference.*

PROTECTING ONTARIO ELECTIONS  
ACT, 2021LOI DE 2021 SUR LA PROTECTION  
DES ÉLECTIONS EN ONTARIO

Consideration of the following bill:

Bill 254, An Act to amend various Acts with respect to elections and members of the Assembly / Projet de loi 254, Loi modifiant diverses lois en ce qui concerne les élections et les députés à l'Assemblée.

**The Chair (Mr. Kaleed Rasheed):** Good morning, everyone. I call this meeting to order. We are meeting to conduct public hearings on Bill 254, An Act to amend various Acts with respect to elections and members of the Assembly. Are there any questions before we begin?

Seeing none, I will now call on the Honourable Doug Downey, MPP, and the Attorney General. You will have 20 minutes for your presentation, followed by 40 minutes of questioning divided into two rounds of seven and a half minutes for the government members, two rounds of seven and a half minutes for the official opposition members, and two rounds of five minutes for the independent members.

Has anyone else joined, before I request the—  
*Interjection.*

**The Chair (Mr. Kaleed Rasheed):** Okay. MPP Oosterhoff, I see you have joined. Can you please confirm that you are MPP Oosterhoff and that you are joining us from Ontario?

**Mr. Sam Oosterhoff:** I am MPP Oosterhoff, and I am here in Niagara West.

**The Chair (Mr. Kaleed Rasheed):** Thank you very much.

## MINISTRY OF THE ATTORNEY GENERAL

**The Chair (Mr. Kaleed Rasheed):** Now I'm going to request the Honourable Doug Downey to please start your presentation. Please state your name for Hansard, and you may begin.

**Hon. Doug Downey:** My name is Doug Downey. I am here in Ontario, in my riding office.

Happy Monday morning, I'm happy to start the week this way and get things rolling. I want to thank all the

members of the committee for joining this morning—the ones who have made it so far, and I'm sure more will join as we go—as we begin the study of this very important legislation.

I'm pleased to be at committee this morning to present on a bill that would, if passed, make it easier and safer for people to vote and participate in Ontario elections. Our government is proposing changes to update elections to better respond to the challenges of the day, the needs of voters and the way Ontarians interact with their democratic institutions. The enduring health of these institutions is a testament to the work that has been accomplished over generations by parliamentarians and election officials to uphold the integrity, accessibility and transparency of Ontario's electoral process no matter the challenges that have emerged.

Like others before us, we take this responsibility very seriously, and the bill we are discussing today demonstrates our government's commitment to ensuring that the electoral system continues to evolve to protect Ontarians' central role in elections while promoting fairness in the access to the electoral process for everyone. This bill builds on previous legislation that has been passed by the Legislature to update Ontario's elections.

If passed, Protecting Ontario Elections Act, 2021, would help strengthen our preparedness for the impacts of the COVID-19 pandemic, add additional guardrails on the influence of third-party advertising, and add new protections against irregular campaign spending inclusion.

In Ontario, we're fortunate to choose our governments at the ballot box, and it is imperative that the Legislature do everything it can to protect that privilege and keep our elections safe, fair and efficient. That is why we have introduced this legislation. That is why we are putting forth proposals to ensure that one of the flagships of our democratic system is protected and updated to meet urgent challenges, including COVID-19.

The legislative action we are proposing would protect Ontarians' essential voice in campaigns and strengthen the integrity of the election process. It will make it easier for Ontarians to vote on election day and in advance polls. It will ensure that candidates and political parties can participate fairly. It will equip Ontario to respond to changes in voting machine technology and the use of social media. It will bring in new accountability measures to protect Ontario elections against those who break election laws or participate in collusion. And it will provide responsible

guardrails that would ensure the scale of third-party organizations—that they don't drown out the voices of individuals who are willing to stand behind their convictions openly and transparently. Fundamentally, it will protect the voice of individuals and ensure that the people of Ontario are at the centre of democracy in Ontario.

The Protecting Ontario Elections Act is about putting people first and making sure that elections in Ontario are responsive to the challenges of the day, whether that be new technologies, outdated processes that don't hold bad actors to account, the proliferation of pop-up organizations spending millions on influencing our elections, or the uncertainty posed by events like COVID-19.

Before I begin to discuss the proposed changes in the legislation in greater detail, I'd like to extend my gratitude to our partners who have contributed to this legislation. I would especially like to recognize the work of the Chief Electoral Officer of Elections Ontario for his steady and insightful leadership, and for producing a special report on election administration that was released last November in response to the risks that surround COVID-19. That report provided the basis for key amendments, including making it easier and providing more opportunities for people to get to the polls in advance of the general election, to avoid lineups.

I would also like to thank the diligent and dedicated teams at the Ministry of Intergovernmental Affairs and at my own ministry, the Ministry of the Attorney General, and the Ministry of Municipal Affairs and Housing for their work on this legislation. And finally today, I would like to acknowledge the Integrity Commissioner for his continued engagement.

I want to begin by discussing one of the several elements of this legislation that responds to recommendations from Elections Ontario and the Chief Electoral Officer: providing additional flexibility for advance polling. The effects of COVID-19 have been felt across Canada and around the world, as you all know. And as we all know all too well, COVID-19 has required that, for our own safety, we maintain distance as much as possible.

When we think about elections in Ontario, for better or for worse, we think about lots of people gathering together at polling stations. Those lines and crowding would be far from ideal in our current environment. Being able to maintain a safe distance while exercising your civic duty has never been more important, and that is why we have proposed changes that would make it easier and safer to vote in a COVID-19 environment.

We want to increase the number of flexible advance polling days from five to 10, based on need. Increasing the number of advance polling days would reduce the number of people in a polling station so they could stay a safe distance apart and minimize risk. That added flexibility would allow people to participate in Ontario elections without fear or apprehension. And while this change would be essential for our next provincial election, I want to emphasize that it will have an enduring impact into the future in increasing the accessibility of voting more broadly.

It's not difficult to see how these changes will help make voting easier and more convenient for Ontarians who face obstacles in making their way to a polling station, such as people living in northern and remote communities or those whose work schedules are at odds with polling hours.

Ontarians have shown a growing interest in voting before election day in recent elections, and in today's environment, we know this additional measure will help ensure Ontario is prepared for any eventuality.

This legislation that we are considering at committee today also includes responsible reforms to put safeguards in place to address under-regulated third-party advertising in Ontario.

I want to begin here by explaining what third-party advertising actually is. Third-party advertising is a way for organizations that are not part of a candidate's or party's campaign to make an impact on the conversation leading into an election and, ultimately, its outcomes. While we absolutely recognize that there is a place for third parties to participate in elections, the fact of the matter is that the level of activity and spending that these pop-up organizations are engaged in in our province is significant. In fact, it is disproportionately significant in Ontario compared to other jurisdictions, other provinces and even in the federal context on a dollar-to-dollar basis.

Our government has been clear that we believe Ontarians should be the ones deciding elections. While there is room for third parties to participate alongside candidates and parties in the electoral process, this bill will help provide a balance to ensure the voice of individual Ontarians is not drowned out.

The amount of money that can be spent and is being spent by third parties can be shocking when you look at it. It is astounding to think that in 2018 in Ontario, third parties spent over \$5 million during the election period and in the six months prior to the election. This is not spending by actual political parties or candidates who raise funds from transparent and accountable donations made by individuals; this is spending by outside organizations that can be funded by a wider variety of sources.

In 2016, the Chief Electoral Officer stated that the scale of third-party advertising in Ontario was greater than at the federal level, and he suggested that the third-party election ads be monitored between elections, not just in the immediate lead-up to or during a writ.

In this proposed legislation, the Protecting Ontario Elections Act, we are proposing to build on the Ontario Legislature's 2016 decision to ban corporate and union donations by requiring third-party advertising spending limits to begin 12 months before an election instead of six. This proposed time-limit increase would help to responsibly regulate third-party advertising between elections, and would protect the essential voice of individuals and ensure they, and not pop-up political groups, remain the driving force of our elections. We want individuals to make decisions based on what each party stands for and based on their record. The proposed change strikes an important balance. It maintains the ability of third parties

to participate in elections, and it builds on previous changes made by the Ontario Legislature to ensure that voters, not third-party political action pop-up groups, have the loudest voice in our elections.

#### 0910

It is for this same reason—to protect Ontarians' essential voice in campaigns and to strengthen the integrity of the election process—that this legislation also includes changes to increase the amount that an individual can contribute. As we contemplated this change, we looked at Ontario's situation in comparison to other provinces, to see where we stood compared with some of the other counterparts across the country. By increasing these annual limits from \$1,650 to \$3,300 this year, as this bill is proposing, we would be putting Ontario in the middle of the pack for individual donation limits in Canada. This would still be well below Alberta, where the limit is over \$4,000. It is well below Manitoba and Nova Scotia, where the limit in both provinces is \$5,000. And in Saskatchewan and Newfoundland and Labrador, there is no limit on personal contributions at all.

I also want to touch on another aspect of this legislation which responds to emerging challenges and the need to ensure that the electoral system continues to evolve to preserve fairness and access to the electoral process for everyone. COVID-19 and the public health measures required to respond to its threats have changed almost every aspect of our lives and how we interact with our communities, and this includes the ability of party and riding associations to safely engage with their constituents in the way they could before COVID-19; for the past year, they simply have not been able to, and that impacts their financial viability and ability to effectively connect with and represent their constituents and supporters.

In recognition of the current circumstances, we are proposing to extend the per-vote subsidies each party typically receives during an election at the 2018 rate of 63 cents per vote. We don't want a situation where parties aren't part of the discussion because they can't afford to be there, and we feel this is the responsible approach that best protects the essential and vigorous dialogue that Ontarians expect in their elections. We need to continue to ensure that candidates can participate fully.

When we talk about ensuring fairness for candidates—for too long, election rules have forgotten independent members. Currently, independent members of provincial Parliament do not have the same ability or resources as registered political party candidates to fundraise outside of election periods or to keep surpluses from their campaigns. Their financial resources are limited, and this is unfair.

If passed, this legislation would level the playing field and provide all sitting independent MPPs with access to constituency associations. They would also receive the related benefits of being able to fundraise outside of election periods, qualify for constituency association voter subsidies, and keep surpluses. These proposed changes will go a long way to ensuring that independent members are on equal footing and are given a fair shot in future elections.

I'm glad to be bringing forward this change, which is one of several proposals in this bill that would build a more accessible elections system in Ontario.

As I've mentioned, Ontario didn't build a world-class electoral process by allowing the system to grow outdated and unresponsive to the needs of people who rely on it to express their voice. Elections Ontario is celebrating a proud centennial because generations of Ontarians have made our elections and our democracy a priority. In 2021, that means keeping up with how Ontarians expect to interact with their representatives, public life and even the technology they expect to be used as part of elections.

This bill puts forward several reforms that were recommended by the Chief Electoral Officer, including a proposed change to introduce guidelines on voting technology. Our government has signalled our commitment to ensuring voter equipment keeps pace with new advances in technology. Of course, when we're looking at equipment that is used to count and submit ballots, we must ensure that accuracy and accountability remain paramount. That's why we're proposing an advisory committee, appointed by the Chief Electoral Officer of Elections Ontario, to advise on guidelines and make recommendations for Ontario's voting equipment.

As I mentioned in the Legislature, this committee would include representation of every registered party in the Legislature. In fact, to give some context, it would have a similar structure to the political advisory committee to the Chief Electoral Officer, with the notable addition of experts in election technology.

This bill would also boost the Chief Electoral Officer's enforcement powers and discretion. Currently, the Chief Electoral Officer reports election infractions to the independent prosecution service in the criminal law division at my Ministry of the Attorney General, where they are considered for possible prosecution. While the CEO will continue to have this opportunity, if passed, the bill would provide the CEO with new options and more discretion to drive compliance. These options would include new powers to impose administrative monetary penalties for offences classified as minor. These would include failure to submit financial reports, exceeding spending limits, third-party advertising with no authorization, failing to register as a third party, release of election surveys on polling day. Again, I want to be abundantly clear that each of these offences could still be prosecuted.

For offences subject to administrative monetary penalties, most would be subject to a maximum penalty of \$1,500 for individuals and \$5,000 for corporations, but penalties could increase in certain circumstances—up to \$10,000 for individuals and \$100,000 for organizations. In fact, the Commissioner of Canada Elections within the Office of the Chief Electoral Officer is authorized to use administrative monetary penalties in this manner. In British Columbia and Alberta, they can also apply similar penalties to drive compliance, as this bill would in Ontario.

As we were drafting the legislation to keep up with the times and promote fair participation in elections, there was a priority to strengthen the enforcement around collusion. To be clear, we're proposing rules to address collusion that

focus on sharing of resources and not merely sharing a message. We looked at the federal definition of collusion and we're proposing to strengthen Ontario's accordingly. Currently, in Ontario, collusion can only be established where it can be proven that a third party's advertising has been done with the knowledge and consent of a candidate or party. If passed, the amendment in this bill would clearly outline what would entail collusion to help guard against its risks. We would like to add more clarity around sharing information, common vendors, common contributors, and the use of funds obtained from foreign sources, to ensure Ontario benefits from the strongest framework in Canada. We are also proposing that the Chief Electoral Officer would investigate complaints or allegations on collusion.

**The Chair (Mr. Kaleed Rasheed):** Five minutes.

**Hon. Doug Downey:** Thank you, Mr. Chair.

We can't get very far in speaking about updating Ontario's election rules without touching on the matter of social media, which has been glaringly absent from our elections legislation. This proposed legislation would also be the first express recognition in Ontario law that members of the assembly use social media to reach the public and their constituents, supporters and followers, and sometimes their detractors. It is no secret that politicians and voters are active on social media. It is a natural way to communicate these days that can actually increase accountability in many ways. So we think it is time to clarify how existing election rules and responsibilities extend to these platforms. We are therefore proposing amendments to the Members' Integrity Act, 1994, to allow members of provincial Parliament to have a single social media account before, during and after an election period, as opposed to having to create multiple social media accounts for each period. We have a responsibility to ensure that legislation governing the conduct of members of the Legislature is clear and relevant to our world today. The Protecting Ontario Elections Act would empower the Legislative Assembly to make the first set of rules for how social media should be used responsibly by MPPs.

I am proud that Ontario is once again a Canadian leader in ensuring elections are updated to meet the needs of voters.

I recognize that I'm coming to the end of my allotted speaking time here today. There are other great elements to this bill that I wish I had more time to discuss, and I welcome further questions on those items, as well, during the question period of this morning's hearing.

If passed, the Protecting Ontario Elections Act would ensure that it's easier for people to vote, to run for office, to effectively represent their constituents' best interests. We want people to feel that they have a voice in our elections. We want everyone in this new COVID-19 environment to feel safe in exercising their right to vote, and we want to make it easier for anyone who wants to make a positive difference in their communities to participate.

These are responsible changes that we know are needed to make it easier and safer to vote during COVID-19 and beyond. These are important updates that build on the

Ontario Legislature's history of ensuring that our electoral process is equipped to respond to the challenges of the day and is resilient for the future.

I ask all participants in this committee to consider supporting the Protecting Ontario Elections Act. I look forward to engaging further with Ontarians, members of Ontario's Legislature and the members of this committee on this important legislation. Thank you. Merci. Meegwetch.

**The Chair (Mr. Kaleed Rasheed):** Thank you very much for your presentation.

Before I start the Q and A session, I believe we have a few members who have joined us during the presentation. I welcome MPP Park in the committee room. If all members can please turn on their cameras, I just want to recognize the members I have not recognized so far.

I see MPP Piccini. Can you please confirm that you are MPP Piccini joining us from Ontario?

**Mr. David Piccini:** I'm MPP Piccini, here in my office in Port Hope.

**0920**

**The Chair (Mr. Kaleed Rasheed):** Thank you very much.

I see MPP Natyshak. Can you please confirm that you are in fact MPP Natyshak and are joining us from Ontario?

**Mr. Taras Natyshak:** Yes, it is me and I am in Ontario.

**The Chair (Mr. Kaleed Rasheed):** Thank you so much.

Let's start the Q&A session. I am going to request the opposition to start first. You have seven and a half minutes. MPP Natyshak.

**Mr. Taras Natyshak:** Thank you very much, Minister, for your opening remarks. We appreciate some clarity on the bill on the part of the government, certainly from you.

We are, however, having, and continue to have, difficulty understanding what the impetus and the prioritization of this bill was. What is the mindset of the government bringing in pretty comprehensive reform, I would say—but also some contentious reform, now that we know what the mechanics of the legislation does. I'll specifically point to the increases in contribution limits to candidates and to leadership candidates.

Minister, I'm sure you can appreciate that we are in a time like no other. This is unprecedented. Governments of all stripes should be laser-focused on the health and safety of their communities and the stability of the systems which provide that health and safety—meaning our health care system, our judicial system, our education system and our social safety network and net. I don't see anything in this bill that does that. My colleagues in the opposition have not been able to identify any mechanisms within this bill that secure the health and safety of the public—when a government should be laser-focused and its sole priority should be to support the economic and health recovery of our province.

In a time, again, that's unprecedented—jobless rates, unprecedented; loss of small business in our communities, never seen before; historic debt levels under this government—what do we see? We see a bill that increases the donation limit from \$1,650—which is quite a lot already.

Constituents in my riding of Essex don't have an extra \$1,650 to donate, and definitely not at this time. But this government sees it as a priority to increase that limit to \$3,300, nearly doubling the limit of what people can donate.

So my question to you, Minister, is, how did this bill become a priority for your government, and how did that discussion happen—to prioritize it, at the cabinet level?

**Hon. Doug Downey:** Thank you so much for the question. There's a lot packed in there, obviously. I'll start with your core question which is, why now? Then I'll move to some of the safety measures that are in fact in there.

The "why now" is, we received a report in November of last year from the Chief Electoral Officer of Elections Ontario, who was concerned about the impacts of COVID-19 and about several things that had been happening through the legislation. That was really the start of it.

The second piece is that you'll know from my track record that I am eager to make change at every turn. When I saw the opportunity to update, to put Ontarians back at the centre of elections, I got to work to do that.

You mentioned individual organizations that aren't paying attention to health and safety. I don't think you're condemning the BC NDP for calling an election during COVID-19. We also saw elections in Newfoundland and Labrador. We've seen others. So there is no good time to necessarily do that.

Let me talk about the safety measures. The safety measures that are in there—because you asked about that, as well—

**The Chair (Mr. Kaleed Rasheed):** I'm sorry, Minister. MPP Natyshak has raised his hand.

Go ahead, please.

**Mr. Taras Natyshak:** Thanks, Chair.

I apologize, Minister, for interrupting. It's difficult on Zoom; normally, we're face to face.

Chair, if you want to put me on pause or—it doesn't matter, this once, if you want this to take away from our time, but I need to be able to interject. I can't be put on mute for the entirety of the minister's answer, unless you are going to, as Chair, unmute me as soon as I raise my hand, which I appreciate. But I need you to be constantly looking at me so that you can identify when I need to interject and when I do not. So I'm asking you to just keep me off mute.

**The Chair (Mr. Kaleed Rasheed):** Okay.

**Mr. Taras Natyshak:** I'll allow the minister to continue. Just don't put me on mute.

**The Chair (Mr. Kaleed Rasheed):** You're asking a question, so I think the minister should be given an opportunity to speak and answer your question.

**Mr. Taras Natyshak:** Yes, I'll determine, though, if I've received that answer or not throughout his answer—and move on to the next question, as is normal.

**The Chair (Mr. Kaleed Rasheed):** Fair enough. We will leave you unmuted—but just respect that he should be answering your question.

**Mr. Taras Natyshak:** Absolutely. I appreciate it. Thanks, Chair.

Go ahead, Minister.

**Hon. Doug Downey:** Thank you, Mr. Chair, for clarifying.

You posited the position that nothing in here actually protects health and safety. In fact, doubling the number of advance voting days does exactly that. It allows people to spread out, both in time and in space, so that there are less people in a polling station. I'm sure you've been to many polling stations over your career, and you know that they can be busy places. So taking them from five to 10 is quite significant, and it's something that the Chief Electoral Officer, as well, had flagged would be a useful tool.

I think I've touched on some of the things you've said. I'm sure you have follow-ups.

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Mr. Taras Natyshak:** Thanks, Minister. How does increasing the donation limit add to the public safety component of the government's response to COVID-19?

**Hon. Doug Downey:** It's about putting Ontarians at the centre of elections. It's about putting Ontarians in a space that they can participate in whichever way they choose—some knock on doors; some donate; some only vote.

We looked across the country and put the largest province by population, the largest province by geography, right in the middle of the pack in terms of donation limits. There's no magic to the \$1,650. In fact, I know you've probably benefited from maximum donations at the \$1,650 level, and there are people who would want to give you more. That's their choice. We want to make it possible for them to participate that way.

Again, middle of the pack is nothing really radical. We want to find a balance, to put Ontarians back at the centre.

**The Chair (Mr. Kaleed Rasheed):** One minute.

**Hon. Doug Downey:** At the same time—sorry, go ahead.

**Mr. Taras Natyshak:** One minute, Chair?

**The Chair (Mr. Kaleed Rasheed):** Yes.

**Mr. Taras Natyshak:** Minister, how much public consultation did the government do on this bill prior to it being tabled?

**0930**

**Hon. Doug Downey:** I think the public is keenly engaged continuously. They're very engaged every four years. The Chief Electoral Officer is very engaged with the public between elections—

**Mr. Taras Natyshak:** But did your government specifically engage with the public through a consultation process to decide or to understand whether this was a priority of the people of Ontario?

**Hon. Doug Downey:** Of course. We've listened to people who give their input every single day. We—

**Mr. Taras Natyshak:** Specifically, on the exchanges, you can point—

**Hon. Doug Downey:** Would you like an answer to the question, Mr. Natyshak?

**Mr. Taras Natyshak:** Yes, for sure. When did you consult with the public?

**Hon. Doug Downey:** We consult with the public continuously. We get feedback from people in their experience. We get feedback through by-elections. We get feedback through the Chief Electoral Officer—

**Mr. Taras Natyshak:** Well, I have never heard this through my—

**The Chair (Mr. Kaleed Rasheed):** Thank you so much. I appreciate that.

Now we are going to move to the government. I recognize MPP Jim McDonell.

**Mr. Jim McDonell:** Thank you, Minister, for coming in today.

It the responsibility of the government to ensure that elections are safe, fair, efficient and accessible. Our elections are facing previously unseen challenges. Some of these challenges have been thrust upon us in the last year, as we grappled with COVID-19; some others have been growing for years.

Attorney General Downey, could you please explain some of the challenges to Ontario's elections and how this legislation will address these challenges?

**Hon. Doug Downey:** There are several challenges that have evolved over time. Some of them are administrative; they're red tape-ish. They deter individuals from engaging in the system as a candidate.

Some of the challenges that we identified had to do with independent members and their ability to participate on an equal footing. As you know, an elected independent member can't raise money between elections, can't keep surpluses that their donors donated to them during an election. There are some inequities there, so that was certainly a challenge.

We have the challenge, as I was just talking about, in terms of advance voting. The more opportunities we can give people to vote, the better it is. There is absolutely no downside in having more people engaged with the electoral system. People are keenly interested, but the reality of today is that individuals work different hours. In my part of the world, the OPP runs 24 hours. The hospitals run 24 hours. Some manufacturing runs 24 hours because of the hydro prices the Liberals saddled us with, and so they've adjusted their production.

There are a number of, again, technical barriers that we've dealt with in terms of filing forms and that kind of thing—but there's the bigger picture about keeping democracy healthy.

**Mr. Jim McDonell:** I know the member opposite has been talking about the need for this legislation now, but it's traditional that the elections officer comes out with a report, and it's anticipated that we would act on his recommendations. With the election just over a year from now, the timing would seem very appropriate now for some of these changes. I understand that many of his recommendations—some of them you've talked about so far—have already been included. Do you have any comments on that?

**Hon. Doug Downey:** It's pretty imperative that we listen to the individuals who are on the front lines. He's running an organization that engages with everything from volunteers to just the average voter who only votes at an election—and in fact, he engages with people who don't vote. We need to bring them in so that they can have their voices heard. It was very much his impetus—saying, “We

have a third-party election challenge in Ontario. It's disproportionate here, even compared to the federal level,” where third-party spending was potentially drowning out the platforms and the perspectives of the different parties. I don't have to agree with the platforms of the other parties to say it's important that they're heard. Just as it's important to have an opposition, it's important to have people challenge even the winner of an election. We need to have that wide variety of voices at the table to arrive at the right spot and hold people to account.

When third-party pop-up organizations come in and spend millions of dollars to affect the potential outcome of an election, I think the average person thinks that that's not right, but we can't get rid of it altogether; that's also not right. Some organizations have stories to tell. I'm not even suggesting that those stories they want to tell are a negative. It's just that we need to hear from those who are going to be elected. Somebody whose name is on the ballot is going to be elected, and so we need to make sure that the public understands what that person and that party stands for, and that they have a chance to have their voice heard and engage in that debate. The third-party spending can completely drown that out—and be talking about an agenda that none of the parties are running on. I don't think that's healthy for democracy. It's not what we want here in Ontario. We have to find a better balance. I think, having looked at it and looked across the province again, we found that balance, and we shored it up with issues of collusion to make sure that parties aren't skirting the rules by setting up two pop-up organizations and just ignoring the spending limits that way. So we've done a lot of good work in there to make sure we put people back at the centre of elections.

**Mr. Jim McDonell:** It's interesting; I had the opportunity—because as usual, the elections officer talks to various MPPs after an election. There's quite an interest there, because I think his brother played for the Detroit Red Wings—and so you have a connection there.

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Mr. Jim McDonell:** Thank you.

A big part is the COVID-19 protection. These are certainly not times as usual. We all saw what happened in Newfoundland as they grappled with the changing needs of this and, of course, a spike—it's something they hadn't seen up until the time of the election, unfortunately. I want to hear your comments on how this is really taken into consideration in this legislation.

**Hon. Doug Downey:** We've looked at it, obviously, from a couple of perspectives. The Chief Electoral Officer, Mr. Essensa, has given it much thought. I'm sure he gave it a lot of thought before he put pen to paper for his report last November. So it does inform exactly what we're doing here in terms of the advance voting days. It informs some of the other pieces in having elections being run. But we also want to arm them for the future.

**The Chair (Mr. Kaleed Rasheed):** One minute.

**Hon. Doug Downey:** We don't know what the future holds, because we don't have a crystal ball. In terms of technology, we want that technology to be looked at, but,

again, in a balanced way, with an all-party committee, to look at what works best. It's pretty high-stakes. We need to make sure we get that right. We need to make sure it's not partisan, political, in any way, so we're arming him with the ability to set up that all-party committee so that he can get proper feedback from, again, those of us—some of whom are on this call—and others who were elected to be able to give practical input and maintain the integrity of the electoral system.

**Mr. Jim McDonnell:** One of the discussions we had was over the voters list. I'm happy to see that you've modified that so that we have a process in place that will make that voters list much better than it has been in the past. I think everybody, no matter what party you're from, knows when you walk up to the door—

**The Chair (Mr. Kaleed Rasheed):** Thank you very much. I appreciate that.

Now we are going to move to the independent member. MPP Collard, please go ahead.

**Mme Lucille Collard:** Thank you, Minister Downey, for the precisions you are bringing this morning.

I think it's an important bill. It raises a lot of questions, of course. People in my riding have been asking, "Why now? Why is this a priority at the moment?" I think this concern is shared by many.

I want to know—and I think you alluded to it a little bit when you talked about that committee. We've seen a lot of changes in processes that allow for processes to be more accessible, to allow people to participate electronically, by way of filing electronically, or participating in other processes. Why didn't you take this opportunity, given COVID-19—COVID-19 has given you a lot of opportunity to look at that. Why is it not considered in the bill—to encourage the participation to the electoral process?

**Hon. Doug Downey:** That's a great question.

I think if we look at other jurisdictions, there have been great successes and there have been great concerns around the use of technology in elections. It's something that we wanted to open the door to and not arrive at the conclusion without doing the proper consultation, without doing the proper engagement, and by the proper people. That's why we've opened the door for the Chief Electoral Officer to lead that—so that people have full confidence in any changes that will be coming down the pipe.

0940

We are using technology in different ways right now. Back in 2016, I believe, we were using a technology that the Chief Electoral Officer at the time—Mr. Essensa—had brought about for sending to candidates information about who had voted when in more real time. I know the Liberals used that system. I know we used that system. I expect the NDP used it. There have been advancements, but they're incremental and they're cautious, because we want to make sure that we get it right. Democracy is too important to do otherwise.

You know from our engagement with the justice work that I've been doing in the courts and in technology that I'm not afraid of technology. I want technology. I want it

to enable people to connect with their system better, and I think Mr. Essensa is on the same track, but he needs to do the heavy lifting to figure out what's going to work that people will have confidence in.

**Mme Lucille Collard:** There are organizations in my riding that take a lot of interest in the democratic process. They told me that they were not given an opportunity to speak on this bill prior to this being brought forward.

You were asked a question before—and I know you're saying that you're consulting every day, but specifically, what kind of consultation process did you undertake to actually craft this bill? Who did you consult with? What kind of process did you put in place? I hadn't heard about this until it came up. So could you clarify a little bit more on consultation?

**Hon. Doug Downey:** It's interesting—in fact, I looked at the individuals who signed up to speak to this at committee. You have them on your agenda. It's a day and a one-hour slot tomorrow. I was very surprised; very few people have engaged to have their voice heard. Those organizations in your riding could sign up, join online and have their voices heard. It's unfortunate. I don't know if they did or not; I don't need to know.

**The Chair (Mr. Kaleed Rasheed):** One minute.

**Hon. Doug Downey:** I think there are opportunities. And the Chief Electoral Officer gets feedback on a rolling basis, as well.

We talked to other jurisdictions, we looked at other experiences, and we took feedback that we got through the Chief Electoral Officer. That's where we got a lot of our pieces—taking our guide from professionals like that. That's why it's a very balanced bill. There's some stuff in here that addresses independents, as you know, and addresses a whole variety of issues. So we drew from a variety of spaces.

I'm actually quite surprised at there being not many people coming forward to have their voices heard during the committee process.

**Mme Lucille Collard:** I certainly look forward to hearing from those people who have signed up to voice their opinions.

**The Chair (Mr. Kaleed Rasheed):** Before we move to the government members, I just want to let everyone know that I will be doing two time-check warnings: one at two minutes, and the other one at one minute.

We are now going to go back to the government side. I recognize MPP Park.

**Ms. Lindsey Park:** I want to thank the Attorney General. It's nice to see you this morning on Zoom.

I have a number of questions, so I'll try to be quick, to give you as much time to answer.

In 2016, the Ontario Legislature—and this predates me being elected, and I think it's before you were elected, as well—decided to ban corporate and union donations to political parties. This came after there was an overwhelming period of concern with the influence of third parties in Ontario elections.

I wanted to see if you could explain why further changes are required from your perspective now, and what that really seeks to resolve.

**Hon. Doug Downey:** Thank you for that context.

It is important that we're building on the previous experience. Again, I used the word "incremental" in answering MPP Collard's question. Some of this stuff is incremental. We're maintaining the good decisions that were made at the time in terms of those union and corporate donations.

We want Ontarians to be at the centre. That is at the core of what's happening in this legislation: We want Ontarians, as individuals, accountable, transparent—to have their voices heard, to allow them to participate to the fullest extent.

We're not taking the other—I shouldn't say "parties," because that has a political tone to it—the other entities, the pop-up organizations and the others. There still is third-party advertising. They can still have their voices heard. They can spend \$50,000 a month, every month, for a year, and then another \$100,000 during the election itself to have their voices heard. And that's not money that's raised off individuals; it doesn't have to be. It can be an organization that raises its own money in whatever way it does. So there's still potential for that influence. That's why we wanted guardrails on the third-party advertising. Although the great decision happened in 2016, as you mentioned, we felt more needed to be done.

**Ms. Lindsey Park:** I think when you mention the amounts of money that are spent through third-party activities—if I can just call it, broadly, that—a big piece of that activity is often advertising key messages in advance of election campaigns.

Can you elaborate on how the proposed changes will bring that activity to a reasonable level?

I think many people are surprised that, often, third parties are spending more than individual candidates in elections, and not everyone agrees with that.

We're not going so far as to say there should be no third-party influence. There's definitely an important value being recognized here—in freedom of speech and freedom to have that healthy debate and for third parties to be part of that debate. But I think everyone thinks that should be at a reasonable level so local candidates' voices are being heard and registered candidates' voices are being heard in the election campaign.

Can you explain how the proposed changes are seeking to bring that balance?

**Hon. Doug Downey:** It's a great contrast, actually, now that you mention it, to talk about the individual candidates and their spending.

In round numbers, my spending limit during a campaign is about \$100,000. To spend that \$100,000, I have to raise that \$100,000. To raise the \$100,000, I have to approach individuals. That's the only way I can do it. I'm fine with that. My father may not love it that I knock on his door once a year, but other supporters who only—sometime supporters only participate through donating.

I think when you look at the contrast of third parties, who can spend \$100,000 and don't have to take one dime

from an individual to do that—that does create a contrast, and that's on top of the \$50,000 a month, every month, for a year before that. We're proposing to allow that to happen. So it is quite a contrast with the individual who is, quite frankly, brave enough to put their name on a ballot, get out there, have ideas that they want people to approach and support. MPP Collard knows as freshly as anybody, having come through a by-election, that it's a tough thing to do. What she has to say at the doors and what we have to say at the doors needs to mean something and not be drowned out by third parties.

**Ms. Lindsey Park:** I'm going to change topics a little bit here.

We often talk about, when we're creating laws in the Legislature here—

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Ms. Lindsey Park:** —the importance of not only having laws, but being able to enforce the laws properly.

I know we've heard over time from the Chief Electoral Officer about the importance of having those powers so that people aren't flouting the rules around elections—and that people are taking them seriously.

Can you explain what some of those changes are to give the Chief Electoral Officer a bit more power on minor infractions?

**Hon. Doug Downey:** Yes. We want those powers to mean something; you're absolutely right. We want him to be able to sanction somebody who has done something that's inappropriate. Right now, the system is too blunt. Right now, it gets referred to the criminal law division, and they either decide to prosecute or not. It's an all-or-nothing kind of thing, and it leaves the Chief Electoral Officer with an inability to follow up on wrongdoing. I don't mean malicious wrongdoing—

**The Chair (Mr. Kaleed Rasheed):** One minute.

0950

**Hon. Doug Downey:** If you fail to file a document, if you fail to do certain things, there should be some consequence. Being referred for prosecution, all-or-nothing, isn't really—it's just too blunt sometimes. We didn't want to preclude prosecution, so that hasn't been taken off the table for anything, but we need to allow the Chief Electoral Officer to have the tools to drive behaviour. Again, when we looked across the country, we saw other examples of CEOs having that ability, and we think it makes a difference. We think that it allows for a healthy dialogue and conclusion to sometimes minor infractions, but infractions nonetheless.

**Ms. Lindsey Park:** Did you want to say anything about why you're making these changes for independent members?

**Hon. Doug Downey:** I just think they're an important part of democracy. They're elected members, and I think that they should have an opportunity to have the rights along with the responsibilities, like everybody else they sit with in the Legislature—

**The Chair (Mr. Kaleed Rasheed):** Thank you very much—apologies to cut you off.

We are now going to move to the independent member. Independent member, do you have any questions?

**M<sup>me</sup> Lucille Collard:** No, I don't have any more questions this morning.

**The Chair (Mr. Kaleed Rasheed):** We are now going to move to the opposition side. I recognize MPP Mantha.

**Mr. Michael Mantha:** Minister, I want to go back to a couple of questions—one that ended off with MPPs Natyshak and Collard and their questions. I want to try to help narrow down the question that is being asked.

This particular Bill 254 is comprised of four schedules. Schedule 1 is to look at new voting tools and electronic counting equipment; elections that can be held on weekends and holidays; and an application process for pre-certification. Schedule 3 is rules around social media. Schedule 4 is basically rules around electronic filing of registration documents and third-party advertising.

I want to go specifically to schedule 2. The question that was put to you by both Madame Collard and Mr. Natyshak is, how was this put out to the public for consultation? How do these numbers come up? Where was the location—specifically, the times? I certainly missed it. I would have certainly had some individuals and stakeholders in parts of northern Ontario who would have been very interested in participating in this.

As you are, I am surprised with the amount of involvement that we've had with people to take this up—because I believe there was a lack of consultation that was put out there to engage the public.

So hearing your comments and you saying repeatedly that you want Ontarians at the centre of the decision—where was that consultation process with, specifically, schedule 2?

**Hon. Doug Downey:** You're talking about the social media piece?

**Mr. Michael Mantha:** No, I'm talking about schedule 2. Schedule 2 is pertaining to the increase in limits, the donations, the dollars. It is certainly not resonating. I went home just last week, I had a discussion with constituents, and I told them about my involvement at the committee. They said, "What's going on at the committee?" Well, as soon as I talked to them about schedule 2—anyway, I'm going to keep that to my second question.

My first question is, where was the consultation with the public? Where was the engagement, specifically, on schedule 2?

**Hon. Doug Downey:** As you know, we put the legislation out there, and we get feedback when we put it out there. We talk to other jurisdictions—and their experience.

It won't surprise you to know I've been involved in politics some 25 years—back to 1993, whatever that is. I worked in campaigns in Nova Scotia. I worked in campaigns in Newfoundland. I worked in campaigns right across this country.

I think we're all keen observers of politics—how people want to engage in politics. We're all engaged in fundraising; we all know that people want to engage with their system, and some people want to engage through that.

So a lot of the pieces of this bill, social media in particular—that's what I thought you were talking about, in terms of voting tools. A lot of this stuff comes from lived experience, and we put it out there for people to engage. Again, you see who's engaging on it in the committee. I'd say there are lots of people who—

**Mr. Michael Mantha:** Chair, can I—

**The Chair (Mr. Kaleed Rasheed):** I recognize MPP Mantha.

**Mr. Michael Mantha:** Minister, I'll give you that much—I, as well as you, have been involved in provincial, federal, all kinds of politics, and we hear of this stuff. So I'll go to the point where I'll give you where there was some feedback on schedules 1, 3 and 4—the process was there. But the actual process, based on the decisions that have been made here on schedule 2, would have come over and after the last elections—where those rules were put in place, for the reasons that they were put in then.

I'm just asking, where was the consultation with the public?

**Hon. Doug Downey:** The consultation with the public happens at things like committee. This is public consultation. We consult with people. We get feedback immediately after elections. That's why Ontario is at the middle of the Canadian experience. There's nothing radical here—

**Mr. Michael Mantha:** Okay. I'll go with my second question.

**Hon. Doug Downey:** Okay. Sorry.

**Mr. Michael Mantha:** I'm going to remain frustrated that I didn't quite get an answer on that.

When I went back to my constituency this weekend and talked to my constituents about what I was going to be doing this morning here at committee, I engaged with them, talking about some of the schedules that are here. I want to be very honest with you, Minister—

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Mr. Michael Mantha:** —that they were extremely frustrated with me personally, in regard to, "How dare you waste your time talking about how you're going to be able to increase your funding during the election, when our priorities and our concerns right now are the vaccine rollout, mental health and addictions, our family members who are dying across this province from the opioid crisis? You're going to tell me, Mike, that you're going into committee work talking about increasing the voter donations that can be done and the other subsequent schedules that are there?" That's the frustration I was experiencing over the course of the weekend when I was talking to individuals about what their MPP is going to be doing here this week at Queen's Park.

Minister, I need to ask you, why is this a priority at this point in time for this government? When did it—

**The Chair (Mr. Kaleed Rasheed):** One minute.

**Mr. Michael Mantha:** —become a priority that we needed to deal with election donations at this point in time, when we're in the middle of a pandemic?

**Hon. Doug Downey:** The work on this started last fall with Mr. Essensa, the Chief Electoral Officer of Elections

Ontario. He flagged some issues that, in his team's opinion, should be dealt with during a situation like COVID-19. They were very timely. They were very current. We saw the election happen in BC. We saw the election sort of happen in Newfoundland and Labrador, through a protracted and very painful process. So I think, actually, Mr. Essensa—you'll get a chance to speak with him later today—was very prescient in identifying issues that should be dealt with.

You know me; I'm fairly impatient, and I like to deal with things as soon as they come up.

**The Chair (Mr. Kaleed Rasheed):** The time for the opposition questions has come to an end.

Thank you, Minister, for your presentation this morning. And thank you to the members for joining us.

It's 10 o'clock. This committee now stands in recess until 1 p.m.

*The committee recessed from 0959 to 1300.*

**The Chair (Mr. Kaleed Rasheed):** Good afternoon, everyone. I call this meeting to order. We are continuing public hearings on Bill 254, An Act to amend various Acts with respect to elections and members of the Assembly. Our presenters have been grouped in three for each one-hour time slot. Each presenter will have seven minutes for their presentation. After we have heard from all three presenters, we will have 39 minutes of questioning divided into two rounds of seven and a half minutes for the government members, two rounds of seven and a half minutes for the official opposition members, and two rounds of four and a half minutes for the independent member.

Before I start, are there any questions? Seeing none, we are now going to get into the presentations.

ELECTIONS ONTARIO  
OFFICE OF THE INTEGRITY  
COMMISSIONER  
ELEMENTARY TEACHERS'  
FEDERATION OF ONTARIO

**The Chair (Mr. Kaleed Rasheed):** I am going to request Elections Ontario to please start their presentation by introducing themselves for Hansard. You will have seven and a half minutes allotted for your presentation. Please go ahead.

**Mr. Greg Essensa:** Good afternoon, Chair and committee members. My name is Greg Essensa. I am Ontario's Chief Electoral Officer. Thank you for the opportunity to comment on Bill 254, the Protecting Ontario Elections Act, 2021.

As the CEO, my mandate is to administer the province's elections, by-elections and referenda. Since I was appointed to this position in 2008, Elections Ontario has successfully run three general elections and 23 by-elections for over 10 million electors in the province.

The CEO's role is to ensure transparency and integrity, and to administer fair and accessible elections. As part of this role, the CEO also works with the Legislature to clarify, modernize and streamline relevant legislation.

I take pride that Elections Ontario celebrated its 100-year anniversary last year. For more than a century, the Office of the Chief Electoral Officer has worked impartially with all political parties, constituency associations, candidates and electors to uphold democracy. It is our privilege to serve, and we remain committed to putting the needs of electors first as we look to the future of elections in our province.

Over the last year, many election administrators worldwide have done incredible work reacting to pandemic challenges, with some jurisdictions having received legislative amendments to help the voting process. Elections take years to plan and execute. In fact, we've already begun preparing for next year's election by re-engaging returning officers to begin assignments and procuring technology, equipment and supplies.

Due to the fact that work is already under way and we may still see COVID-19 challenges in 2022, I submitted a special report to the Legislature a few months ago to request three key amendments to Ontario's Election Act. I am pleased to see that the government included one of my recommendations in this bill, by allowing 10 days of flexible advanced polls. This will give electors more opportunities to vote.

The COVID-19 pandemic has highlighted how important it is for election administrators to be able to quickly respond to changing circumstances.

I have three additional recommendations that I will cover in my presentation. If adopted, these amendments would improve the future of elections and will strengthen the integrity of the process. My recommendations are: (1) extend the election calendar to 36 days; (2) set election day to a day when schools are in not in session; and (3) clarify who has the authority to suspend voting or move election day after the writs of election are signed.

Extending the election calendar from 29 to 36 days would give us more time to help ship materials across the province, including personal protective equipment. It would also allow our 124 returning officers to identify safe voting locations and hire staff willing to work during a pandemic. As a reminder, many of our poll officials are seniors.

Ontario has one of the shortest election calendars in Canada, despite having more electors and more electoral districts than any other province or territory. Due to the size and scope of our elections, the current timelines are very challenging. It puts undue pressure on our returning officers and head office, and it also leaves little time to respond to any significant issues.

The pandemic has also increased interest in voting by mail across the world. In British Columbia, 31% of electors voted by mail in their recent election last year—an increase of 7,200% in vote-by-mail, as compared to their previous provincial election. We believe Ontario could see a similar increase next year. With a 36-day calendar, we can provide more electors who apply to vote by mail with a tabulator ballot. This means they can simply mark their X next to the candidate of their choice, just like at a voting location, using the same-style ballot as on election day.

A longer election period would also improve timelines for our staff so they can better serve electors.

Giving electors more ways to vote ahead of election day would reduce lineups at the polls and make it easier to physically distance at polling locations during the writ period.

I am repeating my recommendation that election day be a day when schools are not in session. In the 2018 general election, roughly 45% of Ontario electors were assigned to voting locations in a school. Using schools as voting locations is essential for every provincial election. During the pandemic, this is especially important. Schools are central, accessible and familiar to their communities. They offer enough space to physically distance. So far, all Canadian jurisdictions that have used schools as voting locations during the pandemic have set election day to a day when schools are not in session. I have been recommending this amendment—that election day be a day when schools are not in session—in every annual and post-event report for the last 10 years. During the pandemic, this request has become even more important. It avoids putting at risk the health and safety of students, their teachers and their caregivers.

Lastly, I am recommending that the Election Act be amended to clarify who has the authority to suspend voting or move election day after the writs of election have been signed.

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Mr. Greg Essensa:** In Newfoundland and Labrador's recent election, in-person voting was suspended for election day due to the contagious variant of COVID-19. Fearing for their safety, some field staff refused to work at the last minute. This shows how quickly decisions need to be made in an emergency. Providing this direction within the Election Act would provide certainty if we are faced with a similar situation in Ontario.

New Brunswick recognized the need for greater flexibility. Their provincial government introduced legislation a few weeks ago that would make it possible for a municipal electoral officer to suspend the candidate nominations and voting should a lockdown result from a COVID-19 outbreak. They recognized the need for a clear process in case of an emergency.

Beyond these three recommendations, Bill 254 provides greater transparency through the creation of an advisory committee that would develop voluntary guidelines for voting equipment and vote-counting equipment. These standards would help preserve the integrity of, and modernize, our electoral process. This bipartisan advisory committee would be the first of its kind in Canada and is consistent with my previous recommendations.

**The Chair (Mr. Kaleed Rasheed):** One minute.

**Mr. Greg Essensa:** Elections need to be transparent and fair, not only for electors but for candidates and political parties. As CEO, I am committed to levelling the playing field for these entities. I am pleased that Bill 254 authorizes me to levy administrative penalties for non-compliance, which would give me additional tools for enforcement.

The bill also clarifies rules around collusion and places more restrictions on third-party advertisers.

In my submission to the committee, I have outlined technical amendments and transitional provisions for Bill 254 to ensure effective implementation.

In its current form, Bill 254 has a number of inconsistencies that would affect the integrity of the electoral finance regime if it is passed. For example, if Bill 254 is passed in its current form, payment of campaign expense subsidies would be delayed after the 2022 general election due to the lag in reporting of campaign expenses that would be incurred by the constituency association. This is because the bill repeals the requirement for constituency associations to file campaign—

**The Chair (Mr. Kaleed Rasheed):** Thank you so much for your presentation. My apologies for cutting you off. The hard part of being a Chair is cutting off someone who is speaking.

Before I go to the next presenter, I'll do a quick attendance check.

I see MPP Marit Stiles is joining us. MPP Stiles, can you please confirm that you are MPP Stiles and you are joining us from Ontario?

**Ms. Marit Stiles:** I'm MPP Marit Stiles, my riding is Davenport, and I'm joining you from Queen's Park here in Toronto.

**The Chair (Mr. Kaleed Rasheed):** Thank you so much.

Has anybody else joined us?

*Interjection.*

**The Chair (Mr. Kaleed Rasheed):** No? Okay.

Just one quick note: I will be giving a two-minute warning and a one-minute warning to all the presenters this afternoon.

I'm now going to request the Office of the Integrity Commissioner. Please state your name, and you have seven minutes for your presentation.

**Hon. J. David Wake:** Thank you, Mr. Chair, and members of the committee. My name is David Wake. I am the Integrity Commissioner. I'm joined this afternoon by Cathryn Motherwell, who is the deputy commissioner.

I'm pleased to have this opportunity to speak to you about one of the shorter schedules of Bill 254, which is not related to election financing or municipal elections; rather, it is about social media and the proposed amendment to the Members' Integrity Act. The world of social media is constantly evolving, and it is no surprise that MPPs have realized the benefits of using it to communicate with their constituents. As you know, the Members' Integrity Act sets out the ethical framework applicable to all MPPs. This legislation has existed in some form since 1988 and has been amended twice, but as you may expect, it does not contain the term "social media." The amendments proposed in this bill would make it clear that the members can have social media accounts and that the content of those accounts could contain partisan material as long as the MPPs continue to abide by the ethical obligations set out in the act.

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Currently, the Members' Integrity Act does not directly address what MPPs can and cannot do on social media. Instead, it establishes an ethical framework for how MPPs conduct their affairs, whether it is in person or online. That framework includes avoiding a conflict of interest, not using their position to influence a decision that improperly furthers another person's private interest, and not using insider information.

I want to be clear that MPPs have always been permitted to post partisan material on their social media accounts. The important distinction is that it was determined, in line with parliamentary convention, that they should keep their partisan world separate from their duties to represent all constituents.

My predecessors and I have made it clear that partisan material should not be available in a constituency office. Constituency staff should not be distributing campaign materials, for example. The constituency office exists to serve all people, whether they voted for the MPP or not. Partisan materials that encourage someone to vote for the member or to contribute funds should not be in the office.

By extension, the principle for the bricks-and-mortar operation extends to websites and to social media. This means that the constituency website should not solicit funds for an election campaign nor should it promote a particular party. To reinforce this, the constituency office website should not link to a Facebook page or Twitter account that has partisan content. This does not mean that the MPP cannot have social media accounts that contain partisan content; he or she just cannot link from the constituency office website to that social media account. Having the account itself is permitted. With the amendments proposed in Bill 254, the activity is expressly written into the Members' Integrity Act.

There are two other components to the amendments that I believe are important because they will require that the content posted on social media by elected officials and the public servants who work in ministers' offices meet the obligations of the ethical rules under the Members' Integrity Act and the Public Service of Ontario Act. This means, for example, that a member cannot post information that would improperly further another person's private interest, which is advice I have consistently given to MPPs. Additionally, the staff working for a minister cannot use government resources, including working hours, to post partisan material on a minister's social media account, either before or during an election campaign. Again, this type of activity is already restricted in the Public Service of Ontario Act; however, I'm pleased that the amendments reinforce this point.

Finally, and most importantly, the amendments call for the establishment and approval of social media guidelines by the Legislative Assembly—

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Hon. J. David Wake:** —for all MPPs and for cabinet ministers. This is something I have recommended in two of my last reports. In my most recent report, I stated that it would be a difficult task for an Integrity Commissioner to

determine which generally accepted rules and practices should govern a member's use of social media. Some situations, such as linking constituency websites to other social media accounts with partisan content, are obvious and have been established as part of parliamentary convention, but others are not. Examples include whether "liking" someone else's post could be a breach of parliamentary convention, or whether a member can block a follower on social media for making comments the member deems as offensive.

**The Chair (Mr. Kaleed Rasheed):** One minute.

**Hon. J. David Wake:** For this reason, I believe that it is more appropriate for the assembly and the executive council to create these guidelines, so that they can cover more than the ethical obligations and the conflict-of-interest rules that fall under my office. I'd be pleased to assist both the assembly and the executive council as it undertakes this work.

I'm available to answer your questions today.

**The Chair (Mr. Kaleed Rasheed):** Thank you very much for your presentation.

We have one more presentation, and then we will go to our Q&A.

Next I have the Elementary Teachers' Federation of Ontario. Please introduce yourself, and you will have seven minutes for your presentation.

**Mr. Sam Hammond:** My name is Sam Hammond. I'm the president of the Elementary Teachers' Federation of Ontario. I'd like to start by thanking the committee for the opportunity to speak to you on behalf of 83,000 elementary public school teachers and education professionals who are members of ETFO.

The introduction of Bill 254, Protecting Ontario Elections Act, 2021, has raised serious concerns for ETFO and its members. This proposed legislation will stifle public debate and political dissent on important public policy issues, and interfere with the ability of ETFO and other organizations to effectively engage in important social, political and economic discussions.

ETFO's participation in Ontario's political debate through public advocacy campaigns is part of our commitment to supporting the democratic process. Through public debate, ETFO aims to represent the interests of our members and to bring forward their views and concerns regarding party policies. This is one of the ways in which we seek to advance high-quality public education in Ontario.

We believe Bill 254 is unconstitutional, as it infringes on the freedom of expression and association guaranteed by the Charter of Rights and Freedoms. Bill 254 appears to be an ideological or partisan effort by the current party in government to bolster its war chest funds for political campaigning, both by increasing individual donation limits and extending the per-vote public subsidy, while at the same time silencing government critics for more than a year prior to the next provincial election.

The timing of the introduction of Bill 254 is extremely troubling, and I would argue that this provides further evidence of the true intentions of this government. Ontario

is currently in a third wave of the COVID-19 pandemic. Every day, we are learning more about the government's failure to protect residents in long-term-care homes. The government's plan to strip funding and privatize parts of Ontario's public education has been exposed. And the public is growing increasingly concerned about the province's failure to deliver a consistent and effective vaccination plan. It's within this context that the government has introduced this legislation, in a deliberate attempt to shield itself from legitimate criticism and escape accountability from voters.

Bill 254 proposes to double the existing limits on contributions to political parties. Individual contribution limits would increase, from \$1,650 to \$3,300. In an election year, this means that wealthy individuals will be able to donate almost \$10,000 to political parties, riding associations and individual campaigns. This increase in contribution limits disproportionately benefits the governing party and increases the influence of wealthy donors on political decisions.

This government has already removed safeguards that separated fundraising from lobbying activities and has resumed the practice of holding cash-for-access events with cabinet ministers and the Premier.

Our democracy is weakened when laws are designed to provide those who have the financial means priority access to those who make decisions on behalf of Ontarians.

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Bill 254 also makes significant changes to the rules governing third-party political advertisement. The participation of third-party organizations in the political debate prior to, during and after an election campaign is an integral component of our democracy, and the changes proposed go well beyond a reasonable attempt to place limits on the influence of third-party organizations during an election campaign. Extending the non-election period for which spending limits apply, from six to 12 months prior to the start of the election campaign, has nothing to do with protecting the integrity of our elections, but rather with sheltering the government from legitimate criticism. This change will limit the ability of organizations, including unions like ETFO, from participating in important public policy debates. This represents an infringement of the freedom of expression our members are guaranteed under the charter.

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Mr. Sam Hammond:** Under the guise of preventing collusion between third-party organizations, Bill 254 introduces changes to the Election Finances Act that are unlike any other legislation in Canada. These so-called anti-collusion provisions not only interfere with the regular operations of trade unions and other organizations but are a direct attempt to prevent organized opposition to this current government's policy.

Bill 254 has been crafted to benefit the current party in power by bolstering its financial resources while at the same time attempting to silence its critics. This legislation is being proposed at a time when there is intense scrutiny over the government's irresponsible response to the COVID-19 pandemic, its failure to protect long-term-care

residents and staff, and its plans to undermine and privatize public education.

**The Chair (Mr. Kaleed Rasheed):** One minute.

**Mr. Sam Hammond:** Bill 254 is an infringement on the rights of freedom of expression and association guaranteed by the charter. It suppresses political dissent and public debate, it undermines our democratic system, and it further exacerbates the undue influence of wealthy donors in the decisions that the provincial government makes. Bill 254 must be withdrawn.

**The Chair (Mr. Kaleed Rasheed):** Thank you very much for your presentation.

Now we will start the Q and A session. First, the government side will have seven and a half minutes. I recognize MPP Miller.

**Mr. Norman Miller:** Thank you to all the presenters this hour.

I'd like to address some questions to the Chief Electoral Officer, Mr. Essensa.

Mr. Essensa, thank you for appearing at the committee today. I understand there was considerable back and forth between your office and the Ministry of the Attorney General as well as the Attorney General himself and his staff in relation to the proposed amendments to the Election Act and the Election Finances Act prior to the introduction of the bill.

Can you please speak more to how your office was consulted and how that process unfolded?

**Mr. Greg Essensa:** Certainly. Thank you for the question.

Last fall, I very much was watching how elections were being conducted worldwide and, in particular, here in Canada. There were three provincial elections that were conducted. There were a couple of by-elections. It was very evident to me that with the pandemic and the uncertainty of where we were going to be that there were some issues that I wanted to address before the Legislature that would require some legislative amendments in advance of the 2022 election. I did write a special report to the Legislature in the fall. I identified three key areas. Once my report had been tabled with all of the parties in the House, I did receive some feedback from the minister's office that they were interested in some of the recommendations. There was consultation back and forth on certain provisions that are in the current bill. But as I indicated in my speaking remarks, I think there are three significant areas that need to be addressed in this bill.

**Mr. Norman Miller:** One of the proposed amendments to Bill 254 relates to the doubling of the amount individuals can donate to a candidate, constituency association, leadership contestant or a party, from \$1,650 to \$3,300 per year, in order to protect the essential voice of Ontarians in campaigns and address some of the effects that COVID-19 has had on the political landscape.

Do you support this proposed amendment, and can you explain why, if so?

**Mr. Greg Essensa:** When it comes to the development of what level of funding should be in place, as I stated in my appearance on Bill 2, in 2016, and as I stated earlier

today, the concept of a fair and level playing field is paramount for my consideration. As far as the actual amount, I think that's up to more appropriate—it's a public policy, then it should be determined by the Legislative Assembly. Here in Ontario, we've been as high as \$9,875 for individual contributions and as low as around \$1,000, in some instances. The actual determination of the amount is best left in—and I don't comment on public policy in that regard.

**Mr. Norman Miller:** Then you might not be commenting on this, as well. I was just wondering about the per-vote subsidy, the parties and riding associations. Do you support this proposed amendment? It sounds like you might if it makes a level playing field.

**Mr. Greg Essensa:** As I indicated in 2016, I am a believer in a combination of private and public funding. I did indicate that in the deliberations on Bill 2, and I still stand by that position. Again, the actual amounts of what that should be is best left to the Legislative Assembly, to make that determination.

**Mr. Norman Miller:** You've been on the record, I believe in the National Post in 2016, with regard to third parties. I'll quote: "Third-party election ads need to be monitored between elections, not just in the immediate lead-up to or during a writ.... 'The scale of third-party advertising in Ontario is much greater than it is at the federal level.'"

With that in mind, can you please share your views about moving the third-party advertising limits to 12 months before the writ as opposed to six months, the way it currently is?

**Mr. Greg Essensa:** As I indicated in my commentary in 2016, Ontario is an outlier in Canadian jurisdictions. Our third-party advertisers spend much more money than any third-party advertising in the country, including federally. At one point, we had third-party advertisers who were spending more money than political parties.

As I have always indicated, a fair and level playing field is the most important consideration or principle that guides me in this regard. I have been a big proponent of greater transparency around third-party advertising—who is funding those, and over a greater period of time. I have seen, over time, third parties begin advertising well in advance of the six-month period that is currently in place, as much as up to nine or 10 months before an election. I am in support of extending the period to 12 months. However, I do believe the bill would be enhanced by increasing the amount that the third parties could spend. They are currently allowed to spend \$600,000 over six months, and I am recommending that that number should be increased. If they're going to be having to file financial statements in regard to the 12-month period, then there should be consideration given to increasing that amount.

**Mr. Norman Miller:** I understand that there is a consumer price index inflationary thing built in for that period, as well as the \$100,000 in the writ period.

Another important measure Bill 254 is introducing is—

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Mr. Norman Miller:** —a definition of collusion between third-party advertisers and political parties in order to protect Ontario elections from outside influences.

I just wondered if you could expand on your views on these amendments.

**Mr. Greg Essensa:** One of the most challenging aspects of the current legislation is determining collusion between third parties and political parties. The current test in the legislation is to prove knowledge and consent, which has proven to be extraordinarily difficult over the past 12 or 15 years. I am supportive of a bill that defines more clearly what collusion means—something that indicates a more equitable understanding for regulators like myself. So I am supportive of the definition that's currently before the Legislature.

**Mr. Norman Miller:** As I drove into Toronto last night, I was listening to the news, and they were talking about the Newfoundland elections. I gather one of your—

**The Chair (Mr. Kaleed Rasheed):** One minute.

**Mr. Norman Miller:** — [*inaudible*] being that advisory committee is really related to that, coming up with technology that works for everyone. I suspect your other one about who suspends a vote, seeing as that seems to have been a controversy—the recent Newfoundland election is also part of that recommendation.

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**Mr. Greg Essensa:** This was a recommendation I added specifically for this committee. When the Newfoundland and Labrador situation arose—the contagion and the virus moved very quickly. Their Chief Medical Officer of Health shut part of the province down on the Wednesday and the entire province down on the Friday. My colleague was left in a very untenable position.

We've done legal research into our current statutes, and it's very unclear, if Ontario were put into a similar position, who would have the legal authority to extend or suspend election day. Is it the Lieutenant Governor? Is it myself? What I'm recommending to this legislative committee is that there should be an amendment put in place to clarify who in fact has that legal authority to—

**The Chair (Mr. Kaleed Rasheed):** Thank you very much—again, apologies to cut you off.

Next, we are going to go to the opposition side. I recognize MPP Natyshak.

**Mr. Taras Natyshak:** My questions are for Mr. Essensa.

Thanks so much, Mr. Essensa, for appearing before us today. I have a couple of questions. They're going to be rapid-fire, so if you want to "yes" or "no" the answers, I would appreciate it. If you need to elaborate, certainly—but please don't take offence if I do cut you off, because we are time-limited.

You made four recommendations to the government in the context of this bill. They took one. Is that correct?

**Mr. Greg Essensa:** Yes, that is correct.

**Mr. Taras Natyshak:** And the one recommendation was to extend the early voting days from—what number to which number, again, just for the record?

**Mr. Greg Essensa:** From currently five days to 10 days—very similar to the law that we had in place in 2014.

**Mr. Taras Natyshak:** At any point did you recommend to the government to increase the donation limit for individual candidates?

**Mr. Greg Essensa:** No, it was not part of my recommendations.

**Mr. Taras Natyshak:** Did you at any point recommend to increase the per-vote subsidy, the public subsidy that is given to candidates?

**Mr. Greg Essensa:** No, it was not part of my recommendations.

**Mr. Taras Natyshak:** At any point did you recommend that the donation limit for leadership candidates be increased from \$25,000 to \$50,000?

**Mr. Greg Essensa:** No, it was not part of my recommendations.

**Mr. Taras Natyshak:** And through the various reports that you've provided to various governments—you referenced that you were leaning heavily on previous reports that you issued and tabled to the government, and to the previous government as well. How much public consultation was built into those reports through your office?

**Mr. Greg Essensa:** We do extensive consultation. After every election, we conduct a survey of about 10,000 Ontarians. We ask them a thousand different questions. We meet with all the political parties. We meet with candidates. We meet with focus groups and NGOs. We meet with disability groups.

I was listening this morning. I met with some of the members here on this call after the election. I meet with at least half the members in the Legislature.

So we do an extensive review of every aspect. We have almost 4,000 in our outreach team—4,000 contacts of ratepayers groups, NGOs, different organizations—

**Mr. Taras Natyshak:** I'm sorry to cut you off, sir.

When was the last time you embarked on a consultation process of that scope?

**Mr. Greg Essensa:** Within the last three to four months—

**Mr. Taras Natyshak:** In the context of this proposed legislation?

**Mr. Greg Essensa:** Definitely.

**Mr. Taras Natyshak:** And did you provide that information of the public consultation to the government?

**Mr. Greg Essensa:** Certainly. We provided it because it was the basis of most of my recommendations—

**Mr. Taras Natyshak:** Did any of the public consultation reference the public's desire to increase donation limits to political parties or to candidates? Do you remember offhand?

**Mr. Greg Essensa:** No, I don't believe so.

**Mr. Taras Natyshak:** As far as the changes to the third-party donation limit, Mr. Essensa, you will remember that in early summer—I think it was early summer; it may have been late spring—I wrote to you with concerns about an issue that had arisen in February 2020 involving

the Vaughan Working Families group and their involvement as a third party with advertisements that coincided with the by-elections in Ottawa. You wrote me back on and around June 24 with an acknowledgement that it seemed as though this group had violated section 37.5 and section 48 of the Election Finances Act. You then referred that to the Attorney General's office.

Two-part question: (1) What did the Attorney General's office do with that information that you referred to them in your submission of their potential violation? And then, (2) what would the Vaughan Working Families group, in your estimation and through your observation, be subject to in terms of penalties today, within the changes built into this current bill? Would they have been identified any sooner? Would they have been penalized more? Would there have been other charges that are associated with it? Give us that context.

**Mr. Greg Essensa:** Under our current legislative framework, the only avenue for contraventions of either the Election Act or the Election Finances Act is for me to refer those to the Attorney General's office. We have a protocol established with the Attorney General, so when I do make those references to them, they take that up and they make determinations as to whether they are going to move ahead and lay charges or not.

**Mr. Taras Natyshak:** Did they move ahead and lay charges?

**Mr. Greg Essensa:** Not as of yet, but my understanding is—

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Mr. Taras Natyshak:** I'm going to switch direction. There's the topic of collusion. Within that question of the Vaughan Working Families group, there was an association of the gentleman who started that group—his name is Quinto Annibale. He started the Vaughan Working Families group. He was also a massive donor to the Progressive Conservative Party, donating roughly \$31,000 to the PC Party over the last six years. He was then appointed as the vice-chair of the LCBO in 2019 by the Premier.

Would that have given you any cause for concern around collusion or association or conflict of interest? Would that have raised any red flags, or could it have?

**Mr. Greg Essensa:** The specifics of an investigation—until the investigation is complete, I really don't comment on those, until the Attorney General makes determinations on what they're going to do with the outcome of my recommendation.

**Mr. Taras Natyshak:** So you found that there was a potential conflict and a violation of—

**The Chair (Mr. Kaleed Rasheed):** One minute.

**Mr. Taras Natyshak:** —the sections that I had referenced, 37.5 and 48. You passed it on to the Attorney General's office, but they have since done nothing with your recommendations. Even though the law exists to fine this group, they have done nothing with that. Am I right?

**Mr. Greg Essensa:** No, I wouldn't say that. The Attorney General's office have a protocol that they follow in making a determination as to whether or not they are going to lay charges. They often work with various police forces to further the investigation. I think it would be

unfair to say that they have done nothing at this point. They—

**Mr. Taras Natyshak:** They have yet to indicate whether they're going to lay charges, though?

**Mr. Greg Essensa:** Yes, that is correct. They have yet to indicate whether they are going to lay charges.

**Mr. Taras Natyshak:** Mr. Essensa, I appreciate your appearance here today, and I thank you very much for your candid commentary.

**The Chair (Mr. Kaleed Rasheed):** You only have 11 seconds left, so maybe I'll come back to—

**Mr. Michael Mantha:** Next round.

**The Chair (Mr. Kaleed Rasheed):** Next round, yes.

Now I'm going to go to the independent side. You have four and a half minutes for your questions. MPP Collard.

**M<sup>me</sup> Lucille Collard:** Thank you to the presenters today. It's enlightening.

I'll start with a question to the Chief Electoral Officer. When we debated this bill, I did request specifically that you appear before committee, so I'm glad that you're here today. However, I must say that I'm a little bit surprised to hear that only one of your four recommendations was actually taken into account by the government, because I was told during the debate that the bill was crafted in accordance with the recommendations of the Chief Electoral Officer. So I have to say that your comments today came as a surprise to me.

I do agree with the three recommendations you are making. Being a mother of four children who are still in school and also a former school trustee, I totally get the logic about hosting an election that is not during a school day, because it creates so many problems for a lot of people.

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I just want to give you maybe an opportunity—I don't have that much time to ask many questions, but you had started to talk about inconsistencies in the bill and then you were cut off, so would you care to continue and finish your thoughts on that?

**Mr. Greg Essensa:** Sure. There are some inconsistencies which I would deem are technical amendments, particularly to the election finance regime.

There is a removal of a constituency association's campaign finance filing with us. During a normal general election, constituency offices often will pay for some portion of a candidate's campaign, which is legal to do, but the elimination of this financial filing means that we thus don't get to see that.

When we looked up the 2018 general election, over \$1.28 million was spent by constituency associations on campaigns. With the change that has been put into the bill, that means now we have to wait, effectively, another 9 months, 12 months, until the constituency association files their financial statements so we can fully see the total amount that was expensed on a campaign. That will also hold up the subsidies that we pay back to candidates.

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Mr. Greg Essensa:** There are other small inconsistencies and technical amendments that I have added to my

speaking notes that I think would help strengthen the bill and ensure that there is greater transparency and continued transparency, under the election financial regime. I would encourage the committee to consider those.

**M<sup>me</sup> Lucille Collard:** Thank you. I was elected in a winter by-election, as you may know. The day of the election, there was a big snowstorm which made it very, very challenging to get people out to vote, and the turnout rate of course was very, very low. I just want to know if you would be in favour of further making voting accessible by putting forward a plan to allow for electronic voting. Is that something that's been in discussion, especially given the current context and the fact that a lot more processes are going electronic?

**Mr. Greg Essensa:** Back in 2011, I was requested by the Legislative Assembly to do research into both Internet and telephone voting, which we did.

**The Chair (Mr. Kaleed Rasheed):** One minute.

**Mr. Greg Essensa:** I tabled the report in 2013, and essentially I indicated at the time that until we can find an acceptable digital identity, electronic voting in its purest form—i.e., Internet voting—doesn't meet the test or the standard to ensure the integrity of the process because, quite frankly, I don't know who is on the other end of that computer. Until we have some digital identity—and I personally believe that that will come at some point when biometrics are more acceptable to the general populace. But until that day, electronic voting would not be something that we're pursuing at this time.

**M<sup>me</sup> Lucille Collard:** Okay. Thank you for these clarifications.

**The Chair (Mr. Kaleed Rasheed):** Thank you very much. The next round we will start with the opposition with, I believe, MPP Stiles. MPP Marit Stiles, please go ahead. You have seven and a half minutes.

**Ms. Marit Stiles:** Hello. Thank you so much, everybody, for appearing here today.

I actually wanted my questions to go to Mr. Hammond. I have just a couple of questions. Mr. Hammond, you talked a little bit about some of the concerns around the impact that these changes in this legislation would have on the ability of you and your membership to be part of the conversation or the debate around public policy and government plans. Would you mind maybe sharing a little bit more about what you think that might look like, particularly as we seem to be, right now in the last few weeks, learning about, for example, impending budget cuts to public education, permanent online learning, the potential for further privatization of publicly funded education? I wonder if you wouldn't mind commenting on some of that.

**Mr. Sam Hammond:** Yes, thank you for the question. Every one of those items that you have highlighted, that have come up over the last few weeks, we would not, under current component parts of Bill 254, be able to express our concerns in a free and transparent way publicly through any means that we wanted to do that, to highlight those concerns to the public and to support and advocate on behalf of the concerns of our members.

For example, during that 12-month period, we can't talk about, as it might relate to policy, class size issues or issues related to special education students etc. because my understanding is that it would be seen as political and in violation of what's in the bill now. To say that we won't, or others in the province would not, be able to have that right for a 12-month period, we find extremely disturbing.

**Ms. Marit Stiles:** Certainly, and I must say as well that I share your concern about that. I mean, the idea that, for example, the teachers or other education workers in this province who work so hard to support our students with special needs, not being able to speak about the issues that they are facing or their students are facing, not being able to be part of those conversations, just seems like such an enormous missed opportunity.

I did have one other question I wanted to ask you because it would seem to me that public policy is very directly tied to some of your union's collective bargaining objectives as well. I wondered what the impact of this Bill 254, in terms of limiting your ability to speak publicly and advocate publicly, how does that affect you—

*Failure of sound system.*

**The Chair (Mr. Kaleed Rasheed):** Sorry, you're frozen; your screen is frozen.

Do you want to go ahead, MPP Mantha? I recognize MPP Mantha.

**Mr. Michael Mantha:** Mr. Hammond, I think you got the context of what Ms. Stiles was asking. Could you please comment on that?

**Mr. Sam Hammond:** Yes, absolutely; I'll do my best. Specifically, for us, we will be in collective bargaining in June 2022. Around the exact same time we'll be heading into our next round of negotiations is the same time as this election. Our collective agreements will expire August 31, and what's in this bill, in terms of stifling any kind of public debate, discussion or us putting issues out over a period of a year leading into our collective bargaining, is incomprehensible and extremely problematic when we represent 83,000 members who have ongoing daily issues, and issues that will be specific to collective bargaining in our negotiations at the same time as this election. That's the same for all of the other teacher affiliates and CUPE members, for example.

**Ms. Marit Stiles:** Thank you. I froze up there for a little while; I apologize. I didn't finish that but thank you so much. I appreciate your answer.

I'm going to pass now to my colleague MPP Mantha.

**Mr. Michael Mantha:** My question is to the integrity officer, Mr. Wake, a gentlemen that I enjoy meeting. We only meet once a year; we should be meeting a little bit more often because we always have a good time when we chat. I always benefit from our discussions that we have together. In my role as an MPP, I believe our relationship is one that makes me a better MPP and a better public servant.

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Mr. Michael Mantha:** My question to you is one that's pretty straightforward: At what point in time were you consulted in regard to the changes that are in front of us today regarding the significance that this potentially may

have on the ability of an MPP to use their social media effectively?

**Hon. J. David Wake:** Thank you for those comments, Mr. Mantha. It's always a pleasure talking to you too.

We were consulted several weeks before this was presented in the form of the bill. It was something that I had recommended, as I said, in two of the last reports that I made under section 30 of the Members' Integrity Act. I suggested that some of these questions were really best left to the members themselves to deal with, in terms of social media, and I was pleased that, in fact, they did that.

**The Chair (Mr. Kaleed Rasheed):** One minute.

**Hon. J. David Wake:** But, yes, we were consulted. I spoke directly to people who were charged with coming up with the wording. In fact, some of the wording in the act is taken exactly from my report. The definition of "partisan," for instance, is exactly the definition that I came up with in my last report with respect to Minister Bethlenfalvy.

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**The Chair (Mr. Kaleed Rasheed):** Thank you very much. Next we are going to move to the independent member for questions. MPP Collard, do you have questions?

**M<sup>me</sup> Lucille Collard:** Yes, just a quick question for the Integrity Commissioner.

**The Chair (Mr. Kaleed Rasheed):** Sure, please go ahead.

**M<sup>me</sup> Lucille Collard:** I just want to know—you've spoken to the changes to social media. That was the gist of your presentation. I just want to know, and I don't know if I missed that part of your presentation, do you have any concerns about some of those changes or any recommendations that could actually improve what's currently in the bill?

**Hon. J. David Wake:** Okay. No. This is something that, frankly, I've been advocating for. The proof will be in the pudding, depending on what the members, in their committee, when they come up with guidelines—what mischief may be created as a result of that. But I'm here to assist the committee in the formation of those guidelines. There's nothing that the bill does that changes what's in the act right now, other than it gives a committee the opportunity to come up with guidelines as to what they feel the bright line should be as to what is acceptable and what isn't acceptable in the use of social media.

Both myself and my predecessors have walked away from trying to define whether blocking a constituent in a particular case is appropriate or not. I think it really falls to the members themselves to address these issues and come up with a set of guidelines, rather than taking my opinion on it. So I look forward to the discussions you will be having in developing these guidelines.

**M<sup>me</sup> Lucille Collard:** So would you be overseeing the guidelines as they develop—

**Hon. J. David Wake:** No, not at all. No. I'm just offering, myself, from the experience of many of the questions my office has received dealing with social media questions, my office as a resource—not for the purposes

of overseeing, unless that's something the committee wants me to do. It would have to be approved by the assembly—

**The Chair (Mr. Kaleed Rasheed):** Two minutes

**Hon. J. David Wake:** —and be consistent with the principles of parliamentary convention as well.

**M<sup>me</sup> Lucille Collard:** Thank you. I have no more questions.

**The Chair (Mr. Kaleed Rasheed):** Next, we are going to move to the government side and, I believe, MPP Skelly. Please go ahead.

**Ms. Donna Skelly:** My first question is to Mr. Essensa. Mr. Essensa, you've stated that this bill addresses only one of four recommendations that you made in a report. I believe that report was submitted to the ministry—was it in the fall?

**Mr. Greg Essensa:** It was actually at the end of November. It was submitted to all of the parties in the House.

**Ms. Donna Skelly:** Were there any other elements in this legislation that address any other recommendations that you have brought forward to our government outside of that report?

**Mr. Greg Essensa:** Oh, yes. There are quite a few of my recommendations in my annual reports and my post-event reports that the government has acted upon: the establishment of an advisory committee, the ability to administer administrative levy penalties. There are quite a few of those recommendations, not only from the special report that I filed in November but my previous reports—the government has taken up some of those recommendations.

**Ms. Donna Skelly:** Can you think of any others?

**Mr. Greg Essensa:** As I've previously spoken, I have always been recommending that a better definition of "collusion" be struck by the government or by the Legislative Assembly to ensure—the current definition of "knowledge and consent" has proven almost impossible to prove. So I am supportive of clarity around that, and I am supportive of clarity in some of the technical amendments to the election campaign finance regime, particularly around audit subsidies for campaigns that raise or spend less than \$10,000. We have a number of nil campaigns where a candidate will effectively spend nothing, but we're still paying an audit subsidy because the current legislation requires that they have an audit even though they have a nil campaign. Clarifying that is a considerable savings to my office. So there are recommendations such as those that have been put into this bill that I'm supportive of.

**Ms. Donna Skelly:** So it would be fair to say that there was a bit of back and forth between, or at least that the ministry certainly was receptive to a number of recommendations—outside of that one specific recommendation that we alluded to earlier—that they listened and they were implemented in this bill.

**Mr. Greg Essensa:** There are a number of my recommendations from previous reports, annual reports, that are in here. I would suggest, however, that the most important recommendations, from my perspective, during this

COVID environment are the ones that I submitted to the Legislature in November. I am quite concerned about the length of the calendar and I am quite concerned about the utilization of schools.

**Ms. Donna Skelly:** My next question is to the Integrity Commissioner. Thank you, first of all, for appearing today. I understand that there was back and forth as well between your office and the Ministry of the Attorney General in relation to the proposed amendments to the Members' Integrity Act, 1994. Would you please speak more on how your office was consulted prior to the introduction of the bill and how that process unfolded?

**Hon. J. David Wake:** Yes. Perhaps I can ask Deputy Commissioner Cathryn Motherwell, who was approached first with respect to that, and then I came in towards the end of that discussion. Cathryn, perhaps you might like to answer MPP Skelly's question.

**Ms. Cathryn Motherwell:** Certainly. We were approached by officials who, as the commissioner said, were charged with starting the draft to this short and quite discrete amendment to the act. We were provided the opportunity to review it several times and to provide feedback as consulted as required. Then the commissioner was brought in as things got closer to the final wording. As the commissioner also indicated, of course, this did follow recommendations from his two reports and indeed lifted and used some of that language as well.

**Ms. Donna Skelly:** Mr. Wake, did you want to add anything to that?

**Hon. J. David Wake:** No, I think that pretty well summarizes it. I have no problems with the consultation process that took place in this case.

**Ms. Donna Skelly:** I'm going to shift a little to social media and, as you know, the proposed amendments to the Members' Integrity Act, 1994, that would allow members to have a single social media account that can be used before, during and after an election. The proposed legislation would also empower the Legislative Assembly to make the first set of rules for how social media should be used responsibly by members of provincial Parliament.

In your view, do these amendments strike the right balance in terms of fairness and non-partisanship, as well as overdue legislative modernization?

**Hon. J. David Wake:** That's going to depend on what comes out of the committee's work. As I said earlier, the proof will be in the pudding. I think it'll be a very difficult task to—

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Hon. J. David Wake:** —get all legislators together and agree on where the line should lie with respect to what's appropriate and what isn't appropriate. But it's in the hands of the legislators to do that. And then, of course, the way the bill is proposed, it would have to go before the Legislative Assembly to be debated there and passed. Any guideline would be subject to the views of the Legislature as a whole.

**Ms. Donna Skelly:** I'm going to give the remaining time to my colleague MPP Miller.

**The Chair (Mr. Kaleed Rasheed):** Mr. Miller, you have about a minute left.

**Mr. Norman Miller:** Thank you for surprising me there, MPP Skelly.

1400

I guess I'll go back to the Chief Electoral Officer and just ask him specifically about the administrative monetary penalties, and how you would see that being useful. We heard about some third-party theoretical violations. How do the AMPs help you enforce the rules in an election?

**Mr. Greg Essensa:** Super. Thank you. Currently there are a number of what I would call minor transgressions of the current statute, both the Election Act and the Election Finances Act. Under the current regime, the only avenue available to me is to refer that to the Attorney General, which takes up considerable court time, considerable work by the crown, and often will result in, effectively, a judge issuing a \$50 fine. What I'm indicating here, what I've been advocating for is that, like my colleagues at Elections Canada and in BC and Alberta, for these minor transgressions, I'm afforded the ability to issue administrative penalties in that regard. What the—

**The Chair (Mr. Kaleed Rasheed):** Thank you very much, and again, my apologies to cut you off.

Thank you to all the presenters for our 1 p.m. slot. I really appreciate your presentations.

CANADIAN CIVIL LIBERTIES  
ASSOCIATION

MR. MARCEL WIEDER

DR. ROBERT MacDERMID

**The Chair (Mr. Kaleed Rasheed):** Now we are going to move to our 2 p.m. time slot. To the presenters for 2 p.m., just to let you know: Each presenter will have seven minutes for their presentation, and then there will be a Q&A after that. I will be giving a two-minute warning and then a one-minute warning during your presentation, and apologies in advance if I cut you off.

Now we are going to start with the Canadian Civil Liberties Association. Please introduce yourself for Hansard, and you may start your presentation. Thank you.

**Ms. Cara Zwibel:** Thank you, Chair and members of the committee. My name is Cara Zwibel. I am chair of the fundamental freedoms program at the Canadian Civil Liberties Association, and I'm grateful for the opportunity to speak to you today about Bill 254 on behalf of the CCLA. I know that there is a lot that this bill does, but my remarks today are confined to the issue of the changes to the rules for third parties.

I'm sorry to say that, but for the fact that this meeting is being done by Zoom call, today feels very much like déjà vu all over again. I appeared before the Standing Committee on General Government on behalf of the CCLA a little less than five years ago to comment on a set of amendments to the Election Finances Act brought in by the last government, and at that time I outlined CCLA's

concerns about the third-party advertising regime that was proposed, focusing in particular on the breadth of the act's definition of political advertising and the length of the pre-writ period during which advertising is regulated, currently six months.

I do want to be clear that CCLA is not opposed to the placement of some limits on third-party activities during the election period, and appreciates that with fixed-date elections, some regulation in a pre-writ period will also help to achieve valid goals. In particular, we recognize the need to limit the extent to which those with greater financial resources are able to shape electoral outcomes.

There is a careful balance that needs to be achieved between ensuring robust protection of political expression and safeguarding electoral fairness. We do not feel that the current regime in the Election Finances Act strikes the right balance, and believe that the changes that are proposed in Bill 254 will take us even further off course. Indeed, in our view, these changes unreasonably restrict freedom of expression, as protected by the Canadian Charter of Rights and Freedoms, in a way that is not demonstrably justified and is vulnerable to being overturned.

Third-party advertising is political speech, which lies at the very core of the protection of freedom of expression. The current six-month pre-writ period is already lengthy and gives rise to the very real risk of chilling political speech that is more about debating the merits of policy choices than persuading or manipulating voters. Indeed, restricting political speech in the six months before an election is called is an extraordinary measure that is not replicated in any other Canadian jurisdiction. A shorter pre-writ period has twice been ruled unconstitutional by courts in BC and, not surprisingly, the Ontario scheme is the subject of a constitutional challenge that is currently before the courts. Notwithstanding the ongoing litigation, the government has now decided that it will move ahead with changes that would keep the restrictive regulations in place for twice as long, chilling third-party speech for not just six months before a writ is dropped, but for a full year before.

Further, while the time in which political speech is regulated has doubled, the dollar amounts that third parties are restricted to spending have not changed. I would note that there's no proposal to lengthen the amount of time during which political advertising is restricted for political parties under section 38.1 of the act.

When the Attorney General introduced these changes in the assembly, he framed them as putting people first, stating, "We strongly believe that Ontario voters should determine the outcome of elections, and not pop-up organizations, big-money conglomerates or faceless political action groups." With all due respect to the Attorney General, voters determine the outcome of elections by voting, and in order to do so, they need to be well-informed. The third parties that are regulated by the act may have particular legal structures—they may be unions, corporations, associations—but at the bottom, they are made up of Ontario voters.

The third-party rules not only restrict the type of debates in which those people can participate for a full

year before an election, they also restrict the information and perspectives that Ontario voters are allowed to hear to help inform their vote when the election does come around. Rather than putting people first, the changes to the third-party advertising rules simply aim to entrench the monopoly that political parties and candidates have over debate and discussion on electoral issues.

I want to briefly address the breadth of the definition of political advertising in the act. It includes not only advertising with the purpose of promoting or opposing candidates or parties but also communications that take a position on an issue that “can reasonably be regarded as closely associated with a registered party or its leader or a registered candidate.”

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Ms. Cara Zwibel:** In Ontario, our next election will be held on or before June 2, 2022. If the amendments contained in Bill 254 are passed, the actions of third parties will be curtailed starting this summer. It may be too early to know which issues are or will be associated with parties or candidates—something that does give rise to potential enforcement difficulties for the elections regulator—but it stands to reason that pandemic management, long-term-care homes, vaccine accessibility and emergency preparedness are all likely to be issues of relevance in the next election. These are likely to be associated not just with a single party or candidate but more likely with many or all.

For the government to significantly curtail expression on these topics for a full year before the election is not, in our view, justifiable. We believe the changes are extremely vulnerable to a constitutional challenge and that they should be excised from Bill 254. Thank you.

**The Chair (Mr. Kaleed Rasheed):** Thank you very much for your presentation.

Next, we have Mr. Marcel Wieder. My apologies if I’m mispronouncing your last name. Please go ahead. You have seven minutes. You may start your presentation.

**Mr. Marcel Wieder:** Thank you, Mr. Chair. Good afternoon to you and members of the committee. My name, as correctly pronounced, is Marcel Wieder. I’m the president and chief advocate of Aurora Strategy Group and president of Arrow Communications. By way of introduction, I sit on the board of directors of the International Association of Political Consultants, and I’m a former board member of the American Association of Political Consultants.

Thank you for allowing me to share my thoughts on Bill 254 and some of its shortcomings that pose an inherent danger to free speech, freedom of association and democratic participation. I want to begin by quoting Justice Breese Davies ruling on February 19, 2021, striking down the federal government’s amendment to the election act, wherein she states, “The free exchange of political ideas is essential to a properly functioning democracy. Political speech is the most valuable and protected type of expression....” This bill will, unfortunately, run counter to this.

Bill 254 will suppress freedom of speech and do irreparable harm to our democratic institutions. Under this bill, a government could introduce a budget within the

one-year regulated period that contains provisions that are detrimental, for example, to the health care system. Citizens and organizations that oppose these changes could mount a campaign to inform the public and expend the maximum amount of \$600,000, while the government is exempt from any limits it could spend over the same period. Then, six months later, the government of the day could introduce new legislation that affects health care, and these groups would not have any funds to inform the public. That’s because the way the legislation is structured, it is based on the group or individual and not the issue that triggers the ceiling cap.

**1410**

That leads to the next area of concern, and that is around collusion. There are many groups that are concerned about education. A government could impose, for example, a wage settlement on education workers. Under our current system, there are five major organizations that represent education workers. The leadership meet on a regular basis to discuss the concerns of their members and how their employer is reacting to issues.

Under this bill, the Chief Electoral Officer is given the power to determine if they shared information or shared a common cause in determining collusion. If the Chief Electoral Officer makes such a determination, he or she can impose administrative fines whose only appeal is back to the Chief Electoral Officer. In addition, the Chief Electoral Officer could make a determination that these groups share a common cause, and restrict all five groups to the maximum \$600,000 together. If the groups decide individually to raise separate issues, they may be prevented from doing so because they hit the cap jointly.

Let me turn to the issue of financing. The previous rules, which were the subject of a charter challenge, imposed a six-month period and a \$600,000 limit. This legislation extends that time period with no corresponding increase in spending. The Chief Electoral Officer and others have made the argument that with social media, it has made large spending on campaigns irrelevant, and that groups and organizations can explain their issues online and reach their target audience for little cost. This is naive, at best.

But let’s forget about the cost of social media and look at the bigger picture. In the last federal election, Google refused to run any political ads on its platform. Facebook, for its part, placed heavy restrictions on political advertising. And Twitter could shut down accounts it felt were not following its guidelines. Do we want someone in Mountain View, Menlo Park or San Francisco, California, deciding what Ontarians can see or hear in respect to issues of concern? These three companies can turn on and off the tap at will and without any concerns as to repercussions. So the reliance on social media is one fraught with danger.

With respect to the time period that this legislation covers, it is egregious that it covers a full year before a writ is issued. A government of the day could introduce any number of controversial pieces of legislation in the last year of its mandate, and with its unlimited access to taxpayer funds, could overwhelm any opposition. This bill

does nothing to advance democracy in Ontario. On the contrary, it imposes harsh restrictions on freedom of speech, freedom of association and the democratic values of Ontarians.

Thank you, Mr. Chair and members of the committee.

**The Chair (Mr. Kaleed Rasheed):** Thank you so much for your presentation. Next we have Mr. Robert MacDermid. Please go ahead. You have seven minutes for your presentation.

**Dr. Robert MacDermid:** Thank you, Mr. Chair, and good afternoon to the committee. My name is Dr. Robert MacDermid and I'm a retired York University politics professor who has researched and written about campaign and party finance for the last 25 years and produced a lot of research on Ontario.

In the very short time I have to speak about these complex matters and evidence, I want to briefly cover four topics, and maybe actually three since one of them seems to be covered: the increase to the contribution limits, first; enhanced disclosure of information about contributors, which is not in the bill but should be there, in my view; further limits on third parties outside the election campaign period; and then, finally, I think something that won't be covered by any of the other presenters, and that is the changes that the bill makes to the provisions for independent candidates and independent members of the Legislative Assembly.

On this last subject, I'll make some longer comments and I've included my sworn affidavit—I think that all of the committee members should have my presentation. In that is a sworn affidavit I made as an expert witness for the Attorney General of Ontario in Randy Hillier's application to strike sections of the Election Finances Act that are part of the amendments to Bill 254. The decision on the application is still pending, and the lengthy affidavit is the only comprehensive piece of research on the topic of independent candidates in Canada, so I think it's well worth the committee's reading to understand the complexity of this topic.

Let me first of all turn to raising the contribution limits. This really is a policy for a fraction of 1% of the electorate who make large contributions to parties and candidates. In other words, it is a policy that will extend the influence of the wealthy over the political process by allowing them to increase the money they can give to candidates and parties to pursue policies that advance and defend the wealthy's interest. It's important to understand the tiny size of this influential group that gives thousands of dollars to parties and candidates in hope of gaining favour and avoiding censure.

In 2018, there were 10.2 million registered electors in Ontario. As the table shows in the presentation, just 25,970 people made a disclosed contribution to one of the three main parties or their associations in 2019. That's not the exact number of individuals who gave money to parties and individuals, since those who gave less than \$100 are not disclosed. But even if we assume there were 50,000 individuals in Ontario who made any kind of a contribution to a political party, a candidate or a constituency

association in 2019, that would still represent 0.5%—one half of 1%—of all of the voters in the electorate.

But of course, the group of super-influencers that this raising of the limit is directed at is much, much smaller than that. If you again look at the table, you'll see that 809 contributors gave the maximum contribution in 2019 of \$1,600—just 809. A larger number, 4,161, gave \$1,000. Those are the people at whom this legislation is directed. Even this larger group of 4,000 composes 0.04% of the electorate. These are the people for whom this legislation is directed. It's a tiny fraction and it allows them to expand their influence in politics. As you can see in the table, it's hard to overlook the fact that 83% of those super-influencers contributed money to the Conservative Party.

I understand the economics of political fundraising that drives parties and candidates into appeals to the wealthy as the most efficient way to raise funds. I understand that, but some thought should be given to increasing the incentives to pursue small contributions, perhaps by increasing the contribution tax credit for small contributions or subsidizing some of the parties' mass fundraising expenses as a way of drawing more small contributions into the system.

Second of all, better disclosure: This is not in the bill, but we come back to this time and time again. If you're going to have a system that limits expenditures and limits contributions, you need to have disclosure. In the presentation, I have shown you two examples of what happens at the Federal Election Commission in the United States and how disclosure takes place, and how Elections Ontario discloses.

What's wrong with the current system that we have now? First of all, not all of the contributions go online immediately, so we cannot see who's giving money at any point in time. Second of all, there is not enough information there to actually identify the contributors' interests and connections to both other donors and to employers, so there is no way of actually confirming that a donor is not giving the money that has been given to them by someone else to give on their behalf—and the government in the last—

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Dr. Robert MacDermid:** —changed the Election Act to actually remove that. So you can see from that, the differences are quite stark.

Controlling third-party spending: I'm going to leave that aside, because the other two people have mentioned that. I agree with them wholeheartedly.

Constituency associations for independent members: This is a radical, radical change in the legislation, and it's the subject of a court case that's still ongoing that Mr. Hillier has brought. I just want to mention a few things about how I think this is such a radical departure from the current democratic standards in Ontario. It will put in place the ability of an elected member who has left a caucus and now sits as an independent to start a constituency association. This will be unlike any other registered constituency association, because its sole purpose will be to raise funds to elect that independent candidate. There

will be no purposes that constituency associations that currently sit to advance party interests to train—

**The Chair (Mr. Kaleed Rasheed):** One minute.

**Dr. Robert MacDermid:** —in different democracies.

Second of all, a personal or private constituency association would not be an open and democratic organization. This is something that's registered by the candidate, and no member can contest the policy positions the member takes or the decisions the member might take over the spending of that money that's raised with tax credits.

Third, an independent member with a personal electoral district association would enter a campaign having an opportunity to raise funds which another independent candidate who is not a member of the Legislature would not have, so there's a grotesque inequity amongst independent candidates: One is allowed the privileges of their office and the others are not.

1420

Fourth, they create a real challenge to regulate the spending of money by parties in the pre-campaign period. The organization of an independent candidate will be doing nothing but raising funds to be re-elected, and so any expenditures could be deemed to be in that—

**The Chair (Mr. Kaleed Rasheed):** Thank you so much for your presentation, and apologies to cut you off. For this round of Q&A, we will start with the opposition side. MPP Natyshak, please go ahead.

**Mr. Taras Natyshak:** Thanks to all the presenters. I don't know where to start. I think each one of you brought some pretty compelling concerns around this bill.

Maybe, Mr. MacDermid, I'd like to talk to you, because you went last. Can you tell us about what the nature of numbered companies—I know you were talking about how to identify donors. Through your research, have you done any digging into the extent that numbered companies donate to political parties?

**Dr. Robert MacDermid:** They cannot. Numbered companies, corporations and unions cannot give to political parties.

**Mr. Taras Natyshak:** Well, these are donations in the past, prior to any of the changes. We have seen just a flurry of those.

**Dr. Robert MacDermid:** Yes.

**Mr. Taras Natyshak:** So now they're tied to individual owners. How do you make that link between what potentially could be a conflict of interest through an entity that is associated with a corporation and that donation in terms of a quid pro quo? Because that's what we're really concerned about here: purchasing favour, buying favour. You referenced it a couple of times. How do we find that out? How do you identify that through your research and the concerns that you raised through your testimony?

**Dr. Robert MacDermid:** Prior to the ban on corporate contributions to parties, it was always a problem, numbered companies, because we don't have a rule that requires the disclosure of the real ownership of a numbered company—or, indeed, I think, of any company, in many ways—and so you couldn't. You couldn't determine who

was actually the owner behind the various people who were named on the corporate registration. The only way you could do that was to determine it through, perhaps, associations with companies through addresses and so on.

That's a problem that goes back to the point I was making about disclosure here, and that is that there's not adequate disclosure of things like the addresses of people. If you look at the American system, when you make a contribution, you're required to disclose your address, your occupation and your employer. That allows people who want to trace the effect of influential contributions to actually determine whether it's the same person giving the contributions, but also to determine if there are multiple people in a corporation giving, and then to find out if they're actually giving their own money or whether they're giving someone else's.

**Mr. Taras Natyshak:** I previously sat on the committee for government agencies, the appointments committee, and we found a disturbing trend whereby donors to the current government received—it seemed as though they received preferential treatment in their nominations for appointments to boards and agencies through that committee and through the government. Have you found any of those types of ties? Have you done that deep digging of, “Here's a donor, and here's what the favour has been at the end”?

**Dr. Robert MacDermid:** I haven't done that recently, and of course it's extremely difficult to make that link on more than paper, to actually verify it.

**Mr. Taras Natyshak:** One of the issues that we're dealing with in the Legislature right now is the government's propensity to now use these ministerial zoning orders, or MZO's. I don't know if you've researched or taken a look at the use or prevalence of that legislative hammer to bypass local planning authorities and regulations. Have you taken a look at those and done any correlation to the implementation of MZO's and donors to political parties?

**Dr. Robert MacDermid:** No, I have not done anything specifically related to that, but of course I have a long history of looking at the importance of the development industry in municipal and provincial politics and bringing together various conglomerates that have made contributions to governments at different times.

**Mr. Taras Natyshak:** And what were your findings on that?

**Dr. Robert MacDermid:** Well, clearly they're interested in affecting government decisions, because governments—particularly at the municipal level, but increasingly at the provincial level, with the advent of MZO's—are actually a profit-making centre for a developer. As soon as land is rezoned, its value increases many, many times. So it makes sense that any developer who is dependent upon the creation of value and profit on the political system is going to make contributions to candidates and people who make decisions.

**Mr. Taras Natyshak:** So does increasing the individual campaign donation limit dissuade those developers from participating or donating, or does it encourage them?

**Dr. Robert MacDermid:** No, it encourages them, of course. Our inadequate disclosure system encourages them to potentially arrange that members of their family or members of their corporation give money, even though it's illegal, because it's not their own money.

**Mr. Taras Natyshak:** Thank you very much, Mr. MacDermid.

I'm going to move to Ms. Zwibel. Cara—if I may call you Cara—you referenced the effect that this bill will have on third-party participation and involvement in elections.

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Mr. Taras Natyshak:** I don't know if you used the term specifically, but what I think you were talking about is the “chilling effect” that it will have on groups and organizations to become involved and to raise legitimate concerns about the government of the day.

Can you give us a scenario of how that might play out in the current context, how it has played out in the past, and how you see it evolving in the future?

**Ms. Cara Zwibel:** Sure. Because of the breadth of what constitutes political advertising under the act, we're not just talking about people who are putting out messages that are promoting a party or criticizing a party or a candidate. There is the issue-based advertising definition that's brought in, and the reason for incorporating that issue-based advocacy into the definition is intended to be an anti-circumvention measure. People can just get away with trying to promote a candidate by not saying their name, but it's very clear who they're talking about.

**The Chair (Mr. Kaleed Rasheed):** One minute.

**Ms. Cara Zwibel:** The problem is that the definition that we have covers much, much more than that. It means that speaking out on any issue that is likely to be associated with a party or candidate—election issues, political issues, some of which are relevant right before the election and many of which are relevant in the four years in between—the expression on that is restricted. You're restricted in how much you can spend. You're restricted in how you can get that message out—

**Mr. Taras Natyshak:** I'm sorry to cut you off, Cara.

The Premier mentioned, prior to his election, that there would never be a need for groups to be protesting on the front lawn of Queen's Park. Subsequently, we've seen hundreds of groups protesting on the front lawn.

What about parents and families of kids with autism? How would this bill affect their advocacy and their involvement in the democratic process?

**Ms. Cara Zwibel:** Any issue that has been a policy issue for the government—

**The Chair (Mr. Kaleed Rasheed):** Thank you so much—apologies to cut you off.

Next, we are going to move to the government side. MPP Skelly.

**Ms. Donna Skelly:** Mr. Wieder, thank you for your presentation this afternoon.

Back in 2016, Ontario legislators decided to ban corporate and union donations to political parties. Do you agree or disagree with that decision?

**Mr. Marcel Wieder:** I don't have a problem with that.

**Ms. Donna Skelly:** Would you agree, then, that it was done in order to help ensure that Ontario elections are more about the individual voter rather than the collective?

**Mr. Marcel Wieder:** I think the election is an opportunity for the voters and the community to express their opinion, and so organizations which represent Ontario voters should be allowed to exercise a degree of their free speech in sharing their points of view that may affect the outcome of the election.

**Ms. Donna Skelly:** I wanted to get a sense of how much the organization you belong to, the Working Families Coalition, spent on third-party advertising in the 2018 Ontario provincial election, in the six months leading up to the writ period, where there is currently approximately a \$600,000 cap?

**Mr. Marcel Wieder:** I don't have the specific number. It was filed with Elections Ontario as per the guidelines. They did not exceed the cap that was in place.

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**Ms. Donna Skelly:** Do you know how much during the election period, where there's approximately a \$100,000 cap?

**Mr. Marcel Wieder:** Again, I'm not responsible for the finances for that particular organization. I'm a hired consultant. The documents have been filed with Elections Ontario, and it has been accepted. I'm sure you must have those in front of you, so if you have them—

**Ms. Donna Skelly:** So you have no idea, prior to the periods that we're talking about, in terms of how much money the Working Families Coalition spent prior to the last election?

**Mr. Marcel Wieder:** I have a rough idea, but I don't have the specifics, because I'm just one consultant. They may have had additional consultants who have submitted. So I'm not the sole person responsible for Working Families. I'm just a consultant.

**Ms. Donna Skelly:** Well, I would suggest to you—maybe you could agree or disagree—that it was more than hundreds of thousands of dollars, perhaps in the millions.

**Mr. Marcel Wieder:** No, I think that's an unfair characteristic.

**Ms. Donna Skelly:** Would you say it's close to a million?

**Mr. Marcel Wieder:** Again, I think that in the last provincial election, the guidelines that were in place had a fixed ceiling of \$600,000, and it's my understanding that the organizations I've worked for complied with the guidelines, submitted and were accepted based on that.

**Ms. Donna Skelly:** Just moving forward on that assumption: If this bill, Bill 254, passes and the pre-writ third-party advertising period moves from six to 12 months, what message does your organization, the Working Families Coalition, that it's trying to share with the public leading up to the next general election in Ontario—what message are you trying to get across that will cost that organization, your organization, more than \$700,000?

**Mr. Marcel Wieder:** I do appreciate your question, but I think a point of clarification—it's not my organization.

I'm an independent consultant hired by the organization. I'm not—

**Ms. Donna Skelly:** The organization that you've been working with. Would that be fair to say? What possible message, if you are a consultant, would you want to share or would you be trying to convince Ontarians of that would cost more than \$700,000 to share?

**Mr. Marcel Wieder:** Well, I can tell you this: Organizations such as Working Families and others invest in research, in talking to Ontarians to find out what the issues of concern are. So before I or any other consultant would put together any type of campaign to educate and inform Ontarians on any particular issue, we would consult and discuss the issues and research the issues. It's premature for me to make any speculation as to what a campaign could look like in the future without having any research on knowing what the topics of concern are to Ontarians.

**Ms. Donna Skelly:** Would you like to see third parties be able to have unlimited funds, unlimited limits in terms of what they could spend prior to elections?

**Mr. Marcel Wieder:** I would like to clarify a misnomer. I don't like using the terminology that you use, "third parties." I see these as independent expenditures. We're not a political party, and so these are independent expenditures by individuals or groups. I want to make that clear and put it on the record. As far as—

**Ms. Donna Skelly:** But it is an organization. You filed as the Working Families Coalition.

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Mr. Marcel Wieder:** Yes, I do understand that. Again, I stand by my comments that these are independent expenditures—as opposed to using the nomenclature of "third parties."

Let me get to the point of your question, and that is on the amount spent. The government currently can spend an unlimited amount of money on any particular topic it so chooses. This bill restricts organizations and individuals to a fixed limit. That is inherently unfair—where a government can spend millions and millions of taxpayer dollars convincing Ontarians on a particular subject and independent expenditure campaigns are limited to a certain amount. So I think—

**Ms. Donna Skelly:** I have to push back. What did you call it? Independent—

**Mr. Marcel Wieder:** Independent expenditure campaign, IEC.

**Ms. Donna Skelly:** —expenditure campaign, which we would suggest is a third-party campaign. It's an organized group of people with one specific objective—

**Mr. Marcel Wieder:** Or it could be an individual.

**Ms. Donna Skelly:** —Working Families Coalition; otherwise why wouldn't they just run individually and buy their own individual advertising? You went in collectively and bought under one group, did you not? You paid for it through the Ontario Working Families Coalition—

**Mr. Marcel Wieder:** That's true.

**Ms. Donna Skelly:** It is a group—and it's not just individuals. You got funding from unions and organizations,

not just specific individuals. Is that accurate? You were funded by organizations.

**Mr. Marcel Wieder:** Each of the participants in the Working Families—

**Ms. Donna Skelly:** No, no. Who funded it? Did you ever receive funding from anyone other than a single-souled person?

**Mr. Marcel Wieder:** That you'd have to ask Working Families. I am not privy to their finances.

**The Chair (Mr. Kaleed Rasheed):** We only have five seconds left, so next we're going to move to the independent member. MPP Collard.

**M<sup>me</sup> Lucille Collard:** My question could be for any of you.

As a politician, I feel and other people feel that politicians and parties spend more time chasing money than chasing voters.

I want to have your opinion on the impact of the coupling of the extension of the per-vote subsidy and the doubling of the contribution.

**The Chair (Mr. Kaleed Rasheed):** I'm going to recognize the Canadian Civil Liberties Association first.

**Ms. Cara Zwibel:** I don't think that's a question I can answer. Like I said at the outset, what I'm here to address relates to the issue of third-party advertising.

I do have plenty to say in response to the exchange that just happened between the last speaker and Mr. Wieder, but I don't want to take up your time answering that.

**M<sup>me</sup> Lucille Collard:** Go ahead. I'm fine with that since nobody seems to be ready to reply.

**Ms. Cara Zwibel:** I'm just concerned about the framing of third parties as they're defined under the act, as if there's something nefarious about groups of individuals getting together to advocate on a particular issue. These are not all groups that are there to deal with an election. Many of them exist all the time, and they engage in advocacy all the time on issues that are relevant when elections come up—but that's not their reason for being.

Third parties are collections of individuals, just like political parties are.

The fact is that our current system privileges political parties in terms of what they're allowed to spend and what they're allowed to do and it disadvantages third parties. This bill makes that disparity worse.

**M<sup>me</sup> Lucille Collard:** Mr. MacDermid, did you want to add something?

**Dr. Robert MacDermid:** Yes, I am a supporter of party subsidies. I think it's a good idea. I was disappointed that they were going to be diminished. When the government came into office, it said it was going to get rid of them. Now it has changed its mind. It's saying that there isn't enough money because of difficulties of raising funds during COVID-19, which I can sympathize with. So the continuance of it and the increase in the limit is going to bring a lot more money into parties eventually, I think, than they actually have.

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Dr. Robert MacDermid:** I'm not sure that the legislation actually raises the spending limits, though. So how

they're going to be able to spend it is another matter. Obviously, they have debts and so on.

I'm also concerned about the fact that more and more election expenses are being pushed into the pre-campaign period, so that election campaign expenditure limits are now becoming more and more illusory because more and more work is spent in the unregulated pre-campaign period. That's clearly a motivation for raising more money now so that you can spend more before the caps come into place. I suspect that's what we're going to see.

But again, the government has said that they couldn't raise money. We don't really know whether that's true, whether parties have been hard-pressed. I'm not sure. I've offered some other solutions, though, that I think they could look at, and those would be to increase the focus on small contributions or even to get rid of all individual contributions completely. Many people advocate that. I still think it's important to focus contributions—many contributions in small sizes from many individuals should be the focus.

**The Chair (Mr. Kaleed Rasheed):** One minute.

**Dr. Robert MacDermid:** Anyway, I'll stop and let Mr. Wieder talk.

**M<sup>me</sup> Lucille Collard:** Mr. Wieder.

**Mr. Marcel Wieder:** Campaigns are becoming more and more expensive with technology. Trying to reach voters is more challenging, and so it has become a case where you need the funds in order to be able to communicate to your constituents, to potential voters.

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I'm in favour of increasing the amount of money that candidates receive as a government subsidy—but also recognizing that there's going to have to be an inherent lifting of the cap in terms of how much to spend, because the reality of today's campaigns is that it costs more money, there are less volunteers, and you need to be able to get your message out and be heard.

**The Chair (Mr. Kaleed Rasheed):** Next, we are going to move to the next round, with the government side first. MPP Bouma, please go ahead.

**Mr. Will Bouma:** Thank you, Chair. Through you: It has been very interesting listening to the testimony this afternoon. Thank you very much for joining us today.

I would just like to have a conversation with Ms. Zwibel from the CCLA—Cara, if I may.

Going back to some of the questioning that was going back and forth before: As you know, in 2016, Ontario's Legislature decided to ban corporate union donations to political parties. I was just wondering, would you, or could you say, for your organization—would you agree or disagree with that decision?

**Ms. Cara Zwibel:** I don't know if I can speak on behalf of CCLA. It's not something I've discussed with our board. I don't have an issue with that change.

**Mr. Will Bouma:** Very good. Something that I like about the CCLA is how much they often stand up for the individuals. That's why, I guess, if you could comment a little bit further—would you agree that it would appear that a decision like that was made in order to help ensure

that Ontario's elections are more about the individual as opposed to a larger organization?

**Ms. Cara Zwibel:** I'm not sure that I can agree with that. I think that it's possible that that change deals more with appearances than reality—that concern that there's an appearance of collusion or an appearance of groups being particularly associated with a party candidate. I appreciate that the restrictions on third-party advertising are designed to avoid circumventing some of the rationales that were likely behind those changes, but I think they go much too far, and I do think they are constitutionally vulnerable. And I think it's problematic that this piece of legislation is already the subject of a challenge before the courts and the government is seeking to change it in a way that would make it even more constitutionally vulnerable. I'm not sure why we want to spend money litigating these issues rather than recognizing that there's a better balance that can be sought.

**Mr. Will Bouma:** I'm sorry; would you have a problem, constitutionally, with corporate donations or with union donations, as opposed to just individuals?

**Ms. Cara Zwibel:** The constitutional issue relates to the restrictions on third parties in the pre-writ period as it pertains to issue advertising—the potential breadth of that restriction.

**Mr. Will Bouma:** So you're okay with limiting donations by unions and by corporations. That's not a constitutional question for you.

**Ms. Cara Zwibel:** I'm not sure. It's not one that I've turned my mind to. It's not something that I've looked at.

**Mr. Will Bouma:** Since those changes that have been put into effect, we've seen the rise of these third-party organizations. So don't you think, with the similar focus on individuals and their rights to a free democracy, that it would make sense to try to limit some of the changes that have happened electorally since 2016, with the rise of some of these third parties, to get around some of those things from corporations and from unions?

**Ms. Cara Zwibel:** I don't think so. I don't know what data the government is relying on to say that this kind of change is necessary. The fact that there are organizations that are active in what you might call the third-party space, to me, doesn't necessarily mean that there's a problem in terms of electoral integrity or that their participation has dictated a result. Again, I think that those organizations and associations are made up of individuals. They don't just exist in a vacuum, so trying to draw this distinction between focusing on the individual—our system is set up in a way that groups people together. It groups people together into constituency associations, it groups people together into political parties, and it groups people together into third parties.

**Mr. Will Bouma:** But in a similar situation—a corporation is also made up of individuals, as are unions. You said that you didn't have any issues with the changes that were made in 2016 in those regards, so what would make a third party different from that sort of regulation? Without some sort of control, it seems that they can raise as much

money and spend as much of that money as they want in many situations right now.

**Ms. Cara Zwibel:** I'm not suggesting that there be no restrictions and no controls; I'm suggesting that the current restrictions are too broad and they last for too long.

**Mr. Will Bouma:** Moving on a little bit: I was just wondering if I could get a sense of how much the CCLA spent on third-party advertising in the 2018 Ontario provincial election.

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Ms. Cara Zwibel:** We didn't. We don't engage in third-party advertising.

**Mr. Will Bouma:** That's very, very good to know. So none of your money goes towards anything like that at all?

**Ms. Cara Zwibel:** No.

**Mr. Will Bouma:** Good. With that in mind—because that provides me a little bit of clarity—what would you think would be appropriate restrictions on third-party advertising, if not where we're going right now? You did say that it was important to see some restrictions on that.

**Ms. Cara Zwibel:** I would, first of all, substantially decrease the length of the pre-writ period. I mentioned the BC cases. In BC, this issue went before their courts, and they had a 60-day pre-writ period which was deemed unconstitutional and a 40-day pre-writ period which was also deemed unconstitutional. So I would say we need to substantially shorten the pre-writ period.

And I think that there are things you could do with the definition of political—

**The Chair (Mr. Kaleed Rasheed):** One minute.

**Ms. Cara Zwibel:** Sorry.

**Mr. Will Bouma:** That's okay. I appreciate that.

Just quickly, then, in the last fading seconds here: You've compared political parties and governments to third parties in what kind of advertising they can do. However, a political party or a government always has to answer to the voter, at the end of the day.

What similar thing would you do to a third-party advertiser to make them accountable to the general public in what they do?

**Ms. Cara Zwibel:** Well, I'm not opposed to the transparency requirements around third-party advertisers—the need to identify where contributions are coming from, and the need to identify who an organization is speaking for. I don't take issue with any of that.

**Mr. Will Bouma:** Awesome. Well, thank you very much for being here today. It was a pleasure to see you. Take care.

**The Chair (Mr. Kaleed Rasheed):** With that, we are now going to move to the independent member. MPP Collard, do you have any questions?

**M<sup>me</sup> Lucille Collard:** Yes, thank you.

Again, a little bit going back to the sense of the first question: I'd like to know if you agree that increasing the contribution is actually, effectively, a transfer of public funds from average taxpayers to wealthy people, given the generous tax credit for contributions. If you're going to be able to give \$3,300 out of your pocket, even knowing that you might get a tax credit, you have to have the liquidity,

so only really wealthy people can do that. But at the end of the day, it's every taxpayer who ends up paying for this contribution.

Do you agree with that statement, Mr. MacDermid?

**Dr. Robert MacDermid:** The increase in the limit on the contribution won't affect the tax credit, as far as I understand. The tax credit only is a declining rebate up to a total contribution of—I can't remember—maybe \$1,500 or something like that, and after that you don't get a rebate. So increasing the contribution limit doesn't mean that more public money will go to wealthy people necessarily.

But if you're making the general point that more and more public funds are going into funding the political system, you're absolutely right. The last time I checked, at the federal level, it was something like 80% or 90% of all of the funds supporting politics, meaning going to parties, going to candidates through different forms—rebates at election time, the party allowance and so on. All of those add up incrementally until we're virtually at a point where parties are on the public subsidy completely. We're very close to that right now, and this will push it a little bit further.

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**M<sup>me</sup> Lucille Collard:** Thank you for the clarification.

I just want to ask a general question about the timing of this bill. You took the time to prepare for this and to address this, and I'm sure you've had conversations with people around you. What do you think about bringing this bill forward at this time? Do you have an opinion on that, or did you hear from people? I've heard from constituents who are wondering why we're doing this now.

What's your opinion, Mr. Wieder?

**Mr. Marcel Wieder:** The general consensus that I have had is that this was very cynically timed to limit criticism of the government.

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Mr. Marcel Wieder:** By introducing this particular bill, it would effectively silence any critics of the government over any number of issues. It would also prevent any criticism of future bills or a future budget, which would be caught into the one-year regulated period. So people who had concerns on a number of different topics—and I think the people who deposed before me have already raised some of those concerns—in health care, in education and others, would be caught up in this particular legislation.

I should also point out, in terms of one of the other questions that was asked, that this legislation would also have an impact on a number of other organizations. For example, there was an open letter several months ago by CEOs of major corporations asking for changes in the tax policies of the government that would in fact theoretically be caught under that legislation.

**The Chair (Mr. Kaleed Rasheed):** One minute.

**Mr. Marcel Wieder:** So charitable groups that are advocating on health care spending, on mental health or on a number of different issues could unwittingly be caught under this legislation, and I think that poses a danger in our society if they do. I think that's something that we need to look at more closely.

**M<sup>me</sup> Lucille Collard:** Mr. MacDermid?

**Dr. Robert MacDermid:** There has not been time to do adequate research to look at some of these changes. Yet again we're into this situation where people make changes inspired by no research. We're not even looking at what other jurisdictions do. It's pathetic. We're making changes to important rules when we don't really know what the consequences will be. It's so typical of when parties perceive that they're into what their interests might be and making these changes—

**The Chair (Mr. Kaleed Rasheed):** Thank you very much—apologies to cut you off.

We are now going to move to the opposition side. I recognize MPP Mantha.

**Mr. Michael Mantha:** Mr. MacDermid, would you finishing what you were saying?

**Dr. Robert MacDermid:** Well, it's simply that time and time again we have changes to vital acts that bear on the democratic procedures in the province without any research, without any thought. The changes to the independent rules are completely thoughtless. There's no research base behind there. I know that, because I couldn't discover anything myself when I was an expert witness.

These are ad hoc changes that are inspired by the moment—where a party thinks they're going to get an advantage over another party. This is no way to conduct a mature and appropriate democracy where citizens get to have input into a serious discussion of these rules that affect both members and citizens alike. It's really pitiful. That's the only way I can describe it.

**Mr. Michael Mantha:** I have a further question for you, Mr. MacDermid.

During your initial comments, you talked extensively about some of the research that you have done. You talked about the contributions that were being made. I don't want to put words into your mouth, but you talked about how those dollars, those significant donations, were providing some doors to be opened for some individuals, and those who were benefiting from those decisions were the one-percenters.

Have you ever done a study analyzing who the one-percenter is, and if it's only that one-percenter? Or are there additional dominoes that follow that one-percenter that are not being disclosed—that is, as you said earlier, probably against the law?

**Dr. Robert MacDermid:** Yes. When we got rid of corporate and union contributions, one of the side effects was that wealthy individuals who want to express their political will and their political interests can no longer do so to the same extent as they could previously, when they could give through any number of numbered corporations. Developers, for instance, control hundreds of corporations and through each one, they could give a maximum contribution. When that possibility disappeared, they were left to try to multiply their influence in different ways, and one of them is to give money to children.

Anyone has to look at the contribution list to know that there are people under 18 making contributions, and it's probably not their own money since it's a maximum

contribution. An 18-year-old doesn't give \$1,600 to a political party. I'm sorry; that's just not believable.

Of course, there are people who are in corporations—years ago, I had a Tory senator tell me that this was a well-known practice: that money was given to employees who then gave the money and got the tax rebate as a reward for doing it. This happens. The fact that people don't want to admit it, the fact that the Chief Electoral Officer hasn't been able to find examples of that and charge them, is pathetic. There has not been one prosecution under this act, I think, since its initiation. I asked this of the Attorney General—to give me one example of a prosecution under the Election Finances Act, and they could not give me a single example.

If you're trying to tell me that no violations are occurring in here, you are living in la-la land. People are giving money who shouldn't be giving money. They're giving more money than they should be allowed to give. They're giving it through people whose money is not their own. That's probably what's happening, and it's likely to occur more now that the limit is going up.

**Mr. Michael Mantha:** So the one-percenters are going to continue to hold the upper hand when it comes to—

**Dr. Robert MacDermid:** It's not the one-percenters; it's the 0.04-percenters.

**Mr. Michael Mantha:** Exactly. That's exactly what you had said.

Cara, you weren't permitted to finish your answer in regard to—I think it was Mr. Taras Natyshak who was asking you.

Let's say you had a family. They don't have orange; they don't have red; they don't have blue; they don't have yellow, purple or green, as far as the stripe with them. What they have is a family member who is affected by autism, and they're trying to raise their issues forward. They're part of the autism family coalition that is out there. How is this going to affect them—as a budget might roll out in six months from now and we're going to be six months out of an election? How is this legislation going to prevent them from raising their concerns?

**Ms. Cara Zwibel:** It prevents the advocacy. I know there was a question before about what could they possibly be doing with these hundreds of thousands of dollars. Maybe we're thinking of social media, where for a couple of dollars you can promote a message.

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Ms. Cara Zwibel:** But more than a decade ago, when the issue of third-party advertising went before the Supreme Court of Canada in the Harper case, at that time, the evidence from the Chief Electoral Officer of Canada testified that it cost approximately \$425,000 for a one-time, full-page advertisement in major Canadian newspapers. So the fact that an organization might spend \$600,000—which is now the cap—doesn't mean that they're necessarily flooding the country or flooding the province with their material. It can cost a lot of money to get the message out, and the message doesn't have to relate to a particular party or candidate under this legislation; it can relate to an issue. If the issue that you care about is

something that might be at issue in an election, then you could be caught by this.

**The Chair (Mr. Kaleed Rasheed):** One minute.

**Mr. Michael Mantha:** Finally, to Mr. Wieder: I heard you say comments in regard to dangers to free speech. I heard you make comments in regard to harsh restrictions. Would you agree that this piece of legislation is a timely way of silencing criticism?

**Mr. Marcel Wieder:** Absolutely. This legislation is, in effect, a gag order on Ontarians who want to raise issues of concern both today and in the 13 months before they cast their ballots.

1500

**The Chair (Mr. Kaleed Rasheed):** Thank you to all the presenters for our 2 p.m. time slot.

ONTARIO FOR ALL  
ONTARIO ENGLISH CATHOLIC  
TEACHERS' ASSOCIATION  
ONTARIO SECONDARY SCHOOL  
TEACHERS' FEDERATION

**The Chair (Mr. Kaleed Rasheed):** We are now going to move to our 3 p.m. time slot presenters.

First of all, welcome to you all. Before we go into the presentations, just a heads-up: I may or may not have to go for a recess during the presentations, but rest assured that you all will get your time. I just wanted to bring this up prior to the presentations' start. Each presenter will have seven minutes for their presentation. After we have heard from all three presenters, we will have time, 39 minutes, for Q and A.

We are going to start the presentations with Ontario for All. Please state your name, and you have seven minutes for your presentation.

**Mr. Sean Meagher:** My name is Sean Meagher. I'm the coordinator of Ontario for All, which is a project of the United Way that supports the work of non-profits in contributing to public policy and public policy reform.

I want to start by thanking you for hearing from me and the other deputants today. This is one of the great features of our democracy—the inclusion of the public in shaping policy. I know that everybody here values our democracy and understands the importance of safeguarding it, and I'm sure that we all appreciate the importance of limitations on political contributions and political advertising. Those with more resources should not have more say to promote their own private interests and should not be able to overwhelm our collective efforts to serve the public good. That's a valuable goal.

Unfortunately, that's a goal that's not well served by the current bill. As this bill stands, it takes steps to constrain the influence of private interests that would tilt the playing field, but it also inadvertently obstructs activities that would help to engage the public and level the playing field. It does that primarily by failing to make distinctions between some very distinct types of organizations—organizations that are distinct in law as well in practice,

organizations that our own courts have ruled can and should play a greater role in public policy.

I am, of course, speaking about non-profit corporations and charities, and more specifically about public-benefit non-profits—organizations that operate for the public good, not for private gain, reinvest their assets in the public domain for the public good, and are dedicated to the care and service of others as their core mission. This is an established framework. It's clearly defined in the city of Toronto's public benefit policy and the Ontario Nonprofit Network's guidelines, and it clearly identifies specific types of organizations that this legislation unfortunately conflates with other, very different ones, leading this bill to treat established non-profits in the same way it treats private interests, industry lobby groups and single-issue advocacy organizations. That's problematic.

Applying the same rules to fundamentally different organizations with different goals that operate under different laws glosses over important distinctions and leads to poor public policy. We don't regulate trucking firms the same way we regulate school boards, and we don't regulate banks the same way we regulate hospitals. Policy should be attentive to the deep and significant differences between these types of organizations, because there are, in fact, very good reasons to actively encourage the non-profit community and community organizations to play active roles in public policy.

Community service providers are in a unique position to inform public policy, because of their strong relationships with communities and families facing challenges. Working at the grassroots, they see first-hand the impact of public policy, especially on vulnerable communities. As front-line workers, they are among the first to see those impacts and to identify emerging challenges. They are engaged with marginalized communities who often have fewer opportunities to have input into public policy, and those organizations can play an active role in supporting community efforts to share in the democratic process that shapes those policies. Democracy is richer for it.

This is not simply my opinion; it is the view clearly outlined by decisions in the courts. The courts have ruled—in particular, in *Canada Without Poverty v. AG Canada*—that it is in the public interest to have public-benefit charities at the public policy table. The government of Canada reached the same conclusion when it passed Bill C-86, removing limits on public policy reform activities of non-profits. Both the courts and the government of Canada did this specifically because they recognized the public benefit from having non-profits participate in shaping public policy.

This bill, in its current form, undermines that goal and generates some unfortunate unintended consequences. It lengthens the regulated pre-election period while maintaining the same spending limit. That makes it harder to engage in even minimal efforts to support participation in elections and in the policies that shape them. Under the proposed bill, organizations that spent as little as \$42 a week encouraging discussion on public policy in their communities would be declared a third-party advertiser subject to a host of new regulations and requirements. At

that low cut-off, organizations may even inadvertently cross that threshold in their day-to-day activities, finding themselves retroactively becoming a third-party advertiser subject to reporting on activities they had not necessarily even tracked.

The bill also changes the definition of “collusion” in ways that undermine many current legitimate coalition-based advocacy efforts. If two or more organizations confer on their respective plans to spend \$501 each on prompting better mental health policy any time in 2022, they would be in violation of the act, as the bill is now written.

The bill also, as written, causes non-profits that share a concern and also share a donor to be guilty of collusion, even if they are completely unaware of the other organization’s activities.

The bill, as written, requires non-profits that already publicly disclose all spending to carry separate accounts—

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Mr. Sean Meagher:** Thank you—with separate reporting requirements for things that they are already required to report on under legislation. This actually imposes a higher burden on non-profits that have those kinds of ongoing financial reporting than it imposes on the single-purpose advocacy groups and “pop-up” organizations that the Attorney General originally expressed concern about.

This all adds considerable red tape for organizations already struggling to get communities through COVID-19, to manage a housing crisis, to support people through food insecurity, and it doubles their reporting demands and financial management processes, taking valuable energy away from the work that they do in communities.

Finally, it risks imposing a chill on the valuable work that non-profits do in the public policy realm. In the torrent of complicated rules, low cut-offs and retroactive risks, non-profits may very well feel that they should retreat entirely from the public policy arena for fear of inadvertently triggering some unanticipated constraint.

**The Chair (Mr. Kaleed Rasheed):** One minute.

**Mr. Sean Meagher:** This undermines the very benefit that the courts and the government of Canada recommended.

So we suggest the following changes: First of all, public-benefit non-profits should be entirely exempt from the third-party advertising rules as long as their communications remain non-partisan and their activities are in line with their mission as the courts directed. If the bill fails to establish this exemption, it should at least not obstruct the valuable public policy work of non-profit corporations.

It should eliminate the restrictions on the pre-election period, keeping regulations on non-partisan issue promotion to the writ period, as the federal and Quebec governments do.

It should significantly raise the limit. Five hundred dollars is a very small amount of money over the course of a year. Alberta allows for \$1,000. Manitoba allows for \$2,500. Ontario should at least be in line with those counterparts.

It should rescind restrictions on donating to policy reform efforts as established in Bill 2, which are clearly

not in keeping with the Ontario Superior Court rulings mentioned earlier.

It should accept current annual financial statements—

**The Chair (Mr. Kaleed Rasheed):** Thank you very much for your presentation—and apologies to cut you off.

Next, we will go to the Ontario English Catholic Teachers’ Association—

*Interjection.*

**The Chair (Mr. Kaleed Rasheed):** It looks like we may have to go for a vote happening shortly. This is good, actually, because once we come back—it is going to be a 30-minute recess here. We should be coming back, roughly, give or take, 3:45?

*Interjection.*

**The Chair (Mr. Kaleed Rasheed):** Okay, 3:40. So we will come back around 3:40, and at that point we will start with the Ontario English Catholic Teachers’ Association.

As I said, rest assured, you all will get your time for your presentations—apologies for this last-minute schedule change.

With that, thank you very much, and we will start at 3:45.

*The committee recessed from 1509 to 1545.*

**The Chair (Mr. Kaleed Rasheed):** Welcome back, everyone. I call this meeting to order. Just to let everyone know, we are continuing public hearings on Bill 254, An Act to amend various Acts with respect to elections and members of the Assembly. Before we went into recess, we had just finished the presentation from Ontario for All.

Now I’m going to request the Ontario English Catholic Teachers’ Association to present. Please state your name for Hansard. You have seven minutes. I am going to give a two-minute and a one-minute warning. Please go ahead.

**Ms. Liz Stuart:** Good afternoon. I’m Liz Stuart. I am proud to be here today, representing the 45,000 members of the Ontario English Catholic Teachers’ Association. I am joined today by David Church, our general secretary.

For more than 75 years, our association has been proud to be part of a vibrant, democratic elections process in Ontario. We’ve promoted the interests of teachers, students and families by advocating for a strong, publicly funded Catholic education system, forward-thinking early learning and child care policies, and a robust social safety net.

Like many non-governmental organizations, we have contributed to effective debate by providing an outlet through which our members can share their collective voice and exercise their free speech rights. Some of these functions had already been eroded by amendments to the Election Finances Act in 2016. Sadly, with Bill 254, the Ford government is threatening to further undermine the integrity of the elections process and the rights of millions of Ontarians.

Catholic teachers have three main objections to the proposed legislation:

(1) The extension of the pre-campaign limit on political advertising and the broadening of the definition of “collusion” are clear and deliberate attempts to frustrate certain Ontarians from exercising their constitutional rights;

(2) Enforcement of some parts of the act relies on subjective interpretation and the discretionary power of the Chief Electoral Officer; and

(3) Doubling individual contribution limits would increase the influence of wealthy individuals and further open the door for favouritism and cash-for-access politics.

It is the view of our association that the Ford government must immediately remove these sections of the legislation to protect a fair elections process in Ontario.

In their amendments to the Election Finances Act, the previous provincial government dealt a significant blow to effective, democratic debate by establishing a six-month pre-campaign period during which there are strict limits placed on political advertising. The EFA is currently the subject of a constitutional challenge, on the basis that it violates Ontarians' rights to freedom of expression and freedom of association.

Now the Ford government is proposing to extend the pre-campaign period to 12 months before the writ period. This is clearly arbitrary and prejudicial, especially because the overly broad definition of "political advertising" includes issues advocacy. The result is that Bill 254 would effectively smother public discourse on any important policy issues for a full year ahead of the provincial election. Meanwhile, there would remain no limits on the government's ability to promote its policies through taxpayer-funded advertising.

Bill 254 seeks to further imbalance the playing field by establishing an incredibly broad definition of "collusion," by prohibiting a variety of activities that any advocacy organization, from any sector, would naturally undertake in the course of a year as we carry out our core mandate and engage in public discussions about the provincial budget and other relevant policies. For the government to bring additional scrutiny to these activities and to count them against the pre-campaign spending limits is nothing short of draconian.

Again, the result would be stifling of public debate on a broad range of policy issues and further advantage for the governing party. And because it would represent such a blatant attack on fundamental rights, it would also likely result in further charter challenges.

The strict limits set out in Bill 254 are especially problematic when coupled with the introduction of new administrative remedies, directly enforceable by the Chief Electoral Officer. In the proposed amendment, the Chief Electoral Officer will be empowered to directly impose fines on third parties, even if the Chief Electoral Officer takes a narrow interpretation of the law. This opens the door and effectively incentivizes a spate of frivolous and vexatious complaints from Ontarians who oppose the work of advocacy organizations, especially when we consider the level of subjectivity involved in interpreting the law. No Ontarian should have to rely on the uncertain discretion of a government officer to exercise their fundamental freedoms.

**1550**

At a time when the government is obviously trying to silence critics, it is incredibly concerning that they are

simultaneously increasing the influence of wealthy Ontarians by doubling individual contribution limits.

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Ms. Liz Stuart:** The limit of \$3,300 that could be donated to a party, constituency association, contestant and/or candidate under the proposed legislation may seem insignificant to the wealthiest Ontarians, but the average person would not be able to donate anywhere near this amount. This does not level the playing field, but rather puts additional power in the hands of those who already enjoy economic, social and political advantages. The issue is compounded by the fact that wealthy donors have the ability to enlist family members to contribute matching amounts. As a result, a single family could donate incredible sums of money and effectively bypass the intention of contribution limits.

Similarly, doubling the value of goods or services that can be provided to a party, constituency association, contestant and/or candidate without it being considered a contribution only makes it more likely that those who have sufficient resources will be able to gain access and favour within political institutions, while those who do not have the means to make individual contributions will be shut out.

**The Chair (Mr. Kaleed Rasheed):** One minute.

**Ms. Liz Stuart:** While the government's self-serving motives for this legislation might be understandable, they are completely unacceptable. It is outrageous that the government would attempt to shield itself from judgment by blatantly disrupting the democratic process. Especially during a time of crisis, when marginalized citizens have been disproportionately affected, it is unconscionable to stifle some Ontarians' voices while giving further advantage to the governing party and its patrons. A government's mandate is not to protect its chances in the next election. Leaders are entrusted to safeguard our most sacred rights and institutions.

To ensure a fair, transparent democratic process for all future provincial elections, Catholic teachers call on the Ford government to immediately withdraw the offending portions of Bill 254.

Thank you. I'm happy to take any questions.

**The Chair (Mr. Kaleed Rasheed):** Thank you very much. We still have one more presentation. After that, we'll go to questions and answers.

Next, I am going to request the Ontario Secondary School Teachers' Federation. You have seven minutes for your presentation. Please state your name for Hansard.

**Mr. Harvey Bischof:** Good afternoon. I'm Harvey Bischof, president of OSSTF/FEESO, representing over 60,000 education workers and teachers working across the four publicly funded education systems from JK to grade 12, in addition to six universities in Ontario. I'm pleased to present our submission with regard to the legislative changes proposed in Bill 254.

It can be said that the bill makes some minor improvements to Ontario's election laws—specifically, around voting equipment, vote counting equipment and advance polls—but we believe this bill is fundamentally flawed and represents an infringement of Ontarians' ability and

right to freely participate in elections. Although the bill has a number of proposals, including expanding advance voting days, the three most pertinent are as follows:

First, the government proposes to continue the per-vote subsidies for political parties until the end of 2024. On the whole, we agree with the principle of public financing of campaigns, and we believe the government should continue this practice beyond 2024.

The bill plans to increase the annual contribution rates for political parties, constituency associations, leadership candidates and election candidates from \$1,650 to \$3,300. This would obviously help any governing party, especially one with deep-pocketed business supporters. Although the other parties might benefit too, the total effect would not be anywhere near as positive as for Ontario's PCs. Despite the increase in contribution rates, this bill still maintains the ban on corporate and union donations, which, of course, continues to favour a party with well-heeled individual supporters. While OSSTF/FEESO would prefer as a union to be able to donate to political parties, the government's increase in contribution rates under the current regime favours them unfairly. The donation limits should not be increased.

The most jarring part of the bill that would affect our union and any other organization's involvement in any provincial pre-election period is the extension of the current six-month limitations on independent expenditures to one full year. Of course, this means that the present independent expenditure spending limit of \$637,200 in the six months before would be expanded to 12 months, which is deeply concerning.

At the same time, the government is tightening the rules around so-called "collusion" by independent expenditure organizations. The bill will now further limit the sharing of information, vendors or a common set of political contributors or donors with another independent expenditure organization that represents the same political cause. This means that OSSTF/FEESO would face even more onerous restrictions in working with like-minded partners on issues of mutual interest. For example, it is quite conceivable that a strike action by school board employees like last year's, with its "no cuts to education" messaging, would be ruled collusion if conducted within the one-year point of a call of a provincial election. This is a potentially serious affront to the collective bargaining rights of unions and their members.

The philosophy that buttresses this legislation is one that is unfortunately shared by more than one political party. The previous Liberal government brought in these independent expenditure restrictions originally, and the current PC government are now only expanding their scope. The overall theme for political parties seems to be that they believe elections belong to the parties themselves, and not the public. They see themselves as the only legitimate players in the election because they ultimately take responsibility for legislative action. To those parties, independent expenditure organizations have no responsibility or accountability to the general public. According to this line of thinking, if independent expenditure

organizations want to be involved in the election, they should form political parties and abide by the same rules.

This thinking is encapsulated by Attorney General Doug Downey's leadoff on debate of the bill: "We're finding a balance to make sure that third parties have an ability to articulate their position, but not drown out the important work that candidates of all stripes need to do." The Attorney General does not acknowledge that there are issues being neglected by political parties that independent expenditure organizations can highlight for public attention.

What this legislation reinforces is the misbegotten idea that the only issues that matter are the ones emphasized by political parties. "If it's not important to the political parties, then it's not important to the body politic," is the suggestion, and we reject that premise entirely.

In this vein, it has not been uncommon for parties to approach an election with a minimal platform overall and no policy planks whatsoever regarding publicly funded education, which of course falls within the ambit of OSSTF/FEESO. Under these circumstances, an independent expenditure organization should not be prevented by excessive legislative restrictions from making something as fundamental as education part of the public discourse.

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Mr. Harvey Bischof:** Political parties are not the sole legitimate actors in the political arena. All citizens and groups are entitled to have their opinions and views acknowledged and debated. Citizens should not be reduced to passive voters who only express their opinion at the ballot box once every four years; they must be allowed to engage continually in the political process and, by extension, the organizations and political advocacy groups that citizens belong to must also be allowed and encouraged to be part of the process. Anything less is a dereliction of a citizen's duty to be politically active and a full participant.

Finally, this government has not identified any pressing public interest to extend the limitations on independent expenditures. No emergency or imminent threat to our democracy has been noted. The government has not demonstrated any need to change election legislation and certainly has not articulated any threat that would require this new protection of our elections. We suggest instead, if a threat has been identified, that it immediately be made public.

**The Chair (Mr. Kaleed Rasheed):** One minute.

**Mr. Harvey Bischof:** Otherwise, we submit that the government withdraw this egregious legislation assaulting the democratic rights of Ontarians.

If this government or any other government wishes to introduce future legislation to protect Ontario's elections, we suggest that they call for an independent commission or panel to investigate the threats, and call on Ontario citizens to make submissions to correct any perceived or real threats. Only through an independent commission not directed by any political party or parties will Ontarians be able to construct election laws that enhance their democratic rights and the political process itself.

Thanks for your time.

**The Chair (Mr. Kaleed Rasheed):** Thank you very much to all three presenters.

We are now going to start the Q and A session, starting with the government side first. MPP McDonnell, please go ahead.

**Mr. Jim McDonnell:** First of all, I'd like to say I have members of my family in both the English Catholic and the public school system. They're teachers in those systems—so it was great to hear talk from both.

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A question to Liz Stuart: In 2016, the Ontario Legislature decided to ban corporate and union donations to political parties. I think, if you remember, it was a matter of the current Liberal government getting caught with embarrassing donations and they were forced to take action. Do you agree or disagree with that decision?

**Ms. Liz Stuart:** Clearly, we've said here today that we have significant issues with the legislation that's before us today, and quite frankly we had issues, as I'm sure you know, with the legislation that came before, which I also highlighted when I spoke.

We have issues with, when individual contributions are doubled—that that does not open the door for our most vulnerable in society to be a part. It opens the door and allows for those people who have the means to have a larger voice. We believe strongly that it is necessary for those who speak on their behalf to also be able to speak up on behalf of those who don't have their own monies to be able to make their own personal contributions and at the limit that this government is proposing.

We do believe that we have a place and that civil society has a place in speaking up during elections, that we have a place in part of the public discourse, and making sure that we can bring those stories forward—such important stories, not only of the 45,000 members that I represent, but the stories they bring forward from the over 600,000 students whom they serve every day and their families. We need to be part of that public discourse.

**Mr. Jim McDonnell:** It's interesting that you talk about the concern of certain people drowning out the voice of, I guess, the majority. When we look at the third-party advertising in this province, it dwarfs all other provinces and dwarfs the federal government third-party advertising. In fact, they've spent more money in the past than the political parties do. When there is so much money being spent by third parties, you would have to think that that is drowning out the voice of the people you've just mentioned in your first part.

I would like to get a sense of how much your organization spent on third-party advertising in the 2018 provincial election. Do you have an idea of that?

**Ms. Liz Stuart:** Actually, I'll turn that question over to our general secretary. Mr. Church may have more information to bring on that.

**Mr. David Church:** Thank you. OECTA was not a third party in the 2018 election.

**Mr. Jim McDonnell:** Well, that would be something that would be different from the previous election, before the tighter legislation came in.

We've seen in Ontario, for some reason, third-party advertising was so much more than our other provinces, more of an American-style type of election, which I think we've heard from many Ontarians that they—it was the point of getting out of hand.

Since these figures are not easily accessible or transparent to the voting public—are you willing or able to share your ideas on the limits of the \$600,000, or really \$700,000, within the year before the election? Is that something that is not workable going forward for parties or groups such as yours?

**Ms. Liz Stuart:** Well, I think when we talk about elections and we talk about the opportunity to bring forward messaging and to bring forward those oh-so-important stories, certainly, of our members that they wish us to share, it's not just about the financial hamstring that has been put in place, it's not just about the dollar amount; it's about the ability to actually have a true discourse, it's actually about the ability to bring forward concerns.

When you look at such a broad definition of “collusion”—as you know, I represent members who teach K to 12. There is overlap between ourselves and our affiliate partners. Is that collusion if we're all talking about high school class sizes—

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Ms. Liz Stuart:** —or if we're all talking about our kindergarten classrooms and the need to make sure that those class sizes are kept reasonable? The concern here is that muzzles are being placed on us if we can't communicate the same message because it's viewed as collusion.

The 12-month period: If we're in bargaining during that period—and we're actually living this right now, as an association—given what took place in 2017, when we were in bargaining and we had advertisements going forward, but because there was a by-election called in Ottawa, we were then stifled. We actually had to withdraw those advertisements out of concern that it would be seen as electioneering, when in actual fact it was messaging on something completely different because it was pertaining to our bargaining and our ability to get our message out.

**The Chair (Mr. Kaleed Rasheed):** One minute.

**Ms. Liz Stuart:** So we withdrew that, only to then find out that it wasn't seen to be in conflict, but by then the damage was already done. We had not been able to properly give out our messaging. That is the other conflict when you have 12 months—

**Mr. Jim McDonnell:** If I could just interrupt now, quickly—we see that in 2020, in the BC election, the first with the third-party advertising rules, third-party advertising sponsors spent a total of \$640,000. Why would your organization feel that a \$700,000 spending limit in the months leading up to your election would be not enough to get the message out?

**Ms. Liz Stuart:** I think, as I've explained, our biggest concern is around the length of time and the fact that now we have this 12-month period. Six months was problematic; 12 months is extremely problematic. Our concern is also around the collusion. What do we call—

**The Chair (Mr. Kaleed Rasheed):** Thank you very much—apologies to cut you off.

Next, we are going to the opposition side. MPP Natyshak, please go ahead.

**Mr. Taras Natyshak:** My first question is to Mr. Meagher. Thanks so much for your presentation.

You pointed to the importance of making distinctions between groups that could be considered as third-party advertisers or entities.

I wonder if you could tell me what you see the difference is between your organization or your representation through the United Way, those of the educator representatives who are on the call with you too, as non-profit organizations and labour unions, and an organization or entity that you may be familiar with called the Vaughan Working Families group. Could you tell me the difference, as you see it, between those two groups?

**Mr. Sean Meagher:** First of all, the organizations that I'm describing are established non-profits that have a clear mission to improve the well-being of members of the public and an established track record in doing that work. The Vaughan Working Families coalition, to my knowledge, had not done any direct service work with members of the community. It was only very recently established, so it didn't have the same track record of contribution.

The ruling from the Ontario Superior Court made it very clear that organizations that are engaged in delivering service in the public interest and supporting public benefit are ones that we want at the public policy table, and we have in front of us a piece of legislation that makes that harder to do, which will mean that families who are marginalized, people who have less access to resources are going to lose a partner in their efforts to shape public policy in a way that serves everyone collectively.

**Mr. Taras Natyshak:** Mr. Bischof, it's good to see you, as well, on the call.

Harvey, does your association have any experience with the consequences of harsh restrictions on third-party advertising?

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**Mr. Harvey Bischof:** We have concerns looking forward, more than experience with the harsh restrictions. As I noted, and Liz did too, in a collective bargaining environment where we speak on behalf of tens of thousands of people, the potential that we wouldn't be able to provide messaging around the reasons that we're taking the action that we are—when collective bargaining in the broader public sector has a political component, it has a public interest component and a public opinion component. A government's ability to stifle that speech is a massive infringement on collective bargaining rights. So we look ahead to that, we look ahead to the potential for—Liz noted it, and she and I didn't speak before this, so it wasn't a matter of collusion, but we're on the same page when it comes to the idea that both of our groups are going to have an interest in class sizes, for example. We would suddenly find ourselves restricted if that became a political topic, almost inevitably unable to speak about a matter that's critical to Ontario's families and Ontario's students, who will graduate into Ontario's economy and civic life.

So the legislation needs to be viewed as a package—it's not whether this financial restriction or that time restriction is appropriate; it's whether the [*inaudible*] unreasonably limits democratic participation. Democracy doesn't end at the ballot box, and we ought not to be restricted to this extent.

**Mr. Taras Natyshak:** Ms. Stuart, thank you so much for your testimony. I wrote down that you were clear and concise, and I truly appreciate that.

My question to you is—I think Mr. Bischof alluded to it: If your association, the Ontario English Catholic Teachers' Association, were to talk about no cuts to education, would that be construed as collusion through this legislation, in the context of the 12-month period that is being touted through this legislation?

**Ms. Liz Stuart:** Thank you, first of all, for the question.

I did try to be concise, although I was a little out of breath by the time I was finished.

I will say that is a huge concern for us, as Harvey also stated. The problem comes when we represent groups who work in the same environments. We represent and we speak on behalf of our members who work in those environments and who serve their students. So they're very similar environments.

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Ms. Liz Stuart:** Like I say, if we're talking about class size or we're talking about anything to do with education, like cuts to education—

**Mr. Taras Natyshak:** Ventilation in classrooms.

**Ms. Liz Stuart:** Yes, there's another good one.

**Mr. Taras Natyshak:** Social distancing.

**Ms. Liz Stuart:** Yes, all of those.

**Mr. Taras Natyshak:** Ms. Stuart, I have to cut you off, because the Chair has given me a two-minute warning.

Ms. Stuart, are you familiar with the term "blackout period" in the context of an election campaign?

**Ms. Liz Stuart:** Yes.

**Mr. Taras Natyshak:** It means that there is a period in which political parties cannot advertise, and it typically is the day of the election or the day before the election. So political parties have given themselves the entirety of the campaign, minus one day, to get their message out through political advertising. Your organization, if this legislation is passed, will have 12 months in which they cannot advertise their perspective on any given subject. Do you think that's fair?

**The Chair (Mr. Kaleed Rasheed):** One minute.

**Ms. Liz Stuart:** Absolutely not, especially when you know that the governing party—whoever's in government—has no restriction on how much money they decide to expend, using the public purse, to highlight government programs and things that they've put in place. There are no limitations on the governing party, but there will be strict limitations on everybody else. I fail to see how that levels the playing field.

**Mr. Taras Natyshak:** I would submit and argue that the Premier has already embarked on the campaign. We're seeing him do a campaign-style tour, a victory lap, around the province already, and that is, of course, on the public

dime. He has had no qualms about increasing the public per-vote subsidy. We don't mind that either. We think it's a fair approach. But this is at the same time that the Premier bemoans socialism, when, in fact, he is the biggest beneficiary of socialism through this legislation. He's upping the per-vote subsidy that taxpayers will be funding his campaign with, and yet, he doesn't see it fit or fair to—

**The Chair (Mr. Kaleed Rasheed):** Thank you very much—my apologies to cut you off.

Now we are going to go to the government side. MPP Park, please go ahead.

**Ms. Lindsey Park:** I'm going to direct my first couple of questions to Harvey Bischof of OSSTF.

Harvey, help me understand. We've heard concern from your organization that \$700,000 over a 12-month period would not be enough money to get your message out, potentially. Can you describe for the committee, so we can wrap our heads around it, what kind of expenses you would incur that would approach that threshold?

**Mr. Harvey Bischof:** Sure, but let's be clear, first of all, that that \$700,000 may not accrue to us individually; it may accrue to any of the groups that have anything to say about education. Our share of that not-quite-\$700,000 may well be significantly reduced way below that. If we're speaking about education issues, there are four education-affiliated unions, plus another large union in CUPE, plus others who have a say. So it could be divided amongst those. If we're speaking about labour issues—well, you can see how small the slice of the pie could get. I think that's the fundamental answer to the question.

After that, advertising is expensive. That's not my expertise. We have people in my office who can tell you how much a full page in the Toronto Star costs. But it's expensive. In order to get a significant, sufficient portion of public attention, it simply costs money.

**Ms. Lindsey Park:** I don't know. Do you have anyone on the call with you who could break down what some of those costs might be? I know—I can speak as a political candidate, and in speaking to other political candidates of all parties—the cost of advertising has actually gone down rather than up, with the use of social media. You can actually get quite a lot of reach with not that much of an investment. That's why I'm curious. I truly just want to understand why you think \$700,000 is not enough to reach a vast majority of the Ontario electorate.

**Mr. Harvey Bischof:** I'd be similarly curious why those kinds of restrictions wouldn't apply to government during that same time. What I haven't heard is the government saying that it's going to restrict itself to social media because it's a sufficient communication channel, that it can do all of the public work that it wants to through Twitter.

I'll go back to what I said before: It's a package. It's about balance and about fairness. I don't think either of those things are achieved through what has been put forward.

**Ms. Lindsey Park:** Maybe we can look to the last few provincial elections. Would you have any sense, in the year before the writ period, how much money in the 2011

and 2014 election campaigns your organization would have spent on advertising?

**Mr. Harvey Bischof:** No, I certainly don't have those numbers in front of me. I would say any of our spending complied fully with regulations that were present at that time, were appropriately public and are available to be looked up.

**The Chair (Mr. Kaleed Rasheed):** Any further questions from the government side? No? Seeing none, we are now going to move to the opposition side.

MPP Mantha, please go ahead.

**Mr. Michael Mantha:** I think I'm going to go to all three of the panellists, one at a time, if you could answer this question.

In the previous deputations that were here, we heard some pretty significant comments to the effect that this is dangerous to free speech—harsh restrictions, and the timely silencing of criticism. We even heard someone say that, basically, this was a gag order that was being put on organizations to express their message.

I'm looking at all three of you and hoping that one of you has a crystal ball. You're going to have to forecast what is going to be said six months from now to prepare for the next 12 months, because you're going to lose that entire ability to use your democratic right of free speech to express your concerns for all of your organizations.

I'll go to Mr. Bischof first. Can you help me out in regard to what kind of crystal ball you have that would be able to potentially bring the message of your members' concerns six months from now, in the last 12 months going into the election?

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**Mr. Harvey Bischof:** Thanks for the question.

I have a notoriously cloudy crystal ball. It would not give us any significant insight into what might happen six months or 12 months from now. I would urge nobody, including my own members and staff within my office, to rely on my predictions for the future in that regard. And doesn't that just go to a big part of the problem, in terms of what issues may arise and the extent to which we may have already been restricted by having spent the money earlier in some fashion?

**Mr. Michael Mantha:** Liz, I want to go to you now. I want to ask you the same question that was asked of Harvey a little bit earlier.

Does your association have any experience with the consequences of harsh restrictions with third-party advertising?

**Ms. Liz Stuart:** Thank you for the question.

Yes, we do. As I said, in the last round of provincial contract negotiations, it was somewhat contentious. There was a lot of misinformation being spread, certainly from the government, and there was a real need, we believed, to educate Ontarians about the issues we were negotiating.

Then, all of a sudden, a by-election was called in Ottawa, and that brought scrutiny to a radio advertisement that we had already contracted for and were airing across the province, which, unfortunately, included the Ottawa area. We decided to pull the advertisement, and while the

government remained completely unimpeded in its ability to air its perspective, we were stifled. The Chief Electoral Officer determined that our advertisement actually complied with the Election Finances Act, but that damage had already been done.

That type of situation will only be far more likely under the proposed amendment, where we will be stifled from sharing important information, but the government will have no such restrictions on its ability. That is clearly unfair.

**Mr. Michael Mantha:** Thank you both for that answer.

I want to finish off with Sean. This legislation that is being discussed today, which is being challenged, which has been found to be unconstitutional in BC—Sean, do you see an infringement on your abilities to bring your message to the public? Do you see a restriction in regard to your freedom of expression, potentially? And how is that going to impact you going forward?

**Mr. Sean Meagher:** Yes, I'd have to say that we have really deep concerns.

I have an advantage over Mr. Bischof in that I don't have to use a crystal ball, because I can look backwards at past experience, where both the courts and the government of Canada recognized that the legislation that was in place at the time was restricting legitimate and valuable public contributions and public policy contributions in the not-for-profit sector, and struck down the existing law because it was impeding useful contributions from the sector.

I can't speak to the intentions of the drafters, but I can speak to the condition of the bill. It is not well-crafted legislation. The collusion clause, in particular, is unclear. It's rife with unintended consequences.

For something as important as democratic speech, I think we owe it to ourselves and to the public to make sure that the restrictions that we bring forward are very, very carefully thought out and that we avoid any unintended consequences on matters—

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Mr. Sean Meagher:** —part of our democracy.

**Mr. Michael Mantha:** I've got one last question for all three of you, and just a basic yes-or-no answer would suffice.

I want to go back to my opening comments. We've heard individuals, earlier, testify that these are dangerous to our free speech—where we see some harsh restrictions—and that this piece of legislation is a timely silencing of criticism of potential actions and initiatives that this government will bring forward.

Do you agree with that statement?

Sean, you go first.

**Mr. Sean Meagher:** I can't speak to the intentions of the drafters of it. But I can say, as it's written right now, I know from looking at my members that many of them will refrain from participating and contributing to the electoral process in ways that would benefit—

**The Chair (Mr. Kaleed Rasheed):** One minute.

**Mr. Sean Meagher:** —especially marginalized people in our province.

**Mr. Michael Mantha:** How about you, Harvey?

**Mr. Harvey Bischof:** Yes, I agree with those comments.

**Mr. Michael Mantha:** How about you, Liz?

**Ms. Liz Stuart:** Yes, I do. I think this will severely curtail important public discourse.

**Mr. Michael Mantha:** Thank you very much for taking the time to come in and give your comments today.

**The Chair (Mr. Kaleed Rasheed):** Thank you to our presenters for this afternoon's 3 p.m. time slot. We appreciate you all joining.

MR. GUY GIORNO

LONDON AND DISTRICT

LABOUR COUNCIL

**The Chair (Mr. Kaleed Rasheed):** Next, we are now going into our 4 p.m. time slot. Welcome to both presenters for the 4 p.m. time slot. Each presenter will have seven minutes for their presentation, and after we have heard from our two presenters, we will have 39 minutes of questioning between government and opposition, give or take.

Mr. Giorno, please go ahead with your presentation. I will be giving a two-minute and a one-minute warning. Thank you.

**Mr. Guy Giorno:** Thank you, Chair. My name is Guy Giorno. I'm a partner in the Fasken law firm, but I appear today in a personal capacity. I don't speak for my law firm or any entity. My legal practice is devoted to government transparency, government ethics law and political law, including election and campaign finance law.

Many may know that I've also served as a chief of staff to a Premier of Ontario and a Prime Minister of Canada. I have led or held senior positions in national and provincial campaigns, and for 10 years now, at Carleton University, I have taught a master's-level course in the running of political campaigns. Four years ago, I left partisan politics in order to accept appointment as a municipal integrity commissioner; I'm currently that in about 30 municipalities.

There's a lot to like about Bill 254. I want that on the record before I focus on three areas of concern. They are third-party collusion, extending the subsidy, and administrative monetary penalties. All of my comments pertain to schedule 2 of the bill, which amends the Election Finances Act.

First, third-party collusion—key fact: Under the current act and under the bill, only third parties are liable for collusion; political parties aren't. This afternoon, when Mr. Essensa said he welcomed the tightened definition, he ran out of time before he could explain to you that you were defining a concept that is lopsided—tough on third parties, weak on the political parties that collude with them.

The bill tightens the definition to prevent two business groups or two environmental groups or two trade unions from working together and effectively combining their spending limits. That's fair, but the change doesn't address the larger problem of partisan players getting sympathetic

third parties to do their bidding. And let's be realistic: When an advocacy group takes out ads targeting a major party leader, at least one other major party stands to benefit.

This bill is unbalanced and doesn't address shenanigans between political parties and third parties. Where is the imbalance? I refer to subsection 14(3) of the bill, which would repeal and replace subsection 37.10.1(3) of the act. It's on page 6 of the printed copy. Clause (d) says two third parties can't share a common vendor, like the same pollster or the same ad agency. Fair enough—except the act currently says it's okay for a third party and a political party to use the same vendor. That's section 22.1 of the current act.

Chair, members should understand what this means. When a third party takes out ads targeting the leader of your party, it can be using the same pollster, the same strategic consultant and the same ad agency as your political opponent. Bill 254 won't stop that, but it will stop two labour groups from using the same printer.

Clause (e) says two third parties can't share a donor list. Again, fair enough—but nothing prevents a third party from using a political party's donor list. In fact, nothing prevents a third party and a political party from using the same call centre to make joint fundraising calls.

Even clause (c) is imbalanced, because it works only one way. Clause (c) makes it illegal for a third party to collude with a political party. It is not, however, illegal for a political party or its agents or representatives to collude with a third party.

**1630**

Second, the subsidies: I testified in 2016 why the per-vote subsidy was unnecessary and unprincipled; it still is. Mr. Ford was right in 2018 to fight to eliminate the subsidy. That promise made should be a promise kept.

The excuse of the COVID-19 pandemic doesn't hold water. Many ordinary people are suffering financially because of the pandemic. Unlike political parties, they don't have the luxury of going into the Legislature to change the law so they can collect more money. Further, there is no reason why a one-year pandemic would justify a three-year extension in the public subsidy to political parties.

Finally, and most importantly, the explanation assumes a COVID-19 impact on contributions, which the figures don't back up. Anyone can check the real-time disclosure figures on the Elections Ontario website. We use real-time because that's the only basis we have now to compare 2019 versus 2020. If we compare all the real-time donations to all the political parties, 2019 versus 2020, they were higher during the pandemic—\$8.3 million in real-time contributions in 2019, and \$9.6 million in 2020. The Green Party went up 24% in real-time contributions under COVID-19; NDP real-time donations are basically flat, off by \$3,000; the Liberal Party took in \$2.5 million more under COVID-19; in real-time donations, the PCs took in \$1.5 million less. But, overall, Ontarians gave more real-time political donations in 2020.

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Mr. Guy Giorno:** There is no COVID-19 justification to break the promise to end the per-vote subsidy, let alone increase it.

Finally, administrative monetary penalties: You've been told they bring the Ontario law in line with the federal practice. Actually, these are new federal provisions that have never been used. So MPPs are being told they're following federal precedent when there is no federal precedent.

This is how the federal law works: The person who investigates you decides whether you did it and what the penalty is; if you don't like it, you get to go back to the same person to decide again. That's the model that you are being asked to emulate—only it's even less fair, if that is possible. Under federal law, the maximum administrative penalty is \$5,000; here, in this bill, \$100,000. Remember, the CEO told you he wanted this for minor infractions; \$100,000 is not minor.

**The Chair (Mr. Kaleed Rasheed):** One minute.

**Mr. Guy Giorno:** Under federal law, you get notice you're being investigated; here, no requirement for an investigation. A federal penalty requires belief on reasonable and probable grounds that there was a violation; here, the CEO needs to hold an opinion. That's what the law says—just an opinion. Federal law sets a limitation period, meaning the federal commissioner can only go so far back; here, no limitation period.

Every Ontarian who gets a traffic ticket has the right to a trial where the prosecution bears the burden of proof. The vast majority don't go to trial, but the right exists. Bill 254 says Elections Ontario, without even conducting an investigation, can form an opinion that your organization, your trade union, your business, your association did something wrong, order it to pay \$100,000, and then you bear the burden of changing their minds. And you can't go to court. The Chief Electoral Officer will get to be police, prosecutor, jury, sentencing judge and appeal court all rolled into one; except there's not necessarily an investigation, there's no trial, no right to a hearing, no right to counsel and no real appeal—

**The Chair (Mr. Kaleed Rasheed):** Thank you very much for your presentation—apologies to cut you off.

Next, I would request London and District Labour Council. You have seven minutes for your presentation, with a two-minute and one-minute warning. Please state your name, and you may present.

**Ms. Patti Dalton:** Greetings to the committee. My name is Patti Dalton. I thank you for this opportunity to present on Bill 254, on behalf of the London and District Labour Council, which represents thousands of members in both public and private sector unions in the London area.

I'm a secondary school teacher, a member of OSSTF, and in addition to my role as the London and District Labour Council president, I serve on the Ontario Federation of Labour provincial executive board as the labour council's vice-president.

I am deeply concerned about Bill 254, and I will state at the outset that it is my view that this bill is a threat to

unions, to basic principles of democracy and to the foundational rights of not just unions but many different community organizations in Ontario. I remind this committee that in Ontario and in Canada, our constitutional rights include the right to freedom of association and to free expression, and the right of unions to be free from undue government interference and repression. Arguably, with the overriding of collective agreements by the current government in a previous bill, that has already been the case, but today I will focus on Bill 254, of course.

Firstly, the proposed bill would unreasonably lengthen the non-election period to a year, which is unprecedented across Canada. Ontario already has the most restrictions for third-party advertising in the six-month pre-election period as well as an overly broad definition of political advertising. This doubling of the pre-election period will mean that during the time when the Legislature is still in session, the ability of unions to engage with their members and communities on key issues will be curtailed, and it will be more difficult to hold the government to account.

It is important to note that similar legislation in British Columbia has been ruled unconstitutional. I also note that we have seen governments attempting to limit union rights through these kinds of legislative measures, with the full knowledge that it often takes years to overturn them. Also, this government has made timelines so short that broad democratic and public input are very limited.

Bill 254 poses difficulties in determining what constitutes so-called issue-based advertising and how issues can be defined as necessarily connected with a party or a leader. Particularly in the context of this pandemic, there are many issues that have been a common focus of unions, community organizations and political parties in Ontario, such as paid sick leave and emergency leave, health and safety issues like small class sizes in schools, and increased funding for a public health care system that is reeling from the crisis of the pandemic. I must note here that the decades-long underfunding of health care and of all public services in Ontario has had serious consequences. Does the current government not want these most crucial issues to be aired leading into the next election?

The next item from the bill I will address is the entire section on so-called collusion. I have to say that as an English teacher who understands subtext, I was, quite frankly, in disbelief that this government would be so bold as to attempt this kind of attack on union and citizen rights in a democracy. The bill does not define what is meant by the phrase “sharing information” or exactly what kind of information and unfairly singles out third parties that share a common advocacy cause or goal, which is not further defined. In essence, this puts a chill on the democratic practices of unions and progressive organizations. These vague and imprecise references to sharing information in the bill could be used to limit coordinated bargaining efforts between unions or the ability to share research and strategize collectively on many issues of mutual concern. These activities, which are part of the DNA of the labour movement and foundational to any democracy, could potentially be deemed collusion. I find the use of collusion

in Bill 254 to be particularly troubling and a threat to the routine democratic practices of unions and other organizations.

Further, there is a clear strategy to provide financial advantages to the Conservative Party, but previous speakers have addressed that. I'll continue.

We have seen in this global era that authoritarian governments seek to entrench their power by changing the rules of engagement in the political process. A common approach is to change the electoral system in laws so that the opposition is at a disadvantage and the playing field is tilted in favour of the incumbent government. In my view, we are on the precipice of just such a shift in Ontario.

Finally, I think that my perspective as a long-time grassroots activist, union leader and as a teacher are relevant. In my master's of education thesis, my research focused on the powerful grassroots coalitions that formed to oppose the Conservative Harris government.

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Ms. Patti Dalton:** It was a powerful time for grassroots activism in Ontario that included significant coalitions between unions and community organizations and historic protests, including the days of action. So I know, and I think that all of you do too, the collective power that unions have, particularly when we form broad coalitions.

In closing, this past Saturday, March 27, the Ontario Federation of Labour held a historic education assembly involving the participation of every union under the education umbrella as well as community and parent activists. We heard many stories from voices across unions and communities about the risks to public education, workers' health and safety and many different issues, including the multiple challenges right now for families.

Bill 254 is an alarm bell and a call-out to the broader labour movement, and I can assure you that we will be mobilizing with ongoing actions and events. We will defend public education and democracy. We will stand up to unfair election practices in legislation.

**The Chair (Mr. Kaleed Rasheed):** One minute.

1640

**Ms. Patti Dalton:** I remind this committee and this government that we are in the glare of history as we grapple with a global pandemic, the likes of which we've never seen. We are watching intently what you, the government, are doing and we will hold you accountable. We will not be intimidated. We will continue to fight collectively for the health and safety of our members and communities. We will collaborate and mobilize with like-minded provincial and community organizations and as a labour movement to ensure a just recovery from this pandemic. We will not let threats about so-called collusion stop us. We will fight for the core principles of unions and democracy.

I once again thank this committee for the opportunity to make the presentation and to be here today.

**The Chair (Mr. Kaleed Rasheed):** Thank you very much. We are now going to start our Q and A session. This time, we are going to start with the opposition. MPP Natyshak, please go ahead.

**Mr. Taras Natyshak:** Thank you to our two presenters. Mr. Giorno, thank you very much for appearing before us. I appreciate you taking the time to talk to us today.

You referenced a campaign promise that Premier Ford made to eliminate the per-vote subsidy for political parties and for candidates. Was that a broken campaign promise?

**Mr. Guy Giorno:** The bill hasn't passed yet.

**Mr. Taras Natyshak:** With the position of this bill and the tabling of this bill and the fact the government has a majority, they will indeed pass this bill because of the virtue of their majority. So, should it pass, at that moment would you consider it a broken campaign promise?

**Mr. Guy Giorno:** I wouldn't be here if I thought it was a pointless exercise to be at committee trying to encourage all members of the Legislature to adhere to the—

**Mr. Taras Natyshak:** You would know what a broken campaign promise means and what a broken campaign promise doesn't look like. Is it a broken campaign promise?

**Mr. Guy Giorno:** I'm here to say that I think that's a promise that should be kept, Chair.

**Mr. Taras Natyshak:** Did the Premier—then-candidate as Premier—lie to the people of Ontario in that he had mentioned, he had said and stated, unequivocally, that he would get rid of it, and now he is part of the government—

**The Chair (Mr. Kaleed Rasheed):** Sorry, MPP Natyshak; I would like you to please withdraw the comment where you said—

**Mr. Taras Natyshak:** I'm not stating that the Premier lied, I'm asking if the—

**The Chair (Mr. Kaleed Rasheed):** But you are pointing towards that the Premier—the word you used is “lied,” so—

**Mr. Taras Natyshak:** I'm asking if Mr. Giorno thinks that it was a lie that the Premier said one thing and did another. I'm not saying whether the Premier lied or not; I don't know. I'm asking—

**The Chair (Mr. Kaleed Rasheed):** If you can just reword your sentence, that would be great.

**Mr. Taras Natyshak:** Chair, we're not in the chamber, and I believe that the question is in order. If you want to check with the Clerk—I can ask Mr. Giorno if, in his opinion, the Premier lied.

**The Chair (Mr. Kaleed Rasheed):** MPP Natyshak, the same rules apply as in the chamber, so I would request you to please withdraw.

**Mr. Taras Natyshak:** I did not tell the Premier that he lied, Chair. I'm not stating that the Premier lied. I'm asking whether he did or not—

**The Chair (Mr. Kaleed Rasheed):** But that's exactly what—

**Mr. Taras Natyshak:** —but whether the opinion of Mr. Giorno is that there was a lie.

**The Chair (Mr. Kaleed Rasheed):** MPP Natyshak, I'm going to request you one more time, very politely, to please withdraw your comment.

**Mr. Taras Natyshak:** So we'll let the previous comments of Mr. Giorno stand—that he believes it's a

campaign promise that should have been kept and that isn't kept. That's okay with me.

**The Chair (Mr. Kaleed Rasheed):** As long as you're rewording, that's okay. You're good to go.

**Mr. Taras Natyshak:** Yes, I think I've made the point. I'll move to Ms. Dalton.

Hi, Patti. It's great to see you. Thank you so much for taking the time to appear before us today. Thanks for all of your work and advocacy on behalf of the working people of London and the labour council there.

Patti, we've seen some pretty egregious stuff throughout the years from various governments, whether it be the Liberals getting caught with their hands in the cookie jar and \$10,000-a-plate donations in which the initial 2016 legislation that reformed the Election Act came to be—how do you think this measures up with some of the games that the Liberals played back in the day when they were taking advantage of cash-for-access and making sure that they were able to acquire as much financial support as they possibly could from big-ticket donors?

**Ms. Patti Dalton:** Thanks very much, Taras. That's a pretty open-ended, broad question.

I just want to go back to my comments about authoritarian governments seeking to entrench their power by changing the rules of engagement in the political process, because I think that's what we're clearly seeing with Bill 254. I think it's clearly a move to give themselves many different kinds of advantages and to subsequently stack the deck against opposition such as unions in the labour movement—as well as this collusion piece, which, as I said, I find deeply, deeply troubling.

Again, a lot of the key terms in this bill are not clearly defined, but on the collusion piece—as I said, it is part of our normal, many-years-long democratic practices as unions and working with many progressive organizations and community groups together, and so I find that piece on so-called collusion very, very troubling. I think it's an attempt to limit the organizational power of unions and grassroots coalitions and, as I mentioned in my closing comments, we will not put up with it. This is an alarm bell and a call out to the broader labour movement, and we will be mobilizing on it.

Thanks for the question, Taras.

**Mr. Taras Natyshak:** The London and District Labour Council, I'm certain, has representation from teachers' unions. Just before your testimony, we had OSSTF and OECTA here.

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Mr. Taras Natyshak:** They're concerned that they're not going to be able to tell the story, outside of 12 months prior to an election, about what the conditions of education are and were pre-pandemic, post-pandemic and during the pandemic. How detrimental do you think that will be to families, students and those in our communities to understanding what the effects of this government's policies have been on the state of education in the province, if they are in fact muzzled 12 months in advance of an election?

**Ms. Patti Dalton:** First of all, I think muzzling unions and communities is unacceptable in a democracy. We will not be silenced, and we will not be intimidated.

I can tell you, because I would like everybody to know in this session, that I am currently a teacher, and I'm a teacher of many years. Further, I mentioned my master's thesis research.

**The Chair (Mr. Kaleed Rasheed):** One minute.

**Ms. Patti Dalton:** I can tell you that we will make sure that the broader public understands. Of course, parents are the broader public. Students and communities are the broader public. We know the disaster that has ensued in public education and the unilateral and terrible decisions that this government has made in education, and I assure you, we will get that message out, Taras.

**Mr. Taras Natyshak:** Do you think that, ultimately, this bill will be challenged legally, just as the Liberals' previous bill was when it condensed the period to six months for third-party participation?

**Ms. Patti Dalton:** Yes, and I am already aware that OEFTA is taking a constitutional challenge forward. As I also mentioned in my comments, the concern is that governments have been using this kind of strategy—

**The Chair (Mr. Kaleed Rasheed):** Thank you very much—and apologies to cut you off.

Next is the government side. MPP Miller, please go ahead.

1650

**Mr. Norman Miller:** I have some questions for Mr. Giorno. It's nice to see you, Mr. Giorno.

With regard to third-party spending, Ontario is an outlier, really, in the country. Third-party spending is millions of dollars, not thousands, in Ontario. I believe it was over \$4 million in the 2018 election. Of all, I guess, just getting your thoughts on that issue. I think there are some restrictions that have been placed by previous governments and other restrictions that are in this bill. Can I get your thoughts on that, please?

**Mr. Guy Giorno:** Thank you, Chair, to the member for that question.

I didn't really address the third-party limits specifically in my remarks. I will note that the laws in various jurisdictions and here in Ontario either do or they don't deal with issue advertising differently than advertising that names a party or a leader, pro or con. Federally and in a few other jurisdictions, there's a distinction, which is that during an election campaign, you can't talk about issues or you can't name the party leaders. But federally, outside the election period—so the pre-election period—you're free to talk about issues, about climate action, religious freedom, poverty, whatever, as long as you don't name them.

So I do note that Ontario is following the approach of those provinces that lump it all in together. That's actually a policy choice, but it does have implications for speech, because it's one thing 12 months out to, say, denounce Doug Ford, denounce Andrea Horwath, denounce Steven Del Duca; it's another thing to say, 12 months out, "I'm concerned about child poverty." That's being thrown into the mix—in a few other provinces, as well, but not federally, if you like to use the federal example, which I've heard cited in support of Bill 254.

**Mr. Norman Miller:** In terms of the amount of money, it's still—an individual union, for example, using that—prior to a year before the election, they can spend unlimited amounts of money with no restriction, and then in the year leading up to and including an election, it's over \$700,000—I believe it's \$600,000 adjusted for inflation—and then over \$100,000 in the actual writ period. It seems to me, for an individual union, that's a lot of money to be able to do a lot of communication, particularly nowadays when you can use social media etc. which is not necessarily that expensive. I would think that you can do an awful lot of communicating—each individual union, of which there are many, and other groups spend that sort of money. That's a lot of messages getting out there.

**Mr. Guy Giorno:** Chair, that's a fair point, but it's important to note that when we talk about third parties, we're talking about a whole broad range. We're talking about everything from individuals—individuals have to register if they spend, according to the act—and trade unions. Also, we're talking about a lot of groups that might be focused on an entire issue, like climate action, like animal welfare, like the relief of poverty, like religious freedom. So it's one thing to say, well, a trade union talking about a particular issue—but it's another thing to tell a group, whose entire *raison d'être* is to talk about an issue, that it's now restricted for those 12 months. The law's broad strokes treat them all the same.

**Mr. Norman Miller:** I assume changes like going to 10 advance poll days—I'd assume you'd be fine with that, giving more flexibility, particularly in the era of COVID-19, to spread people out and give more people an opportunity to vote?

**Mr. Guy Giorno:** Yes. It's the nature of these things, Chair, that in my seven minutes I focused on the things that I thought should be changed. Obviously, there are a lot of things in the bill that I think are positive.

**Mr. Norman Miller:** Basically, technology is changing every election. We just saw a bit of a fiasco in Newfoundland and Labrador in their election. So this advisory committee made up of representatives of all parties and experts to allow the Chief Electoral Officer to change technologies at different elections—I assume that is something that you would think is okay?

**Mr. Guy Giorno:** Yes.

**Mr. Norman Miller:** You did raise a question of AMPs, administrative monetary penalties. From what I understand, it's very, very seldom that the actual Attorney General goes through the court process with infractions, whether it be exceeding a spending limit or whatever other infraction there might be. From what I understand, the point of these AMPs is to give the Chief Electoral Officer the power to enforce the rules without having to involve the courts, especially when, I think—and you can correct me if I'm wrong—there has been very little actual prosecution of broken rules through the court system. The idea is that you would be able to have more enforcement of the rules by the application of these administrative monetary penalties.

**Mr. Guy Giorno:** Chair, I know time is tight, so I'll try to address—

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Mr. Guy Giorno:** —the member's question really quickly.

I understand the efficiency argument, but the reality is that every parking ticket is—in theory, you could go to court and force the prosecution to prove their case—or a speeding ticket. We don't have the courts overwhelmed with parking tickets and speeding tickets, because most people don't go to trial, but we still have that right to do that.

I understand the Chief Electoral Officer asked for this as an alternative in minor cases. I don't think he ever—I'm pretty sure, because I look at his reports. He never asked for \$100,000 fining ability.

And to be honest, Chair—to the member's question—if efficiency is the issue, we could do what we do with traffic tickets. Instead of this—no due process, no hearing, no rights, no appeal—we could give the CEO the power to issue tickets. If people think they're fair, they pay the fine, and if they don't, they would have their day in court, which—for over \$100,000, I certainly think most Ontarians would want their day in court.

**The Chair (Mr. Kaleed Rasheed):** One minute.

**Mr. Norman Miller:** Of course, we've done away and the past government did away with union and corporate donations to political parties—so it's basically just personal donations now. The proposal in this legislation is to go from—I believe it's around \$1,600 to \$3,100, which puts Ontario in the middle of most of the provinces. Obviously, there are a few that have no limits, and there are a few that have higher limits, and some have lower ones. Your thoughts on that?

**Mr. Guy Giorno:** I don't oppose changes in the limits.

**Mr. Norman Miller:** Thanks for coming before the committee.

**The Chair (Mr. Kaleed Rasheed):** We are now going to the opposition side. MPP Mantha.

**Mr. Michael Mantha:** I want to start with Patti.

Hi, Patti. How many of your members—through the labour council or teachers and community members—walked up to you and said, “Listen, Patti. You're our representative from our labour council. We want you to bring a message forward. We want to make sure that the campaign donations are increased. That is the priority that we have right now, and we absolutely want you to advocate for that”? How many of your members actually came up to you and said that?

**Ms. Patti Dalton:** I can assure you, absolutely none. We do know that an increase to individual donations does give the advantage to the Conservative government because—not to stereotype, but we know that many wealthy Ontarians do support the Conservatives, so as I said, this tilts the playing field. This is not an issue for any of our members. They have many, many critical life-and-death issues, health and safety issues, to deal with.

**Mr. Michael Mantha:** So none of them came up to you and said, “Patti, giving \$1,600 is just not enough, dammit. I want to make sure that I'm able to give more. I want to

give \$3,300”? I'm surprised. None of them came up to you and said this?

**Ms. Patti Dalton:** Of course not. Most working people would not, especially under the conditions in this pandemic. We know that a lot of people have been laid off or are underemployed and/or precariously employed. They couldn't afford those kinds of donations to a political party.

**Mr. Michael Mantha:** So I take it that many of your members are not in that 1%—where this particular piece of legislation is looking to benefit them?

**Ms. Patti Dalton:** I totally agree with you.

**Mr. Michael Mantha:** I want to go to Guy.

Guy, I know you spent a lot of time talking about the penalties portion—the fact of how those penalties are going to be exposed. I really want you to walk us through it, because I was enjoying your explanation of it. I want you to walk us through what that investigation would look like, what the imposition of those penalties would look like, and what the defence would look like. But here's the catch: I want you to explain it on behalf of an organization. The organization might be parents who are from the Ontario Autism Coalition. Most of them are not red, are not blue, are not orange, are not green, are not purple, are not yellow—are nothing. All they are are concerned parents who are trying to advocate as best as they can for the well-being of their children. If they are deemed to be colluding—which is obviously, from what I'm seeing in this bill, parents talking to each other, individuals sharing resources from different parts of this province—what would that investigation, penalty and defence look like?

1700

**Mr. Guy Giorno:** One would hope, but it's not required, that the organization would receive a phone call or a letter from Elections Ontario indicating that there has been either a complaint or self-initiated—and ask for a chance to explain yourself.

This is something I notice in my area of practice a lot: A lot of people don't distinguish between the government that helps you and the government that regulates you and can fine you. So a lot of people, when they get a phone call from the government, start talking and answering and emailing. Quite commonly, what will happen as a result of that: They have ended up saying things that they didn't really realize or that they should, or different things than a lawyer would have advised them to say. They end up, next step, probably getting—and this is with the new law—an official notice saying that the Chief Electoral Officer is of the opinion that their organization has contravened a section of the act, including the third-party spending limit provisions.

Then, they would have to go to the Chief Electoral Officer, bear the burden of proof—again, when we go to court for a traffic ticket, parking ticket, whatever, the prosecution has to prove its case. If the prosecution doesn't prove its case, people are acquitted. In this case, the Chief Electoral Officer will have already written a letter saying, “I think you did it, so you've got to convince

me otherwise,” and that organization would have to, in writing. There would be no hearing, no lawyer, no ability to call witnesses to convince the Chief Electoral Officer that his initial opinion was wrong.

Trust me, as a lawyer who deals with administrative proceedings a lot, I can tell you that convincing somebody who has already made a decision the first time to change the decision is no small task—

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Mr. Guy Giorno:** And that would be the end of it. After, if the decision was upheld, the fine—which, for an entity, could be up to \$100,000—there would be no appeal. There would be no right to go to court. A judicial review could be sought on very restrictive grounds, and the organization would have to pay. The Chief Electoral Officer would be able to go to court, enforce his order in court, seize the assets, the organization—do whatever.

**Mr. Michael Mantha:** Would you agree with the following statement: that this legislation is a timely way of silencing criticism of the potential government’s actions that may or may not be coming in the future?

**Mr. Guy Giorno:** Chair, that causes me to speculate on motives.

I will say that in the areas that I have described, including the administrative monetary penalties, I don’t think it is a bill that fits well with the rule of law. Let me say it that way.

**Mr. Michael Mantha:** You’ve basically answered my question. Thank you very much.

Patti, again—

**The Chair (Mr. Kaleed Rasheed):** One minute.

**Mr. Michael Mantha:** —would you agree with the statement that we’ve heard from earlier testimony from individuals: that this is dangerous to free speech, that these are extremely harsh restrictions, and that this legislation is timely legislation to silence criticism of the government?

**Ms. Patti Dalton:** Yes, I totally do. I noted our charter rights to freedom of expression, among other rights that we have. But yes, I think you’ve phrased it nicely there. I totally agree.

**The Chair (Mr. Kaleed Rasheed):** Now we’re going to move to the government side. MPP Oosterhoff.

**Mr. Sam Oosterhoff:** Thank you to those who are presenting today. I appreciate all your insights as well as the work that you’re doing in the various areas.

Patti, I know there were a couple of questions about whether you’ve had members come up to you with regard to contributions.

I’m just wondering: Have you had members also come up to you and ask that more than \$600,000 be spent?

**Ms. Patti Dalton:** Sorry; \$600,000 with respect to what?

**Mr. Sam Oosterhoff:** To political advertising in the lead-up to a campaign.

**Ms. Patti Dalton:** Well, first of all, let me take a step back on this, MPP Oosterhoff.

One of the comments that I made which is pertinent to your question is, did we actually have a reasonable

timeline? Also, given the crisis that we’re in in the pandemic and for workers and communities—we just had a provincial budget—did we have time to fully apprise our union members about this bill? No, we did not, so—

**Mr. Sam Oosterhoff:** No, I understand that. I guess—

**Ms. Patti Dalton:** So I really cannot answer your question on that. However—

**Mr. Sam Oosterhoff:** But you heard the question from my colleague—that you had no one come up to you and ask for the increase in the personal donation. Right?

**Ms. Patti Dalton:** Yes.

**Mr. Sam Oosterhoff:** So I’m just asking the exact same question—but if you’ve ever had anyone come to you and ask if more than \$600,000 could be spent in political advertising in the lead-up to a campaign.

**Ms. Patti Dalton:** Right. That’s a very narrow question, and I would connect that—because I can’t answer it, as narrow as it is. Again, I would connect that with the ability of unions and progressive organizations—especially if your government intends to extend the pre-election period to a year, which I think is totally unacceptable. It’s clearly meant to limit the scope of what we in the labour movement can do, leading up to an election, to hold your government to account.

**Mr. Sam Oosterhoff:** I’m going to take the answer to the question, then, to mean that you haven’t had any of your members come to ask if more than \$600,000 could be spent in the lead-up to a campaign. That’s how I’m going to understand that response—and I appreciate that.

I want to go back to some comments that you made a little bit earlier with regard to collusion. You mentioned that you had huge concerns with having any restrictions around collusion.

My question is, how much collusion do you think should be allowed to happen?

**Ms. Patti Dalton:** Well, first of all, MPP Oosterhoff, I am totally opposed to the use of the word “collusion.” That has many different negative associations. It is not collusion, in a democracy, for unions to work with one another. We are, after all, legally and formally affiliated with the Ontario Federation of Labour, with labour councils, with the Canadian Labour Congress in all our diversity as unions, so we are totally legally able to work together and to collaborate without it being defined in a very negative way as collusion. So I do not accept the term “collusion,” and I think this is one of the problems with the bill.

**Mr. Sam Oosterhoff:** So do you think there should be no prohibition on collusion in the bill, period?

**Ms. Patti Dalton:** I’m not going to answer your question, based on the use of the term “collusion.”

**Mr. Sam Oosterhoff:** So you don’t think there should be a prohibition on collusion?

**Ms. Patti Dalton:** You’re not going to put words in my mouth. I’ve spoken on your negative connotations with the word “collusion.”

We have the right to freedom of association. It is built into our labour councils, into the Ontario Federation of

Labour and into the Canadian Labour Congress. That is our legal right. That is my response.

**Mr. Sam Oosterhoff:** Would there be any limit to the amount that you believe third parties should be allowed to spend in the lead-up to a campaign?

**Ms. Patti Dalton:** I would say yes.

**Mr. Sam Oosterhoff:** Would you have an amount that you would think would be appropriate?

**Ms. Patti Dalton:** I actually do not because, organizationally, I've never handled that. That's my honest response. I'm a grassroots organizer.

1710

**Mr. Sam Oosterhoff:** I appreciate your presentation and your feedback.

Guy, I want to turn to you. I know you mentioned that you were speaking more about the aspects of the bill that you didn't necessarily appreciate as much as others. I'm wondering if you could talk a little bit about some of the pieces that you might have found more beneficial than some of the ones which you referenced.

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Mr. Guy Giorno:** Sure. I've only focused on the election finances side of the bill, schedule 2.

I think that responding to the request of the Integrity Commissioner for clarity on social media use, in schedule 4, is appropriate—although I think the Chief Electoral Officer said today that more could be done. Responding to his request, so we can actually have our democracy respected and elections conducted properly in the middle of a pandemic—I believe those are all appropriate. I think some of the cleanups, subject to the comments of the CEO, are appropriate.

So let's not throw the baby out with the bathwater. When you get seven minutes to talk—I addressed three things I think were particularly concerning from the other perspective.

**Mr. Sam Oosterhoff:** One of the other pieces that we've seen some other jurisdictions put in place—administrative monetary penalty frameworks to drive compliance with their respective elections legislation.

**The Chair (Mr. Kaleed Rasheed):** One minute.

**Mr. Sam Oosterhoff:** We've seen that recommendation come through.

Can you please explain what that work would mean, in practice, for ensuring elections integrity?

**Mr. Guy Giorno:** Well, nobody does it the way this bill has proposed. Federally, the maximum penalty is only \$5,000; here it's \$100,000. In Alberta and British Columbia, you've got an appeal. In Alberta, you can appeal to the Court of Queen's Bench; in BC, you can go to the Superior Court. We don't have any of that.

I think we've cherry-picked the most oppressive administrative monetary penalty provisions from various laws and put them together. Administrative monetary penalties existed in other places, including in Ontario.

I say what the CEO said: Minor—and \$100,000 or \$10,000 aren't minor—and giving people the option and the right to still go to court would be, I think, consistent with the more—

**The Chair (Mr. Kaleed Rasheed):** Thank you very much—apologies to cut you off.

Thank you to our 4 p.m. presenters.

## ONTARIO FEDERATION OF LABOUR

### UNIFOR

### CUPE ONTARIO

**The Chair (Mr. Kaleed Rasheed):** Now I am going to welcome our 5 p.m. time slot presenters.

Before I request the first presenter to present, I'm asking for consent that—because right now it's 5:15; it looks like we are going to go past 6 p.m. Are we okay to proceed past 6 p.m.?

**Interjection:** Yes, let's get it done.

**The Chair (Mr. Kaleed Rasheed):** Thank you very much for that.

Just before I request the first presenter, I want to let everyone know that each presenter will have seven minutes for their presentation. After we have heard from all three presenters, we will have questions from both government and opposition; there will be two rounds. The presenters will have seven minutes—and I am going to give a warning of two minutes and one minute during your presentations.

With that, I'm going to request the Ontario Federation of Labour to proceed. Please state your name for Hansard, then go ahead.

**Ms. Patty Coates:** Good afternoon. My name is Patty Coates. I am the president of the Ontario Federation of Labour, representing 54 unions and one million unionized workers across the province. I am joined by Christine Davies, OFL legal counsel.

The OFL has serious practical, policy and constitutional concerns with the government of Ontario's Bill 254, Protecting Ontario Elections Act. We urge the government to withdraw this bill, which is an unprecedented attack on the political expression of third parties, and which will restrict the ability of organizations to engage with citizens on issues of public policy importance. By doubling individual donation limits while targeting third parties, many of which are labour organizations and unions which advance the interests of working people, the bill favours the interests of wealthier Ontarians. The OFL is also concerned about the chilling effect this bill will have on speech that would hold the government to account on significant issues of public concern.

Our submission focuses on three notably objectionable components of the bill: lengthening the non-election period; unclear and unworkable rules regarding collusion; and doubling individual contribution limits, particularly in connection with restrictions placed on spending by third parties.

Lengthening the non-election period will make Ontario's already lengthy six-month non-election period exceptionally longer than in other Canadian jurisdictions. The current six-month non-election period, combined with a broad definition of political advertising, already makes

Ontario the most restrictive jurisdiction in the country for third-party political advertising. Importantly, this current regime is already the subject of an ongoing constitutional challenge.

Doubling the length of the regulated period prior to the writ, without any corresponding change to the definition of political advertising to permit issue-based expression, is unprecedented in Canada and constitutes an unheard-of attack on the political expression of third parties. The Supreme Court of Canada has repeatedly held that political expression is the single most important and protected type of expression and that third-party advertising is political expression. Whether it is partisan or issue-based, third-party advertising enriches the political discourse. Limits on spending restrict these important charter rights and must only do so in circumstances where they can be reasonably justified. To date, courts have not upheld restrictions on political advertising by third parties outside of election periods.

The OFL is also deeply concerned that the proposed bill will affect the ability of organizations to engage in public expression through advertising on broad matters of public interest. By doubling the non-election period, there will be a regulation of advertising while the Legislature is in session. This will restrict the ability of organizations to engage with citizens on issues of public policy importance. Considerations such as these led the BC Court of Appeal to declare very similar legislation to be unconstitutional.

The OFL and OFL affiliates appropriately engage in advertising which seeks to educate, influence public opinion, and persuade political parties to take positions to the interests of workers.

In the context of the COVID-19 pandemic, where all major political parties and their leaders have taken strong positions relating to issues such as paid sick days, schools and health care, there are many important matters of public interest that could be considered closely associated with a registered party or its leader. It is concerning that Bill 254 will affect the ability of organizations to appropriately engage in advertising that is political in nature but has nothing to do with elections. While the OFL strongly opposes a 12-month non-election period on constitutional and other public policy grounds, if the period is going to be extended, advertising relating to issues in the public interest that does not mention any leader or party should be excluded, as is the case federally.

Bill 254 also introduces unclear and unworkable rules that aim to target collusive activity but actually impose an unnecessary and vague restriction. This bill does not define what is meant by “third parties that share a common advocacy, cause or goal.” In provisions about sharing information, it does not define the term “information”—

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Ms. Patty Coates:** —and it addresses having a common vendor without an understanding of how a third party can be expected to know the identities of vendors of other third parties to ensure compliance with this provision. Given that the electoral fairness act already has provisions to target collusion, the OFL is concerned that

these vague restrictions will cause confusion for third parties and deter them from engaging in expressive activity for fear of being exposed to potentially significant fines and penalties, resulting in a chilling effect on their expression.

Finally, Bill 254 does not restrict the role of money in politics, but rather favours wealthy Ontarians. In the context of the pandemic, working people have borne the brunt of job losses and have even less money to consider contributing to political parties and candidates. In this context, the increase to individual donation limits only ensures that the interests of the wealthy will be heard—

**The Chair (Mr. Kaleed Rasheed):** One minute.

**Ms. Patty Coates:** —and privileged above the voices of working people.

It is clear that the changes proposed by Bill 254 are not necessary to promote electoral fairness. In fact, they undermine electoral fairness. For all of these reasons, the OFL demands that the government immediately withdraw Bill 254. Thank you.

1720

**The Chair (Mr. Kaleed Rasheed):** Thank you very much. Next, I'm going to request Unifor. You have seven minutes for your presentation, with a two-minute and a minute warning. Please go ahead. Introduce yourself for Hansard.

**Ms. Naureen Rizvi:** Good afternoon. I'm Naureen Rizvi, the Ontario regional director for Unifor. Unifor is the largest private sector trade union in Canada. We have over 160,000 members in Ontario alone, working in both the private and public sectors.

Unifor is deeply concerned about the potential impacts of Bill 254. This bill will silence democratic debate and dissenting political voices in Ontario.

I will start by describing Unifor's third-party activities, then my colleague Laura Johnson will outline our objections to this bill.

Unifor was formed in 2013 and has been a registered third party in both the 2014 and 2018 provincial elections. As a trade union, we're dedicated to representing the interests of our members both at the bargaining table and through political action. We are not a pop-up political organization.

Unifor represents members in all sectors of the Ontario economy, including front-line workers. The decisions and legislation passed by the government of the day have profound effects on the working lives of our members. We represent long-term-care workers whose salaries were capped by Bill 124 and who are crying out for adequate staffing and PPE. We represent retail workers, some of whom are paid minimum wage and who lack paid sick days. We represent gaming and hospitality workers—sectors that have been heavily regulated by the province. We represent paramedics, who are provincially regulated and who are OMERS members. We represent workers in manufacturing, like the auto plant workers and Bombardier workers, who have been advocating for government support and procurement.

Political advertising is just one significant way in which we advocate on our members' behalf. When we as a union publish election or political advertising, we're doing so on behalf of these members, who are profoundly political. We are communicating the messages that they have directed us to communicate through the union's democratic processes. We fund our advertising through our members' dues, spending it as they have asked us to, in order to communicate their priorities, policy preferences and political views to the public. Their political expression does not undermine electoral fairness; it enhances it.

Unifor does not object to third-party advertising restrictions in general. We are not supportive of unrestricted American-style third-party advertising. That said, Unifor is strongly of the view that any restrictions on political expression by third parties must be appropriate and proportionate. This bill does not hit that mark. It goes much too far and will unjustifiably silence dissenting political voices. It will muzzle our 160,000 members, who are also voters and your constituents.

I'll hand it off to Laura now.

**Ms. Laura Johnson:** Hello. My name is Laura Johnson. I'm a lawyer in Unifor's legal department.

I'll speak to you today about two central objections that Unifor has to Bill 254, and we'll speak to our other objections about the bill in our written submissions.

First, Unifor objects to the bill's extension of the regulated non-election period. As you have heard, the Election Finances Act already restricts third-party spending on political advertising to \$637,200 in a six-month period immediately before an election. This limitation is already a significant restriction on third-party political expression and is currently the subject of an ongoing charter challenge.

Clauses 1 and 2 of this bill propose to extend this restricted advertising period to 12 months before an election while retaining the same spending limit. This amendment will significantly restrict our ability to advertise on behalf of Unifor's members for an entire year prior to an election. This restricted period will necessarily include the release of a provincial budget as well as countless legislative proposals and amendments that will affect our members. This bill will hamstring trade unions like ours, not only from running partisan political advertising, but it will also restrict our ability to engage in issue-based political advertising that may have little or nothing to do with an election.

Frankly, our members are not interested in talking about an election right now. They are interested in talking about the fact that some of them lack paid sick days, that their health care workplaces are understaffed, and that many workers are still waiting to be vaccinated. This bill will restrict our ability to advertise about these issues as of May 4 of this year.

This bill, if passed, will be a clear breach of third parties' essential charter freedoms to engage in political speech. BC courts have struck down pre-election period advertising restrictions of 60 and 40 days respectively, finding that those limits did not minimally impair the

speech rights of third parties. If these significantly shorter limits on third-party speech violate the Charter of Rights and Freedoms, there is simply no chance this bill will survive constitutional scrutiny.

Our second objection to the bill is about the vague and over-broad anti-collusion provisions proposed in clause 14(3) of the bill.

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Ms. Laura Johnson:** Under the existing Election Finances Act, third parties are already prohibited from colluding with either political actors or other third parties. The amendments proposed in clause 14(3) would needlessly impose new, draconian restrictions on third parties that infringe on both their freedom of speech and their freedom of association.

This bill will deny third parties the right to use the same vendor as other third parties who share a common advocacy, cause or goal. The term "vendor" is not defined in either the bill or the act. This could mean that only one trade union may use a particular advertising agency, ad buyer, broadcaster or other media provider. It could mean that only one trade union could advertise on Facebook or on Google or on particular TV networks. Very simply, that is silencing.

This bill will also restrict third parties from sharing information or common contributors with other third parties. The bill does not provide any details about how that restriction will be administered or monitored.

**The Chair (Mr. Kaleed Rasheed):** One minute.

**Ms. Laura Johnson:** Courts, including the Supreme Court of Canada, have repeatedly held that the right to political expression and to associate for the purpose of participating and communicating during an election are at the heart of the values sought to be protected by sections 2(b) and (d) of the charter. Courts have repeatedly struck down third-party restrictions that interfere with these rights.

This proposed legislation has a scope far beyond what courts have already struck down. It constitutes a disproportionate and unjustifiable infringement of these vital, charter-protected freedoms. Unifor therefore strongly urges you to withdraw this bill.

Thank you for allowing me to speak today.

**The Chair (Mr. Kaleed Rasheed):** Thank you so much.

Next, we have CUPE Ontario. You have seven minutes for your presentation—with a two-minute and a one-minute warning. Please introduce yourself, and you may begin now.

**Mr. Fred Hahn:** My name is Fred Hahn. I'm the president of CUPE Ontario, representing 280,000 workers in virtually every community in the province. CUPE members provide the services that make Ontario work, from roads and park maintenance, to child care and elder care, to teaching in schools and universities, to paramedical services and welfare supports for the most vulnerable people in our province. We provide all public services that rely on public funding and support. Not one of the services our members provide can be separated from the political process.

Public services, the commitments our province makes to its residents, are always subject to decisions of municipal and provincial governments. As a union, we have a moral and legal obligation to represent our members' interests, both in terms of fighting for the services they rely on as Ontarians and in terms of their jobs and the services they provide. When there are attacks on these services, we defend them. When there are opportunities to expand these services, we campaign to expand them. There's nothing partisan about this activity. We do this work every day, every year, regardless of which party holds power at Queen's Park. But make no mistake, these are political issues.

These issues come up in every provincial election, and that's why we're worried about Bill 254. The bill doubles the length of the election period, vastly expands restrictions on speech and activity during the election period, and makes penalties more severe for those who are deemed to have violated those restrictions. The effect of all this, you must know, is that it will create a chill on legitimate and constitutionally protected speech and advocacy, making the public sphere a place of fear and confusion, threats and fines, rather than a place for robust debate amongst engaged residents—which I hope we can all agree is the goal of democratic society during times of an election.

It also impairs CUPE's ability to do our everyday, bread-and-butter work on behalf of our members, which has nothing to do with whether an election is in season or not. By broadening the definition of political collusion—a definition I have to believe is left deliberately vague in the bill for reasons we articulate in our written brief—the government makes potentially illegal the most basic activity of a union like CUPE, which is to advocate publicly for services that our members provide, simply because a political party may also be campaigning on those services. Of course, there will be times when any political party might share an interest with CUPE in expanding access to particular services, and there may be times when a party will support limiting or cutting that service. That's the prerogative of political parties as they set their platforms. It has nothing to do with CUPE's work.

It cannot be the case that our union's unchanging position in support of public services—one that is rooted in the very definition of our union—can be deemed variously legal or illegal by the day, depending on what position political parties have taken on their services.

1730

This is a government that has fashioned itself as a defender of free speech at colleges and universities, and yet here in the broader public sphere it's advocating for a bill that would roll back free speech for a whole range of civil organizations, like CUPE, that together represent the interests of millions of Ontarians.

As we argue in greater detail in our written submission, the bill contains a number of financial components that disempower lower-income Ontarians. These changes tilt the playing field even more dramatically in favour of wealthy Ontarians with disposable income and access to legal supports if they get lost in the arcane, confusing rules

in this bill. This is wrong. It's undemocratic. It's unconstitutional.

In some ways, the most important point to make is that Bill 254 is completely unnecessary. No one in Ontario is asking for these dramatic changes. It's kind of like a solution in search of a problem—when the people of Ontario have real problems right now that they're desperate for solutions to.

Ontarians want to know when their turn will come to be vaccinated and why Ontario's vaccination plan sees thousands of doses sitting in storage when so many vulnerable Ontarians just want to get a shot so they can hug their loved ones again.

They want to know why our province, heading into a third wave of the pandemic, still doesn't have hospital capacity to care for those sick with COVID-19.

They want to know when they'll be able to reschedule that surgery they've had to put off for over a year.

They want to know when they're going to be able to send their kids to school safely, not worrying about their health or worrying that the phone will ring and their family will be told that they have to isolate for 10 days. They want to know, if that does happen, or if they become sick themselves, that they'll be able to miss work without losing their income.

People want to know what their government is actually doing to end the horror show caused by for-profit corporations in long-term care and why seniors are having to wait more than four years to get the hands-on care they deserve.

They want to know why we're not targeting supports to racialized communities, where countless front-line workers continue to suffer disproportionately during COVID-19.

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Mr. Fred Hahn:** They want to understand why the Ontario government hasn't prioritized helping the most vulnerable by increasing social assistance rates and enhancing supports for people with disabilities during the largest health and economic crisis of our lifetime.

All of these things—top-of-mind, urgent priorities for the people of Ontario—this government refuses to deliver. But here we are, spending time discussing an elections bill that you've chosen to push through, that no one wants, and that makes the province less democratic and less fair for the same people who are begging for help right now.

As the president of CUPE Ontario, as an Ontarian myself, I have to object to the alarming nature of this bill that limits democracy, solves none of the problems we face, and actually makes the challenges we're dealing with in this crisis more difficult to tackle.

**The Chair (Mr. Kaleed Rasheed):** One minute.

**Mr. Fred Hahn:** I urge you to withdraw Bill 254 and to focus on the real needs of fellow Ontarians at this critical time. Thank you.

**The Chair (Mr. Kaleed Rasheed):** Thank you very much.

We are going to start the Q and A session with the government side first. MPP Piccini, please go ahead.

**Mr. David Piccini:** Thank you to all the presenters for taking the time to speak to the committee today. I greatly appreciate it.

My first question is to Patty.

Patty, thank you for your deposition earlier.

I'm just trying to get a sense—how much did your organization spend on advertising in the 2018 election?

**Ms. Patty Coates:** Thank you for the question.

What I have to say is that we follow the laws. We disclose that information to Elections Ontario, as required by the laws.

I'm going to tell you one quick story of where we're concerned with the laws. There was a by-election a little more than a year ago in Ottawa. We weren't going to be a third party, but because we were planning, and had planned way before the by-election, an action in Niagara Falls, on the other side of the province, at the PC policy convention, so that we could advertise about that particular event—and only about that event and about nothing else—we had to register as a third party. We were outraged that we had to do that. That action had nothing to do with what was happening in Ottawa. It had no influence on that particular by-election.

**Mr. David Piccini:** How much did you seek to spend in that by-election?

**Ms. Patty Coates:** We did not participate in the by-election at all. And again, I will tell you that we followed the rules and that we put our information into Elections Ontario, and it was accepted without any problems at all. That information was publicly available.

**Mr. David Piccini:** I understand the process. I'm just wondering if you can tell this committee today how much you spent in the 2018 election. Are you unaware or do you not have the numbers—

**Ms. Patty Coates:** Oh, no, I know what we spent; I'm absolutely aware. I will tell you that it was not near the limit. But, again, that is public information.

I will also tell you that there's a misunderstanding. We have to register as a third-party advertiser, but the dollars that are spent are not all spent on advertising. We have to do research; we have to talk to our members and talk to our affiliates. That takes time and money. We have to include all of our staff time within that. It's not all about advertising; it's about getting the information from our members, having those conversations and coming up with policies that we all agree on that are important to the workers in Ontario.

**Mr. David Piccini:** I listened intently to your initial deposition, and you said you think it's an important part "to influence public opinion."

What is a maximum that you think would be fair "to influence public opinion"?

**Ms. Patty Coates:** You mean in dollars?

**Mr. David Piccini:** Yes.

**Ms. Patty Coates:** Or in human services?

**Mr. David Piccini:** No, in dollars. Do you have a limit?

**Ms. Patty Coates:** I don't have a limit. But here's where the issue is. I believe that—

**Mr. David Piccini:** Okay, so there's no—

**Ms. Patty Coates:** I agree that there should be limits. I don't agree with the way the United States says there is no limit. I believe that there are to be limits. Where the issue—

**Mr. David Piccini:** Thank you, Patty. I just wanted to—

**Ms. Patty Coates:** Please let me finish.

Where the issue is, is that where the dollar amount was for six months, that same dollar amount is now for a full year—actually, it's 13 months, because it's a month prior to the fixed election. That's where we have the issue, and that's where our concern is.

**Mr. David Piccini:** Thanks, Patty. Sorry. I know these time frames are so limited. I just want to get to Fred.

Fred, I have a quick question for you. Previously—I think it was in 2016—you said before committee that you wanted a hard cap on individual contributions. Do you still hold that opinion?

**Mr. Fred Hahn:** Yes, but what this bill proposes, of course, is to increase the amount dramatically, so that people can give up to \$3,000 individually to a party, to a series of ridings, and then during an election increase the amount to \$9,000. Most average working Ontarians are never going to be able to afford \$9,000. Your bill also took out wording that required people to designate that they were actually giving this money themselves. So it is possible that corporations could now give money to their directors and direct their directors to give money to various political parties. That seems to be a complete reversal of the very idea that this kind of legislation was constructed to guard against in the first place.

So why did you remove that piece designating that when you make a contribution, you should have to clarify that it's your money?

**Mr. David Piccini:** May I ask a question? I find that interesting, because I'm not sure what to make—whether you hold that position or not. I know in the last few months, you were quoted as saying, "I hate election financing rules, because I wanted to give the maximum to Jill"—and I assume you meant Jill Andrew—"just like I wanted to give the maximum to Bhutilla"—and I assume you mean a wonderful colleague, Bhutilla Karpoche—

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Mr. David Piccini:** —"just like I wanted to give the maximum to Sara"—and I assume you meant Sara Singh—"and I live in Toronto Centre, where Suze Morrison got nominated, and I gave her a healthy donation, too." Can you explain what you meant by that?

**Mr. Fred Hahn:** Sure, as long as you could explain how you got into the Zoom meetings where you heard me say that—in a nomination meeting to the NDP.

What I meant to say about that is that there are so many amazing folks currently elected as MPPs for the NDP who I happen to know. Many of them were members of my union. You mentioned Sara Singh. She was a member of CUPE, as one example. And there is Jill. Being the first Black lesbian ever elected to sit in the Legislature, I think, is incredibly important, not just for the people of Toronto—St. Paul's, but for all of us in Ontario. So I was expressing what I believed, in a meeting that was a nomination

meeting—support for the folks who I have chosen to support, and to talk about why I thought their candidacy was important, and to inspire other people to give donations.  
1740

**The Chair (Mr. Kaleed Rasheed):** One minute.

**Mr. Fred Hahn:** None of that should ever be misconstrued as being against the policy and the position of my union to say that, of course, there should be hard caps on what people can provide—

**Mr. David Piccini:** No, I understand that—

**Mr. Fred Hahn:** —and that the system shouldn't be tilted towards the rich and those with more disposable income.

What Bill 254 actually does is tilt it in the direction of rich people, and that's unfair. You know that, right?

**Mr. David Piccini:** I can tell that you're bothered by that statement, definitely, and I can understand why.

A follow-up question: Do you think there should be a hard cap on third-party spending? And if so, what do you think that cap should be?

**Mr. Fred Hahn:** Well, I'll tell you this: No matter what the caps have been in the past, our union hasn't spent anywhere near it.

I'm no expert, but what I am an expert on is this: the importance of actually having a democratic voice and the ability to advocate around issues about which we all care, the public services that are provided and the services that Ontarians rely on, and this legislation—

**The Chair (Mr. Kaleed Rasheed):** Thank you very much—and I sincerely apologize to cut you off. It's the hardest part of this job.

Now I'm going to move to the opposition. MPP Natyshak, please go ahead. Thank you. You are on mute.

**The Clerk pro tem (Ms. Tanzima Khan):** He's having the same audio issue—

**The Chair (Mr. Kaleed Rasheed):** Okay. I believe you're having the same audio problem that you had this morning. You can leave and come back. We'll pause.

Do you want to go for the first round and he can go for the second round?

*Interjection.*

**The Chair (Mr. Kaleed Rasheed):** MPP Natyshak, MPP Mantha will go for the first round, and then you can come back for the second round.

I recognize MPP Mantha.

**Mr. Michael Mantha:** There are a lot of familiar faces that I've seen before up there.

Fred, I just want to let you know: You're always welcome to come and work in Algoma-Manitoulin—anytime, my friend.

Most of you alluded in your comments this morning to where the priorities are with your members and Ontarians. I opened up our morning with having the minister coming and providing his comments, and a lot of the concerns that I've heard from my constituents—actually, I was just there on the weekend. I always try to engage as best I can with them. I always try to be upfront with them by telling them exactly what I'm doing here. When I relayed to them that we were talking about increasing the donation maximums, they were not too impressed with their local MPP.

Where their concerns were was actually with the rollout of the vaccine. Where their concerns were was with the mental health and addictions of people. Where their concerns were was with the opioid crisis—where we consistently, day after day after day, week after week, see people who are dying in this province. Those were the priorities that they brought forward to me.

However, how I related this bill to them was—the fact that democracy was being hindered, that their rights to voice their views and their opinions were being hampered.

Let me use this example. As an MPP, I can talk to fellow northern members or other MPP colleagues. We can raise an issue. It will not be considered colluding. We can do this for the entire year. But you as an organization, or others—families that are being affected; the Ontario Autism Coalition—are all going to be denied the same process that we as politicians have the right to do leading up to the day of an election, but that you as an organization do not. That is a blatant travesty that is happening right here. And if there's anything that we should be changing in this bill, it's making sure that you continue to have that right—that families who are being affected by the decisions this government is making have the right to voice their views through their personal families, their organizations or their affiliations.

I want to go to you first, Fred. How will you provide yourself with that magic crystal ball to determine what's going to happen six months from now? You have six months to prepare for the next 12 months. How are you going to do that?

**Mr. Fred Hahn:** Well, thanks for the question and for the passion that I'm hearing in relation to this legislation, and for relating what you're hearing from constituents. It's very much what we're hearing from our members.

What I'll just say is this: CUPE has always advocated for the expansion and the strengthening of public services. We intend to continue to do that advocacy work—no crystal ball needed. Whether there's an election, whether there's not an election, whoever is in power at Queen's Park—this is the foundation upon which our union was created. It's actually an essential part of the constitution of our union, and it's part of the essential work that we do. So we're going to push forward to do that work with our members, to advocate in communities for services that we all need and rely on.

**Mr. Michael Mantha:** Of all your memberships—and I'll go to you, Patty, because you've got the largest membership. How many calls did you get from individuals who said, "Patty, the biggest thing that I need you to deal with as the president of the OFL—this is what I want you to do. I want you to tell this government to make sure that I can not only give \$1,600, but I want you to double that amount. I want you to make sure that I can give \$3,300. I want you to increase those amounts?" How many of your members walked up to you and asked you to do that?

**Ms. Patty Coates:** Thank you for that question.

I will tell you that I've had zero members come up to me and ask me that. But I will tell you what they have come to me with. The OFL has been around for over 60

years, and our mandate is very, very simple: It's to push for legislative change. It doesn't matter what government is in power; we are to push for legislative change that affects people's daily lives—including a variety of employment standards, minimum wage, paid sick days, workers' compensation and pensions, workplace safety, education and health care, long-term care, human rights and women's rights. They want those things so that they can live their lives and they can be productive members of our society. Those are the things they're asking for. They're not asking to be able to donate more dollars.

If we look at our members, almost all of them can't afford to donate—or if they do, they can donate \$5 or \$10. If you're on minimum wage, there's no way you're able to donate any money to any political party or any candidate.

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Mr. Michael Mantha:** Thank you very much.

Naureen, many of the government members have been asking this question: What would be a fair amount of spending that could be done by the organizations? To that would be—what is a fair amount for the government where they have the ability to spend? There are no controls on the spending that they're going to be able to do leading into that election. So the message of the government is going to get out.

Why should we be limiting the message of individuals and organizations and their concerns and the priorities of what Ontarians are feeling—with their frustration and the fact that their government is not listening to their priorities? How do you put a limit on that?

**Ms. Naureen Rizvi:** Thank you so much for the question.

You're absolutely correct. The contribution limits have all gone up in this act, but the third-party advertising limits are still the same.

**The Chair (Mr. Kaleed Rasheed):** One minute.

**Ms. Naureen Rizvi:** The fact is, though—and this seems to be a conversation that you actually have just validated—right now, in the middle of a pandemic, that's not what members are wanting. How do you talk about contribution limits with members from the hospitality sector who have been laid off? Casinos are not open, and members are laid off. They don't care about contribution limits and all the rest of that.

What they want is that the government, which is being paid out of taxpayers' dollars, is actually very much focused on the issue at hand, which is a pandemic, a global crisis.

The fact is that every union, like Patty just explained, has a constitutional obligation. In our constitution, the wording is enshrined about the democratic process of members having their voices heard—

**The Chair (Mr. Kaleed Rasheed):** Thank you very much—apologies to cut you off.

Next we're going to go back to the government side. MPP Skelly, please go ahead.

**Ms. Donna Skelly:** My question is for the representative from Unifor, Ms. Rizvi.

**1750**

Back in 2016, the government of Ontario decided to ban corporate and union donations to political parties. I'm just wondering, do you agree or do you disagree with that decision?

**Ms. Naureen Rizvi:** I actually want to talk about this bill and how it affects—

**Ms. Donna Skelly:** I know. My question—  
*Interjection.*

**Ms. Donna Skelly:** No, I understand that, but you're here and I have a question.

I'm just asking, do you agree or do you disagree with that particular decision to ban corporate and union donations to political parties?

**Ms. Naureen Rizvi:** I think that everybody has to find a way to get their voices heard. In this particular bill, I think what is very evident is that—

**Ms. Donna Skelly:** You don't want to answer the question.

Would you agree or would you disagree that, in order to help ensure that Ontario's elections are more democratic and more about the individual voter, it's important to have moved forward with that particular decision to ban corporate and union donations?

**Ms. Naureen Rizvi:** Unions are a democratic force, a democratic voice and a democratic vehicle and avenue for their members. Collectively, we are actually doing exactly that. We have democratic processes where members are there, they talk about issues, they vote on those issues, those issues become the conversation of the day. They are related very closely to public service, and members' dues do that kind of work.

I want to talk about this bill—

**Ms. Donna Skelly:** Let's talk about this bill, then.

How much money did Unifor spend on the 2018 provincial election?

**Ms. Naureen Rizvi:** I think you could look that up because, of course, we've sent in every single thing and we have always been very clear and open about it. We have spent exactly in what our limits are. The same thing as Patty—this question keeps coming up with all of us. I think that's something that you could actually look up prior to even being here and asking me this question.

**Ms. Donna Skelly:** You don't know the answer.

**Ms. Naureen Rizvi:** I think you could look that question up. We've been well below our threshold; we have not overspent on that.

**Ms. Donna Skelly:** Then why are you objecting to the \$600,000 cap?

**Ms. Naureen Rizvi:** You have left the \$600,000 cap, but you've tripled the contribution limits that really—

**Ms. Donna Skelly:** So you're not objecting to the cap?

**Ms. Naureen Rizvi:** I'm objecting to this bill in its entirety.

**Ms. Donna Skelly:** So you are objecting to the cap?

**Ms. Naureen Rizvi:** In its entirety, this bill is slated to bring only forward—

**Ms. Donna Skelly:** So you are objecting to the cap. My question is, are you objecting—

**Ms. Naureen Rizvi:** —the voices of those who have the money to do so.

**Ms. Donna Skelly:** Is it because Unifor spent more than \$600,000?

**Ms. Naureen Rizvi:** This bill only helps those who are the wealthy, who are able to pay to get their voices heard.

**Ms. Donna Skelly:** Have you ever looked at how many—

**Ms. Naureen Rizvi:** This bill is a way of squashing the workers' voices—

**Ms. Donna Skelly:** You keep saying it's only the wealthy. Ms. Rizvi, I'm asking the question—

**The Chair (Mr. Kaleed Rasheed):** Excuse me. Sorry. My sincere apologies.

If MPP Skelly is asking a question, I would appreciate it if the member would just address her question, and then instead of just talking over each other—because nobody can understand here what's going on.

I'll give the floor to MPP Skelly. Please go ahead.

**Ms. Donna Skelly:** Thank you, Mr. Chair. I agree.

I guess my question will be: Yes or no? If you're opposed to the entire bill, I will assume, then, that you are opposed to the \$600,000 cap. Would that be a yes?

**Ms. Naureen Rizvi:** We stayed within our \$600,000 limit last time, and we were doing advertising on behalf of our members last time.

This bill, in its entirety, we are opposing.

**Ms. Donna Skelly:** Facebook is a very easy and very inexpensive way to get a message across.

Would you not agree that, with a \$600,000 cap and the ability to access social media, organizations such as Unifor could now simply get their message across within that \$600,000 limit using new media such as Facebook or other social media platforms?

**Ms. Naureen Rizvi:** I think this bill is really convoluted. Who can use what vendor and at what time? If we use Facebook, then nobody else can because of how you've worded the whole collusion piece, because anybody who has the same goals and advocacy as us cannot use the same venue for the same issue.

So us and CUPE, for example, while we may be talking during this period of time, from May 4 onwards, about the issues of long-term-care workers, having the same sort of goals, we could be seen as colluding.

The cap of the money is one thing, but defining the "vendors" and the confusion around the vendors and how you actually—

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Ms. Naureen Rizvi:** You haven't defined that. How do you actually control that CUPE can't be talking on behalf of their members on Facebook because we got there first to talk about long-term-care workers?

**Ms. Donna Skelly:** Okay. One of the other measures and one of the more important measures that Bill 254 does introduce and does address is increasing the advance polling period. That came from the Chief Electoral Officer back in the 2020 report.

The last election in Ontario saw the highest number of Ontarians participating in advance polling, advance

voting. British Columbia and New Brunswick had record-high turnout for their advance polling.

Do you think that this measure will give greater flexibility and address democracy and bring more voters to the polls, and do you support it?

**Ms. Naureen Rizvi:** I have no problem with advance polling. It just cannot be undefined.

**The Chair (Mr. Kaleed Rasheed):** One minute.

**Ms. Naureen Rizvi:** As long as you want it to be, I think that there needs to be some sort of a definition of what advance polling would look like.

**Ms. Donna Skelly:** Okay. We've already discussed that you're opposed to the maximum increase for individual personal contributions—from \$1,660 to \$3,300. I have to push back. Throughout the narrative this afternoon, there seems to be some assumption that maximum amounts are not given to other parties. I think that I can tell you there are representatives sitting in this committee from the NDP who have certainly received maximum amounts.

Would you not agree that that is also a possibility—from somebody such as yourself and other representatives of Unifor, to give maximum amounts?

**Ms. Naureen Rizvi:** I would agree that what that part of the bill is structured for is to allow the wealthier Ontarians to be able to—

**Ms. Donna Skelly:** No, what I'm saying is, would you say that members of Unifor may have contributed the maximum amount, as well—

**The Chair (Mr. Kaleed Rasheed):** Thank you so much. I'm just going to end this very lively debate here.

Next, I'm going to go to MPP Natyshak. You have the floor now.

**Mr. Taras Natyshak:** First of all, let me say it is really good, albeit virtually, to see my friends Fred and Patty and Naureen. Hello, Laura. Hi, Christine. I not only thank you for appearing here today, but I thank you, from the bottom of my heart—the biggest virtual hug I can give you—for the work that you do on behalf of your members. It is indeed not only a defence of working-class people, but also, at its core, a defence of democracy, enshrined in our charter. You're right, as labour unions, to represent your members.

There has been so much said by the members of the government today that I would qualify as quite offensive to the democratic process, to your members as a whole and to working-class people.

Let's be frank here: This bill highlights the vitriol this government has against working-class people and the agenda and the issues they fight for each and every day—pay equity, fairness, environmental sustainability, equality. That's what this is about. It is about quelling your voices and making sure that you aren't heard when it matters the most, during the election process. Let's also be frank that the memories of the electorate are sometimes short, and they need to be reminded of the history of governments—not only of present, but of past—and what their actions are. So they can be forgiven to need to get messaging to them. This is what this is about—quelling your ability to deliver that message.

New Democrats are going to fight back. We continue to fight back.

I wonder, Fred, what you think of a government, in the midst of a pandemic, the largest economic crisis that this province has ever had, the largest health crisis that this country has ever had, the planet—that a government takes time out of its legislative agenda to bring forward a bill that increases its own capacity to recover donations, from \$1,650 to \$3,350. What does that say to your members? What does that tell your members about this government's priorities?

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**Mr. Fred Hahn:** Well, that they're completely not in line with the priorities our members have with their neighbours, with their families, with anyone in Ontario who understands that our first priority today should be ensuring that vaccinations aren't sitting in some warehouse or in some freezer but are actually going into the arms of people—and that there's a strategy to actually address the inherent systemic racism that sees so many racialized front-line workers be the victims and have no access to supports in their workplaces, and that we need expanded capacity in our hospitals. Today, on Twitter, I'm reading about many a doctor who's talking about how their ICU is full, and it's all people with variants, and they've got no more room. There are a lot of things.

I would wager most of our members—I've seen a few of them over the last few days, and I've actually asked them, "Hey, did you know about this legislation?" Nobody knows that this is even happening. They don't have any time to focus on this. They're focused on trying to get through their jobs every day and supporting people through a crisis—

**Mr. Taras Natyshak:** Fred, I'm sorry to cut you off. I hate to do that, it's a challenge to do that, but I appreciate your ceding the time to your colleague Patty.

Patty, what do you think it says to your members at the OFL about a government that prioritizes increasing limits for leadership campaigns from \$25,000 to \$50,000, enabling leadership candidates to donate that much to their own campaign?

**Ms. Patty Coates:** Thank you for the question.

This government is so out of touch with everyday people. Even though they get up to the mike and they tout that they're here for the people, that they're the government for the people, they don't really listen to the people.

As Fred said, there are so many of our members—we have one million members who we represent, one million workers, and front-line workers, and workers who now are laid off. This is not first on their mind. First on their mind is their safety and their health.

Here's the other thing: What they're going to be really angry about, and what we just heard with regard to the court case that this government lost with regard to the carbon tax—they're wasting their money. If they pass this bill, it's going to go to court. There are going to be constitutional challenges to this—and that's our tax money that is being used for that. Those dollars could be going to

initiate paid sick days, to bring up the minimum wage, to provide supports for those workers in long-term care, to ensure that we have enough PSWs to do the job that needs to be done. I hear stories again and again of workers and the struggles and challenges that they have.

**The Chair (Mr. Kaleed Rasheed):** Two minutes.

**Ms. Patty Coates:** We've had PSWs who have lived in shelters because they can't afford to find a home.

**Mr. Taras Natyshak:** Yes, they call them heroes. We deem them as essential and we call them heroes, but this government isn't willing to enshrine their wage at a high ceiling to actually reflect that.

Naureen, what does it say to your members at Unifor, the largest private sector union in Canada, that this government took the time to find a bill that increases their ability to recover more donations for their campaigns, rather than bringing forward a bill that would bring a procurement strategy—a domestic manufacturing, made-in-Canada, made-in-Ontario manufacturing strategy where we would see production of PPE domestically, production of pharmaceuticals provincially, domestically. What does it mean to your members when they see a government abandon any and all hope for anything like that?

**The Chair (Mr. Kaleed Rasheed):** One minute.

**Ms. Naureen Rizvi:** Great question, Taras.

We just lobbied for a week on what members and workers actually needed. The things that we lobbied about were that—a made-in-Canada solution to the TTC vehicles that are needed for our members up in Thunder Bay. The plant is going to be shut down if we don't get that for our members in the Bombardier plant, who have no orders coming in. The orders have dried up completely. You're talking about a plant that has been the heart and soul of the manufacturing industry here—nothing for them.

There's nothing around how to help hospitality workers get back on track.

They're not working with the aviation industry.

But what they are doing is making sure that contribution limits have increased. We're dealing with a bill right now that is so irrelevant in the midst of a pandemic that it is actually startling that a government would even talk about how to get themselves back in and who can support them and how they can support them, versus how to help Ontarians—

**The Chair (Mr. Kaleed Rasheed):** Thank you very much—sincere apologies to cut you off.

I really appreciate all the 5 p.m. presenters joining us this evening. Thank you so much. That concludes our business for today.

A reminder: The deadline for written submissions on Bill 254 is 7 p.m. on Tuesday, March 30, 2021, and the deadline for filing amendments to Bill 254 is 12 p.m., Tuesday, April 6, 2021.

The committee is now adjourned until 9 a.m. tomorrow, Tuesday, March 30, 2021, when we will continue public hearings on Bill 254. Thank you very much. Have a wonderful evening.

*The committee adjourned at 1806.*



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