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Enhancing Access to Justice Act, 2024

1st Session
43rd Parliament

Wednesday 21 February 2024

Chair: Goldie Ghamari
Clerk: Thushitha Kobikrishna

Journal des débats (Hansard)

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Comité permanent de la justice

Loi de 2024 visant à améliorer l'accès à la justice

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Mercredi 21 février 2024

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Greffière : Thushitha Kobikrishna

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CONTENTS

Wednesday 21 February 2024

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON JUSTICE POLICY

COMITÉ PERMANENT DE LA JUSTICE

Wednesday 21 February 2024

Mercredi 21 février 2024

The committee met at 0900 in committee room 2.

ENHANCING ACCESS TO JUSTICE ACT, 2024
LOI DE 2024 VISANT À AMÉLIORER L'ACCÈS À LA JUSTICE

Consideration of the following bill:

Bill 157, An Act to amend various Acts in relation to the courts and other justice matters / Projet de loi 157, Loi modifiant diverses lois en ce qui concerne les tribunaux et d'autres questions relatives à la justice.

The Chair (Ms. Goldie Ghamari): Good morning, everyone. I call this meeting of the Standing Committee on Justice Policy to order. We are meeting today to begin public hearings on Bill 157, An Act to amend various Acts in relation to the courts and other justice matters. Are there any questions before we begin?

STATEMENT BY THE MINISTER AND RESPONSES

The Chair (Ms. Goldie Ghamari): I will now call on the Honourable Doug Downey, Attorney General, as the first witness. Minister, you will have up to 20 minutes for your presentation, followed by 40 minutes of questions from the members of the committee. Questions will be divided into two rounds of seven and a half minutes for government members, two rounds of seven and a half minutes for the official opposition and two rounds of five for the independent member of the committee.

Minister, the floor is yours. Please begin. Thank you.

Hon. Doug Downey: Thank you very much, Madam Chair. Hello and good morning, everybody. I'm glad to be back in Queen's Park here and back to business. Thank you to the Standing Committee on Justice Policy and to the Chair for having me here to speak to the important legislation before us. I'm really pleased to join the committee and present on a bill that, if passed, would improve access to justice, enhance community safety and modernize the justice system for Ontarians.

The Enhancing Access to Justice Act represents a necessary step forward for Ontario's justice system and the people who need it most. We're bringing forward important changes that would allow us to take bold and immediate action to strengthen and modernize the justice system by simplifying court and government operations, strengthening community access, strengthening community safety and ensuring access to justice for more victims of crime.

I want to take a moment to thank my honourable colleague Michael Kerzner, the Solicitor General, and his team at the Ministry of the Solicitor General for their partnership, their collaboration and their efforts in helping us pull together all the elements of the bill. As you will notice, some of the line items are under the AG's auspices and some are under the Sol Gen, so I appreciate the opportunity to work alongside my colleague and the incredible team that he leads at Sol Gen.

I also want to thank key stakeholders who have provided input for being the driving force behind so many of the proposals I'll be sharing with you today. Some of those stakeholders, but not all of them, are the Ontario Bar Association, the Federation of the Ontario Law Associations, the Ontario Trial Lawyers Association, the Law Society of Ontario and our colleagues at the Ministry of Public and Business Service Delivery.

I have to tell you, so many people have provided input. Many of them have participated in the consultations over the last years—not just recently, but over the last couple of years—and in all forms. They provide input, whether it be by writing a letter, by attending a committee hearing—some ideas come up through even budget consultations. Some ideas come up through social media, where people send ideas through messaging, and we capture that and we evaluate it.

Everybody has got the same goal. The goal is to make sure that the justice system in Ontario is world-class and that it's working properly.

I also want to acknowledge the First Nation communities that engaged in one-on-one discussions to provide their perspectives on approaches to cannabis regulation that would work for them and how to support cannabis regulation on reserve.

I must also acknowledge all the practising lawyers, paralegals and legal professionals who have provided their important feedback and recommendations to us as we work toward a more responsive and resilient system.

But I can't forget the people who come into contact with the legal system for the first time or early in their experience, because that's really what the system is built for. Historically it has been my belief, and I've said this publicly several times, that part of the challenges that we have in the legal system comes from the fact that they were

designed and built for and by lawyers and judges and the stakeholders on that side of the bench, as opposed to the public who need it as a public-access service. And so, with that eye, I really appreciate the non-lawyers, the non-system participants who have given feedback on so many of these pieces.

As many of you know, throughout my career, I have been fortunate to have many diverse roles in the justice sector. I started off as a court clerk taking filings over the counter. Then I became a court registrar, sitting in courtrooms with the job of helping judges learn what they're supposed to do in terms of paperwork and how the system functions. It really gave me an insight into how human the system is, how the system works, the aspirations that people have for the system that they work in and how it's our job to make sure that it works even better. All of that was before I registered in law school and then started practicing law, so I come to the table with a lot of ideas and a lot of perspectives.

I know that when positive change happens, it's truly the result of determined and collaborative efforts made all the way through the system. Change doesn't happen on its own, and I think that's why we're playing catch-up with a system that has laid stagnant for several decades.

Keeping our communities safe and increasing access to justice for victims of crime is a vital priority for me, for our ministry and this government—and, I think, for all governments that sit in the Legislature. I think we worry about our communities. We worry about their safety. We worry about them having access to the system. It needs to be accessible, and it needs to be responsive for all Ontarians. That's why we're proposing changes to the Victims' Bill of Rights that would make it easier and less traumatizing for certain victims to sue convicted offenders for emotional distress and related bodily harm.

Currently, only three types of crimes are identified in the Victims' Bill of Rights where a victim can sue their convicted offender for emotional distress that is already presumed to be true. These crimes include assault by a spouse, sexual assault and attempted sexual assault. We are proposing to expand this list to include victims of human trafficking, victims of sexual offences who are minors or persons with disabilities at the time of the crime, and victims of the distribution of voyeuristic recordings or intimate images without that person's consent.

There's well-documented evidence that victims of these crimes experience long-term effects, like post-traumatic stress disorder, anxiety or other mental health conditions. That sounds clinical, but the reality is that if any of our children, any of our family, any of our friends went through that, you would want them to have this kind of protection. You would want them to have that kind of opportunity to go after the perpetrators.

Many of the victims of crime have told us that it's retraumatizing for them to not only have to testify about crimes of such a personal nature, but also to have to justify the trauma that they experienced and, on top of that, do it in a courtroom. Our proposed changes would help prevent victims from experiencing further distress and retraumatization. We are listening to victims and we're making the necessary changes that would increase their access to justice.

These amendments will complement the recent changes made to regulation under the Victims' Bill of Rights where additional crimes such as terrorism offences, motor vehicle theft, and hate crimes that target religious officials and places of worship were all added to the list of crimes where victims can sue their convicted offenders for emotional distress and related bodily harm. I'll hope you'll join me in recognizing that these changes are of critical importance to better supporting victims of crime.

I'll turn now to cannabis. Speaking about ensuring the safety of our local communities, our government remains committed, remains steadfast to protecting the children and youth from the negative effects of cannabis. You'll remember five years ago the federal government decided that cannabis would be legalized in Canada, and they left it up to us to figure out how to manage that. Part of the new legislation allowed for the growth of up to four cannabis plants in people's homes. That means that currently, recreational cannabis can be legally grown in homes with child care facilities. I don't think anybody thought about that. I don't think it's appropriate. I don't think anybody supports it. As another means of keeping our children and youth safe, we are proposing to ban the growth of recreational cannabis in both licensed and unlicensed homes offering child care services. The province of British Columbia has had a similar rule in place for many years, and we feel it's a safe and measured way to limit youth exposure and access to cannabis.

We're also taking steps to negotiate and implement agreements with First Nations communities to support cannabis regulations on reserves. Entering into agreements with First Nations communities reinforces a shared commitment to keeping communities safe, protecting youth, ensuring a safe supply of recreational cannabis and cracking down on unregulated cannabis sales. It was our government's goal all along to do three things: to go after the black market, to protect children and to keep our communities safe. This goes a step further in doing exactly that.

Currently, there are only seven licensed recreational cannabis retailers on First Nation reserves in Ontario. That means all other retailers on reserves are operating outside the provincially regulated framework. That's why our government is proposing legislative amendments that would strengthen our ability to enter and implement agreements with communities on reserves. This comes on the heels of much conversation with First Nation partners and the aspirations they have for a safe and regulated market to protect their youth and their communities, just as we try to do in the rest of Ontario.

Our government is also taking active steps to ensure that Ontario's justice system and laws meet the demands of the 21st century. Together with the judiciary and partners across the justice system, we continue to harness new and existing technologies to improve and expand access to many different services.

Almost three years ago, in March 2021, we launched the Justice Accelerated Strategy to break down long-standing barriers in the system and move more services online and closer to Ontarians, no matter where they lived. This includes rural, northern and First Nations communities. Since the introduction of the initiative in 2021, we've expanded electronic filing to nearly 800 types of civil, family, bankruptcy, Divisional Court and Small Claims Court documents through Justice Services Online. We've expanded our online court case search tool to ensure the public can search basic court information and select civil and active criminal matters without having to line up or call a courthouse.

This isn't just for the public; it's for those who serve the public, like the media, who can now do this online as well. It creates transparency. It creates an access to the system that didn't exist before this court case search tool came into being.

We've also moved forward with things like satellite service into First Nations and to fly-in First Nations, because we know from our consultations with different First Nations that when an individual has to leave the reserve for a court hearing, it's disruptive not for the individual but for the support structure that they're either helping support or they're being supported by. So, having somebody have to leave their home is counterproductive, quite frankly. So, I'm really pleased that we've managed to, through discussion, install 29 separate satellite services across the fly-in First Nations. I think that's phenomenal. It talks about teamwork, it talks about the partnerships and talks about open and positive dialogue based in trust. So, I'm very pleased about that.

0910

But it's not just the public that benefits from the ground-breaking change. As I mentioned, the media does. It's more transparency. It's open, and it supports the open-court principle, which we can talk about a little bit if we want to, once we're into the materials. It makes it more accessible: accessibility for the individual reporter to see what's going on without having to go to a courthouse. The information is online. It's more efficient for everybody across the system.

We will continue to enable Ontarians to participate in their provincial offence proceedings using virtual methods, which saves them an extra trip to the local courthouse when they're otherwise busy looking after families, trying to survive in these very expensive times.

As more processes move online, we have also substantially increased funding for Community Legal Education Ontario, known as CLEO. It's a legal clinic that does really fantastic work. The latest funding supports their ongoing operation and expansion of guided pathways, which are online interactive tools that help Ontarians complete court forms easily and accurately, along with providing users with tailored legal information. So, if you're dealing with a family law situation and you go to CLEO's website, it will help guide you through the documents that you need, the kind of application that you need. It will give you the forms that you can fill in. They just have done a fantastic job. We're supporting them to do more. Of course, there really is a lot more to be done, but if you look at the product—and I actually went online to see the progress they've made over the last little while, and it really is phenomenal. So, we definitely need more of that, but I'm really proud.

Just this past summer, in August, our government announced that Thomson Reuters was awarded a contract to replace outdated, paper-based procedures with a digital platform to support access to the Superior Court of Justice and the Ontario Court of Justice.

Currently, there are multiple systems for court users to access the justice system, to attend a virtual hearing or file, share or access documents, depending on the level of court or the topic area. Just to break that down a little bit: This is talking about currently in our system. Quite frankly, really just because of the constitution and where the divide is on who does what provincially and federally, if it's a criminal court matter in Superior Court or a criminal court matter in the Ontario Court of Justice, you would think they would have the same system, but they don't. They're running separate systems. It's the same with family. We're running multiple legacy systems simply because that's the way the constitution was framed. For the first time in history—the absolute first time in history in this province—we're going to have one system for both levels, for all kinds of court. That seems logical, but that didn't just happen. That came because of the collaboration, the discussions, the level of trust that we have between the partners, the justice partners, and I can't tell you—I'm just absolutely thrilled that that is now under way. We announced it in August. It's a large endeavour; it's a multi-year, but we've been working on it for a year prior to even announcing it. So, we're on a good track, it's going to happen and it's going to be great for the user.

The judiciary, my ministry and as well as the judicial and legal partners agreed that there must be a better and more efficient way forward, and this is the way. We're going to have, again, one system that really allows for filing and issuing orders and managing all of that. It's going to function better for the people who encounter the system, for the public, and I don't just mean the legal professionals; I mean the public, the ultimate end-user—because we still have a lot of self-reps, and we can either push uphill and pretend that we're going to get rid of self-reps and only have people represented by lawyers, or we can face reality and build the system for the user who's here today, and that's what we're doing.

It delivers better service for judges in terms of being able to issue orders electronically, as I mentioned, with information flowing in real time. When we talk about transformational change—not just automation but transformation—this is exactly what we're talking about. It's a significant investment to move us into a new era of accessible justice in Ontario.

The challenges in the years ahead will be how we continue to implement practical technology in meaningful ways across the courts and the justice sector at large—not whether we will, but how we will. We've also hit some

major milestones over the past year, but there's always more work to be done. That's why we're putting forward proposals today to change the Courts of Justice Act and other statutes to create flexibility and fix current gaps in procedures for things like evictions enforcement, child protection cases and dealing with vexatious litigants. These changes will streamline processes, create efficiencies and free up court time and resources.

I'm talking about making common-sense changes like limiting the delays that could happen during a child protection trial when a provincial court judge is appointed to another court. In certain circumstances, an Ontario Court of Justice judge may be appointed to become a Superior Court judge. If they're in the middle of a child protection trial at the time, that trial has to start all over again.

We're going to put a stop to that. It's not good for the child; it's not good for anybody involved in it. We want them to be able see it through, so we're going to changes to allow that to happen. We're making a change to limit the disruption and allow the provincial court judges to finish the trial despite their Superior Court appointment.

We're also putting forward changes to make the procedures for judges in the Court of Appeal and Superior Court of Justice dealing with vexatious litigants—we're going to make it more flexible to help reduce the use of court resources and the delays that vexatious litigants can cause. These delays are a significant challenge for the courts and can be a drain on resources.

I want to clarify that a vexatious litigant is someone who repeatedly brings forward legal proceedings that have no chance of succeeding in court; have an abusive purpose, like harassing or wearing down opposing parties; or meet other criteria that have been identified through case law. This depletes the court's time and resources, which are better used for legitimate attempts to resolve disputes. It also costs the other parties money to respond to each case and show up in court.

Currently, an order against a vexatious litigant can only be obtained in the Superior Court of Justice. Our proposal would allow not only Superior Court judges but also Court of Appeal judges to make orders declaring someone to be a vexatious litigant and stopping them from starting any cases in the future unless they get permission.

At the same time, vexatious litigants' procedural rights will still be preserved, like the right to know that the court is considering making an order against them. These changes will speed up procedures and reduce unnecessary burdens in the courts, their time and resources.

In the same way that we're improving and modernizing processes in courts, we also need to address court-related legislation that is now outdated, particularly if this results in laws that are unclear or out of step with current technology or practices. We're making proposed changes that would make legislation clearer and current such as addressing outdated language in an act or clarifying details that can cause delays and frustration.

We're also proposing an important change to the Evidence Act to make sure the government and its agencies can share privileged information confidentially. Legal privilege allows certain documents and other forms of communication from having to be disclosed in legal proceedings. Too often, the public sector's concerns about their potential loss of legal privilege can prevent them from operating efficiently. Different crown agencies can end up paying various law firms to answer the same question. Sometimes, they even receive conflicting advice.

Our proposed changes would allow the public sector to avoid unnecessary legal costs and maintain their privilege while they resolve legal issues. These are just a few of the obvious fixes to some long-standing problems, and we don't want to wait any longer to implement them.

I want to briefly talk about another way that we're supporting the justice system and holding offenders accountable. It's something we've previously announced. It's a crucial part of our commitment to keep our community safe from crime.

Last spring, we announced a $112-million investment over three years to ensure that high-risk and repeat offenders comply with their bail conditions.

The Chair (Ms. Goldie Ghamari): One minute.

Hon. Doug Downey: As part of this, we're establishing $26 million over three years to establish Intensive Serious Violent Crime Bail Teams. Those are like SWAT teams of prosecutors who will go in and make sure that the best foot is put forward, while working in compliance with police services, bail compliance units and the other stakeholders.

Given that I'm near the end of the clock, I just want to thank you for the opportunity to discuss the legislation. If passed, the reforms in the Enhancing Access to Justice Act would support access to justice for victims of crime, simplify court and government operations and support stronger communities.

With that, I'll stop. Thank you, merci and meegwetch.

The Chair (Ms. Goldie Ghamari): Thank you very much, Minister.

We'll now turn to the official opposition for the first round of questions. Who would like to begin? MPP Wong-Tam.

MPP Kristyn Wong-Tam: Thank you very much, Chair. And thank you to you, Minister, for your time today, for your presentation.

This is quite the bill. It's 19 schedules, and there's a lot in it. The title, I think, would suggest that we are all gripped with the task of doing just that: delivering a faster delivery of justice to Ontarians.

One of the things that I have noted that keeps coming up is the challenge of keeping the courts open, largely due to the lack of staff. Whether it is court reporters, court clerks, interpreters, case coordinators, judicial assistants, all of these individuals are required to keep the courtrooms open, and yet, we're not seeing anything in the bill that specifically addresses that.

So, Minister, my first question to you is, why doesn't the bill in all of its 19 schedules actually address the chronic issue of staff shortage in the courts?

0920

Hon. Doug Downey: It's a great question, because we did see last summer as we had opened the new courthouse in Toronto, the new Toronto courthouse, which is just a phenomenal facility, we did have some staff challenges in terms of making sure that we had the amount of staff there to operate efficiently. So you read some of that in the media, and I guess that thought has stuck, but we are past that. We made operational changes to make sure that we have staffing in place so that we're not experiencing the same challenge.

The reason it's not in the bill is because it's really a staffing budgetary issue. I went to Treasury Board, we had a discussion about our staffing complement, and we've increased our staffing across the system, whether it be crowns, whether it be people in the courtroom, the clerks or whatnot, about 350 individuals.

We've changed the classification for the court clerks. As I mentioned, I used to be a court clerk, and I was younger, so it was fine for me, but if court collapsed in three hours, I got paid three hours and I went home. You can't sustain a workforce on that kind of instability. So we've changed the classification. We've offered full-time to all of those staff, and the problem is now in hand so that we're not seeing those collapsed courts due to staffing issues.

MPP Kristyn Wong-Tam: Thank you, Minister. I guess I'm still grappling with the fact that we have on one hand what you have said in the past, and I want to quote, that the ministry continues "to recruit and onboard new staff" but yet we hear from OPSEU, who is the union that represents most of the court workers, most of them who are working in the judicial system, about how any new recruitment or even the folks that you have already employed barely scratches the surface of needs. So we have some conflicting points of view, and yet, there's nothing in the bill that specifically addresses the court shortage and the lack of hiring or even the court delays.

And I'm just curious to know, Minister, because we have yourself, who has actually said that you're doing everything you can, things are getting better, but yet we have actual workers on the ground who are saying things are not necessarily getting better—and worst of all is we're seeing the loss of this talented workforce which we absolutely need to retain. So not only do we need them coming on board to have them skilled and trained and ready to go; we're actually losing the existing court workers we have largely due to the fact that they're overworked and they're not feeling, in many opinions, supported.

So, Minister, how would you address the concerns that OPSEU and the other court workers have when they say what you're doing is not enough and that more needs to be done?

Hon. Doug Downey: So there are a couple of pieces in there that I'll try and unpack. One is you're saying the front-line workers have perceptions and anxiety—more than perceptions, probably. They have an anxiety about how the system is functioning. I have a very open-door policy in terms of the system. I want people to voice if they have concerns because that's how we improve.

I know that the system can always improve, and I want their voice to be heard. I believe we have a good relationship with OPSEU. Again, that falls into the ministry side as opposed to the political side, so I don't engage with them directly on those issues, but I am certainly encouraging the administration to do just that. So if they have ideas, I want to hear them.

When it comes to are we covering—and if they're saying we're just barely covering, that means we are covering, and that is the goal, is to make sure that we're covering and that we don't have any excess capacity being wasted in the system.

But in terms of the retention, that's always a challenge. I'm actually quite proud of the fact that we're an entryway into the public service for some workers. They come in, they see that Ontario is a fantastic employer to work for and with, and they sometimes find other opportunities and they migrate to those other opportunities. We will then continue to recruit and make sure that we've got the appropriate level of workforce to go with it.

There's a lot in that, but it is a dynamic workplace. It's a large workplace. There are some 9,000 employees in the Ministry of the Attorney General, so it's a large place, but all ideas are welcome.

MPP Kristyn Wong-Tam: Thank you, Minister. I definitely am encouraged to hear that all ideas are welcome and that you'll take those good ideas from wherever they come from, including from OPSEU.

With respect to the chronic court staffing shortages, in one six-month period we saw 300 courtrooms closed and then 18 courtrooms closed in one single day. I think that there's lots of room to grow, as you have suggested, in terms of room for improvement.

Minister, I want to ask you specifically about judicial independence. We all recognize that it's a core value of the court system, the justice system, and we've heard you on a couple of occasions now, I think, talk about wanting to see judges that share your own particular values.

The Chair (Ms. Goldie Ghamari): One minute left.

MPP Kristyn Wong-Tam: With respect to judicial independence, how will this bill actually deliver more judicial independence and less political interference?

Hon. Doug Downey: What we're doing with the bill, one of the changes—I don't know why it's this way, but, for instance, the Chief Justice of the Court of Appeal can only be compensated for travel if it's for a hearing or for education, but not for outreach to communities, not for educating others. That doesn't really make sense. We talked to our federal counterpart, who actually pays that reimbursement. So we're opening that up so that they have more ability to get out independently and connect with communities, as we would hope that they would. That's one piece that's happening in here.

MPP Kristyn Wong-Tam: Minister, that doesn't quite answer my question, but I think I'll have another opportunity during the second round.

The Chair (Ms. Goldie Ghamari): We'll now turn to the independent member. You may begin, MPP Collard.

M^me^ Lucille Collard: Thank you, Minister, for your time this morning. We all want better access to justice and appreciate all the efforts that are being made. However, perfection is not in this world and we need to strive to make things better. My role is to bring certain things to your attention.

I want to turn your attention to schedule 1 of the bill. You haven't talked specifically about it. It concerns the Architects Act. You said that you received a lot of input through various means of consultation in crafting this bill, yet the AATO seems to have been excluded from these consultations—that's what they tell us, in any event—and they are directly affected by this first schedule. What kind of answer can you provide to explain that, and if you took into consideration their concern, how did you do that?

Hon. Doug Downey: I appreciate the question. This is about bringing the architectural technologists into a licensing framework. For decades the architectural technologists were licensed through the architects' association and the court decided that something had to change. The AATO are made up of, I believe, some 800 to 1,000 members. A subset of them, about 100 to 150 members, are the technologists that need to be licensed. The Court of Appeal said that unless the Legislature does something to allow them to be licensed, they can't practise.

We've got a housing crisis—1.5 million homes: We all know the goal. We all know that we have to get things moving and keep them moving. The architectural technologists are a really key part of that. They're part of the project chain. So we took the Court of Appeal's lead. They said, "You need to do something." So we did something and that's what you're seeing in the bill.

The AATO—I understand their position. You'll hear from them later today. I understand their position. The choice was made between setting up more red tape, more regulatory authorities, or embedding it where it's been for decades. We went with a shorter, more efficient, more effective means. It was a policy choice.

M^me^ Lucille Collard: Okay, I understand that. But at the same time we need to make sure that this new category of architects are subject to some kind of oversight. Are there going to be any reporting requirements for the OAA to fulfill?

Hon. Doug Downey: That's a great question. The OAA, very much like other self-regulating entities, will file a report. We do get a report and we do communicate on a regular basis, so it's definitely something that I'll be asking about, simply because it is an important part of the chain. It doesn't affect all the AATO members, but it does that subset, so we'll make sure that that subset is not lost in the OAA as well.

0930

M^me^ Lucille Collard: And so why did you use legislation to bring this new licensed technologist program? Why didn't you do it through a regulatory change, for example?

Hon. Doug Downey: The way that I took the court opinion was that they wanted us to do something stronger, that this wasn't just doing it through a reg. They had to make a substantive change. And so, we looked at it—when I say "we," I mean collectively we looked at it—and we thought the most responsive way to deal with the Court of Appeal opinion was to do it through statute.

The Chair (Ms. Goldie Ghamari): One minute.

M^me^ Lucille Collard: Okay. And just another question on that: The bill proposes to amend the Architects Act to say that someone who "uses an occupational designation ... that will lead to the belief that the person may engage in the practice of architecture" would be guilty of an offence and fined. Is it possible that this could be applied to the architectural technologists?

Hon. Doug Downey: I think the entire framework, if they're moving beyond their competence or moving beyond their boundaries, just like all of us—I'll take lawyers, for example. As you know, if I'm practising in an area that I'm not competent, or if I'm not a lawyer at all but I'm practising law, there are all sorts of mechanisms to bring people back into line.

M^me^ Lucille Collard: Thank you.

The Chair (Ms. Goldie Ghamari): We'll now turn to the government. Who would like to begin? MPP Saunderson.

Mr. Brian Saunderson: Thank you very much, Minister, for your comments this morning. Having been a practising lawyer, I'm certainly aware of the paper requirements and filing requirements that often clog up the court system. So my question to you: I know that access to justice and modernization has been a very important part of your work as your time as Attorney General, and the pandemic certainly was a catalyst to some of the changes in terms of online filing. You spoke at length about the efforts in this legislation to speed up those processes, to streamline them, and the retention of Reuters to help digitize these documents.

I'm wondering if you can just put this in context and talk about your work about trying to modernize justice and increase access, knowing that self-reps are an increasing reality in the legal world, and how this legislation fits in to that work and where you see it moving forward.

Hon. Doug Downey: I mean, I love this topic, because this is very core to what drives me in terms of how we're going to change the system and transform the system. I'll start again at the 30,000-foot level. The system was designed by and for lawyers and judges, primarily for lawyers and judges, in a time where we didn't have technology that we have now.

Most people I talk to who encounter the legal system for the first time are confused not just at the complexity of it, but at the terminology, at processes, to answer the why of, "Why do we do it this way?" There are some people who are scholarly and more academic, who will say, "Well, here's why we did it like this," or "We created this rule to solve that problem."

One of the challenges that we have is that legal practitioners—and I'm going to include judges and lawyers in this—are trained to reduce. We're trained to bring things down to one spot, and then extrapolate from that. But when you're running a system, it's entirely different. When you

move a piece over here, it affects other things. That's very different than how you practise law; "practise law" is a reductionism. And so I think the system has built up over time that way, where we're solving one problem by reducing and focusing on that problem, and we come up with solutions without necessarily being tuned into why these other things are getting affected or how they're getting affected, and then we go and try and fix that. It's a bit of whack-a-mole.

The pandemic and our relationship with the judiciary and the practising bar have given us an opportunity to look at the whole system and, when we move a piece, to consult widely, talk to people and understand what the impacts are going to be, and to not move a piece without affecting things with the unintended consequences we all talk about. The technology is allowing us to do that. We currently, as you know, as all practising lawyers know, have different rules of practice in different areas of the province, and this is what it is. It just grew up because, in local areas, they had local preference, but now, with technology, we're finding self-reps in family law in the north appear to be falling because they have access to lawyers from the south through technology. That's phenomenal; that's good stuff. But the practice rules are different. So the lawyers—it's cumbersome. It's not good for client in the end.

Anyway, I could go on and on about the modernization, but that's the core of where we started. Then, as we harness technology to deploy a different kind of thinking, to do a client-centric, public-centric model, whether it be for filing, whether it be for timelines, whether it be for rules, and we're really just getting started.

We're finding our water level on a couple of things that we can get into but, by and large, we're moving in the right direction, and Chief Justice Morawetz is dedicated to reviewing the civil rules of procedure from start to end, and him and I are likeminded on this. We've got the committee together, and they're moving. The goal is two years to do a complete overhaul of the civil rules and say, "Why are we doing this? Do we need to do this? Who is it serving?" So everything is getting looked at, and I'm very excited about it.

Mr. Brian Saunderson: Thank you. Just by way of supplemental, I know in my practice I was involved in the coroner's inquest and, at the time, it was one of the longest in Ontario. I know this act is proposing many changes to the Coroners Act and to the process, and I'm wondering if you can just speak to that and how that's going to make the system, again, more efficient and more accessible.

Hon. Doug Downey: This piece of legislation, the Coroners Act, of course, falls within the Solicitor General's office, so I'll speak to it as much as I can, except to say that we want to make sure that we're having a better impact. We want to make sure that we're providing better service to the public by putting together like kinds of experiences so that we're not again doing one here, one here, one here without a bigger conversation, because you get a coroner's inquest, which—I've never actually done one, but I have read a few, and they come out with recommendations, and the public and others sometimes look at the recommendations and they say, "Well, yes, in that instance." But in this case, where you can have four or five together, you go, "There's something going on here. There's something happening in this system that we need to change," and it gives more weight to the recommendations, I think. That's just my impression, but that is one good reason for putting things together that really are like each other.

Mr. Brian Saunderson: Thank you very much. Those are my questions.

Mr. Lorne Coe: Time check, please.

The Chair (Ms. Goldie Ghamari): It's one minute, 25 seconds left.

Mr. Lorne Coe: All right. Thank you, Chair, and through you, thank you, Attorney General, for being here this morning. As I read this legislation, it's really a strong step forward and supplementary to the work we've done on bail reform and investments in law enforcement. My question is about the Victims' Bill of Rights and the changes that are being proposed in this legislation. Can you expand on why these specific changes are being made now and how they're going to help victims, please?

Hon. Doug Downey: Absolutely, and I'll be quick in the answer. They're being made now only because I didn't think of it earlier. These are changes that are, quite frankly, no-brainers. They're better for the victim to not have to re-traumatize in an open courtroom in front of everybody in situations that we know, when the perpetrator is found guilty, clearly the person has been affected. Why do they have to explain it again? It's just not a humane way to be doing business, and we want to make sure that victims are protected and have the proper services in place.

Mr. Lorne Coe: What's clear is that there's broad support from groups like Victim Services of Durham Region for these proposed changes, and thank you, Attorney General, for bringing them forward. It will make that difference that's been long looked for.

The Chair (Ms. Goldie Ghamari): We'll now turn to the official opposition. MPP Mamakwa.

Mr. Sol Mamakwa: Meegwetch, Chair. Meegwetch, Minister, for the presentation. It's good to have dialogue and a presentation but also have some questions. I know that, as First Nations, we had our own laws before settler laws came in, and sometimes I get conflicted on what justice looks like. Sometimes it becomes injustice when your laws come into play.

The way we organize ourselves now in Ontario, we have 134 First Nations, Chiefs of Ontario, and then we have PTOs, political territorial organizations, which have Grand Chiefs. You mentioned that you did some work with First Nations organizations, or First Nations specifically. I'm just wondering: Which of the First Nations organizations or PTOs did you work directly with in creating the legislation?

0940

Hon. Doug Downey: Absolutely. Thank you for the question. I've worked with a number over the last couple of years. I was fortunate; as you know, because you were here as well, in 2018 I was actually the parliamentary as-

sistant in finance, so when the federal government decided that cannabis was going to be legalized, I had the opportunity to go do consultations across the province, to talk to stakeholders about how things should work. That was my first interaction with some of the stakeholders, whether it be Nipissing or in different places. I didn't get as far as to talk to Treaty 3 or NAN in the north, but we did here when they came to visit us. So that started back there.

We went through the expansion, and you may remember we did a lottery for licences early on. Things were moving so fast, and we thought at the time from the projection, from having talked to First Nations, that there would probably be about four First Nations that were interested. I'm probably telling tales out of school, and I'll get in trouble later, but we thought there were about four that were interested. Then we did the lottery, and we had overwhelming interest from First Nations in coming into a regulated market, and so conversations came out of that.

This is an extension of that. To answer your question, I can't rhyme them off, but from all over Ontario, at different times, whether it be at conferences or whether it be while we're in that space.

Mr. Sol Mamakwa: Okay. Thank you.

I'm going to pass it off to MPP Wong-Tam.

MPP Kristyn Wong-Tam: Thank you very much.

To you, Minister, my question is going back to judicial independence. I think we all recognize that Ontarians need to be able to trust their judicial system. They need to understand and be made comforted that political appointments are going to be made based on merits, qualifications and the attributes of an individual who can actually preside over complicated legal matters with clarity and impartiality.

In 2021, the Conservative government gave itself more control over the judiciary, specifically how judicial candidates are selected for the Judicial Appointments Advisory Committee, and this was supposed to speed up judicial appointments. That was the claim: that by giving you more power, more control, you'd be able to get things done a lot faster.

We have seen that there's a judicial vacancy in Cornwall that was left open for over two years and that the Attorney General himself had rejected six of the committee's recommended candidates, yet we're not seeing the expedient delivery of justice in that case. Why is that, Minister? Why have we seen judicial appointments taking so long to be fulfilled?

Hon. Doug Downey: Well, we'll start right with the basics, which is the name of the committee: the Judicial Appointments Advisory Committee. "Advisory" is right in there. They're not a judicial appointments committee. The responsibility for appointments rests with me to make recommendations to cabinet, who then sign an OIC and the person is appointed. Just to be clear: The committee has a very important function—they interview people; they make recommendations—but the decision has to be made.

At the time, I was being given two names per position. That's what was in the statute: two names per position. There was a situation where in city 1 I was getting Joan Smith and John Smith and in city 2 it was Joan Smith and John Smith. Those were my choices—so effectively no choice at all—and they're supposed to be an advisory committee. I didn't like that. I didn't think that that respected the balance of who is supposed to do what. So we changed it to six names, and I can tell you there are times where I don't get six names. There was a recent instance where I got one name and I appointed the individual. They were qualified.

It has sped things up. It's still too clunky, quite frankly. We can have a whole discussion around that. But I have appointed, to date, 89 judges, and then, on top of that, two associate chief justices, a chief justice and regional senior judges, some of them for a second term. I think if you look at the individuals who are appointed, you'll see good balance. I think you'll see a top-notch, gold-standard, quality bench, but our system still moves too slow.

MPP Kristyn Wong-Tam: I think that there are many right now who are interfacing with the judicial system who would wholeheartedly agree with you that the judicial system is moving far too slow, especially when we have cases and charges that are being stayed, including those of violent natures.

The Chair (Ms. Goldie Ghamari): One minute.

MPP Kristyn Wong-Tam: Judicial appointments should be fulfilled within a prescribed period of time. I think that we can all agree that the more judges that are sitting in those benches, the faster the administration of justice. That is not happening, as of now.

You mentioned, Minister, that you wanted to change the system to ensure that victims would have quicker access to justice, and I think that one way of victims actually having quicker and more fulsome direct access to justice is by ensuring that you have adequate compensation and funding.

In 2019, the Conservative government ended the Criminal Injuries Compensation Board and replaced it with the Victim Quick Response Program+. This program is not available to victims when they can't actually access the public program, and we know that there are months-long wait-lists. After experiencing violent crimes, they're on a wait-list to get access to more services, and yet those services are very much underfunded—

The Chair (Ms. Goldie Ghamari): Thank you. That's all the time we have.

We'll now turn to the independent member. You may begin.

M^me^ Lucille Collard: I want to talk about the family law matters a little bit. You're amending the Family Law Act—or you will be if the bill passes—to make reference to the Federal Child Support Guidelines.

I had, very recently, somebody in my office who depends on child support, and she's having a lot of issues trying to get through to FRO, which is supposed to be administering the child support and making sure that they reach out to the parent in default. There have been incred-

ible delays because FRO doesn't seem to be able to keep up with all the people that are in default, and so it falls onto the beneficiary to call them to say, "My ex is in default of payment," and then they will eventually contact the person and give them 30 days' notice to correct the default. But it's supposed to be monthly installments. And so, that parent was very concerned that those guidelines that the FRO is following are not for the benefit of the child and it gives too much leeway to the person who is in default.

I'm just wondering if there is anything in the Federal Child Support Guidelines that would help improve situations like this and, if not, what else can be done to improve that kind of situation, because it doesn't seem to be an isolated case.

Hon. Doug Downey: I'm happy to take away that example and speak to the minister who oversees FRO. I don't oversee FRO, although it seemed odd to me that I don't when I got into the job because it's connected. But it's not. It's through another ministry. Public and business services, I believe, oversees FRO. So I'm happy to chat with Minister McCarthy about that.

To answer your question, no, there's nothing in this legislation that affects that system. But I can tell you, back when I was in school—I did a master's in judicial administration and court systems, like public admin but for courts—the operation of FRO is one of the things that caused me to know that I might be able to make a difference in government. At the time, it was having challenges. If there are current challenges, I'm happy to take that back and I'll have that conversation with Minister McCarthy.

M^me^ Lucille Collard: So would you suggest I write to Minister McCarthy about that? Because I really thought it was under your purview.

Hon. Doug Downey: Absolutely. I would recommend you write to him. I'm sure he will respond. I expect—he's a man of action—he will actually look into what may be able to change there.

M^me^ Lucille Collard: Okay. Thank you for that. I will definitely do that.

I just had another question. You're removing the requirements to include statistics on the cultural identity for both the Judicial Appointments Advisory Committee and for the Justices of the Peace Act. Why is that?

0950

Hon. Doug Downey: That was interesting because I heard from some of the law associations saying, "What's going on here?" We're aligning with the new standard so that we're taking out some of the antiquated language and we're collecting the data in accordance with the new and current standard. So that really probably could have been explained better in the explanation notes, but it really is administrative trivia as we're adjusting so that we have consistent metrics, I guess, with the act itself.

I can get you more details on that if you want. I can flesh out exactly what I'm talking about.

M^me^ Lucille Collard: Yes, I'm just trying to understand the rationale behind that, because people want to see themselves represented in the legal system, and if you're removing that kind of annual reporting, then we don't really know the kind of appointments that are being—

Hon. Doug Downey: We'll still be collecting the important data of self-identifying data.

M^me^ Lucille Collard: All right.

The Chair (Ms. Goldie Ghamari): One minute.

M^me^ Lucille Collard: No more questions. Thank you.

The Chair (Ms. Goldie Ghamari): Okay. We'll now turn to the government. MPP Bailey.

Mr. Robert Bailey: Thank you, Chair, and through you to the Attorney General, welcome, Attorney General. I'd like you to touch on a couple of things because I've had this happen in my constituency, about a judge being upgraded to a different role, delays in the court. Actually, it was more lawyers being appointed to the bench and the client having to start all over again. Anyway, maybe you could speak a little bit to that.

And the second question—some of my colleagues might have other questions. I know this is a federal responsibility. Is your ministry having co-operation from the feds? I know there's a shortage of judges, and I know it's not up to you, these federal judges. But they must affect a lot of provincial court cases as well. So maybe you can speak to that as well.

Hon. Doug Downey: So just a little bit of an insight into how the system actually works—because I like transparency. I want people to know, because I want more people applying to be judges. I want more people from more communities applying, and so here's a little piece that people may not know: I tend to phone judges who are appointed to see if they'll accept late in the day, because if I phone them at noon, they may be in the middle of a trial, and the moment they say yes, they can't do their job. So that kind of disruption takes a while to figure out. Similarly, when the federal government takes an Ontario judge and takes them to the Superior Court level, that's very disruptive for us, and it comes without warning, obviously. They're not going to give me a heads-up. But that comes without warning, and so that judge's work stops in the Ontario court, and if they're in the middle—what's in here is child protection cases, the most important, in my mind. We don't want that to stop; we want that to finish. So that's what's in here, is to bridge that gap to make sure that that hard stop doesn't happen. That's a pretty important thing, a pretty traumatizing thing for the family, to even be in that conversation, let alone have to restart. That's definitely part of the challenge.

In terms of the relationship with the federal government, it's actually quite good. They do have a lot of vacancies. I have a very good relationship—I had a very good relationship with Minister Lametti federally and with Minister Virani—very open. We don't agree on everything; that's fine. But we have constant dialogue about how we can improve the system and what needs to be done.

To be fair to the federal government, they have a lot of vacancies, but they added a lot to the system some time ago. They just haven't filled them all. They need to fill them. They needed those vacancies, and they need to be

filled. That's where the criticism comes from that you're hearing from the federal court and from the Supreme Court for them.

That does have an impact on me. I'm sort of half waiting—if they're going to poach a bunch of our judges, and that's going to then create a challenge for us. So we're prepared for that. This is part of the reason why—back to my friend MPP Wong-Tam, her question about, are we moving fast enough? I'd like to see us move faster in how we appoint judges, because if that happens and they start poaching our people, that's going to create a different kind of pressure.

Mr. Robert Bailey: That's it for me.

The Chair (Ms. Goldie Ghamari): Okay. Thank you. MPP Hogarth.

Ms. Christine Hogarth: Thank you very much, Attorney General Downey, for being here today and sharing this legislation. One thing you mentioned when you were speaking: You talked about vexatious litigants. Now, there are people watching who may not know what that is, and we talk about time and court time. I'm wondering you could sort of expand upon what that is and how this amendment will help the court system.

Hon. Doug Downey: A vexatious litigant is somebody who is abusing the system. They're using the system as a weapon and they're bringing forward nonsense claims to harass people or to gum up somebody's life. By law, you can only get somebody deemed a vexatious litigant through the Superior Court, through an application.

I think the judges are in a good position to decide who is and who isn't. They would get notice, and they would then make a decision that somebody isn't barred from bringing files to the courts, but they would have to get leave first. So they stop them and put them in a box and say, "Look, you're abusing the system. You're wasting resources. You're not helping yourself or anybody else. Before you go forward with something else, you need permission from the court."

I think that's a really important piece. Some people are eating up a ton of resources, and they're not getting anywhere. They're not serving anybody, they're not helping the public, they're not helping themselves and they're doing damage to individuals. If it's in a family law situation, the ramifications are personal and significant.

Again, there's no mechanism for the Attorney General's office to bring those applications or anything like that. That's not who's doing it. The judges would do it on their own, because they're seeing it happen in real time. So we're putting the responsibility there, and if you don't trust the judges to do it, who would you trust?

Ms. Christine Hogarth: Good point. So how do you see this helping the court system?

Hon. Doug Downey: Even if it's a half-day at a time where somebody has brought a motion that has to be heard, that has to be dealt with. It's not just the half-day of hearings; it's the managing of the file, it's the scheduling and it's taking up the time that somebody else could have. By dealing with some of the worst vexatious litigants, the courts will be able to clear up court resources and everybody's resources, so that we can actually get into productive business and get people's matters heard.

Ms. Christine Hogarth: So this may clear up some of the problems our colleague member Wong-Tam had talked about earlier?

Hon. Doug Downey: Yes. This isn't a seismic change. This is one of several. That's why this bill has so many parts to it. We have to move a lot of pieces to make substantial change, and so this is one. It'll make a big change in some people's lives, but for the system itself, it's just moving the dial a little bit to address MPP Wong-Tam's and others' concerns about how the system is functioning.

Ms. Christine Hogarth: Great. Thank you.

No further questions.

The Chair (Ms. Goldie Ghamari): If there are no further questions, then that concludes this round of questions.

I'd like to thank you, Minister, for your time, and the committee will now recess until 1 p.m.

The committee recessed from 0958 to 1300.

The Chair (Ms. Goldie Ghamari): Good afternoon, members. The committee will resume its public hearings on Bill 157, An Act to amend various Acts in relation to the courts and other justice matters.

The remainder of our presenters today have been scheduled into groups of three for each one-hour time slot. Each presenter will have seven minutes for their presentation, and after we have heard from all three, the remaining 39 minutes of the time slot will be divided for questions from members of the committee. It will be broken down 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 and two rounds of four and a half minutes for the independent member.

ONTARIO ASSOCIATION OF ARCHITECTS
ASSOCIATION OF ARCHITECTURAL TECHNOLOGISTS OF ONTARIO
COMMITTEE OF ARCHITECTURAL TECHNOLOGY PROFESSIONALS

The Chair (Ms. Goldie Ghamari): I will now call upon the Ontario Association of Architects, the Association of Architectural Technologists of Ontario and the Committee of Architectural Technology Professionals to come forward.

There are two witnesses, presenters, from the Ontario Association of Architects. Do I have unanimous consent from the committee to approve two presenters sitting at the front? Agreed. Thank you.

MPP Kristyn Wong-Tam: Sorry, Chair. The motion is to have two per grouping?

The Chair (Ms. Goldie Ghamari): No. The motion is one per presenter, but the Ontario Association of Architects has two, so I'm just seeking unanimous consent to allow both of them to sit as presenters.

MPP Kristyn Wong-Tam: I see. Is there also going to be a motion to allow the AATO—

The Chair (Ms. Goldie Ghamari): For anyone who wishes to have more than one presenter, we'll seek unanimous consent. It's for in person, not on Zoom.

MPP Kristyn Wong-Tam: I see. And were all the deputants advised of this option in advance?

The Chair (Ms. Goldie Ghamari): What option?

MPP Kristyn Wong-Tam: The option to have more than one person at the table.

The Chair (Ms. Goldie Ghamari): It has always been one person. However, if an organization comes with two, the committee can seek unanimous consent to seek permission for them to present in person; otherwise, it would have to be on Zoom.

MPP Kristyn Wong-Tam: Yes, I understand, Chair. What I'm seeking clarification on is whether or not all the deputants had that option.

The Chair (Ms. Goldie Ghamari): Everyone has that option.

MPP Kristyn Wong-Tam: I see. Okay. Thank you.

The Chair (Ms. Goldie Ghamari): If someone comes in person with more than one, they would have to seek unanimous consent from the committee. That option is available to everyone.

MPP Kristyn Wong-Tam: In advance to the meeting?

The Chair (Ms. Goldie Ghamari): No, it's not in advance. It's just if they show up with two. If you have an issue with that, you're welcome to say that they're not allowed to have two members.

MPP Kristyn Wong-Tam: No, I just wanted to make sure that everyone had the opportunity in advance. That's all.

The Chair (Ms. Goldie Ghamari): There's no in-advance opportunity. It's just that if they come and they want permission to have two people, they can seek permission from the committee. Is that clarified?

MPP Kristyn Wong-Tam: That is clarified. Thank you.

The Chair (Ms. Goldie Ghamari): Okay.

Do we have unanimous consent from the committee? Thank you.

We'll now call upon the Ontario Association of Architects. Please state your name for the record, and then you may begin. You will have seven minutes.

Mr. Settimo Vilardi: Hello, standing committee members. Thank you for allowing me this opportunity to speak. My name is Settimo Vilardi, and I'm a Windsor-based architect with experience in residential, institutional, commercial, industrial and civic projects ranging from single-family homes to school building expansions to indoor waterparks. I'm here because I'm also in my second term as president of the governing council of the Ontario Association of Architects.

Founded in 1889, the OAA is mandated to regulate the practice of architecture in our province to protect the public interest. As you know, we are not an advocacy body or a lobby group, but a regulator created by provincial statute to serve the public. We do this by developing and upholding standards of skill, knowledge, qualification, practice and professional ethics.

The OAA strongly supports schedule 1 of Bill 157. We applaud the government for the introduction of these amendments to the Architects Act that will, if passed, establish a framework for limited licences, the class and conditions of which would be set out by regulation under the act. This will enable the relaunch of our long-standing, rigorous OAA technology program and the licensing of former licensed technologist members.

The proposed amendment is entirely consistent with the association's legislated mandate to regulate the practice of architecture, including services provided by qualified individuals in the architecture discipline, one which the OAA has been fulfilling for decades. The OAA's sole responsibility is to govern those qualified and licensed to practise within a restricted scope. This means limited licence holders would be accountable to the public interest and be required to maintain all standards of practice and performance as established in the Architects Act. The public would benefit from risk mitigation, as well as increased choice in selecting a regulated professional with whom to work, knowing they are held to a high standard.

As well, schedule 1 will establish a pathway to provide regulated architectural services to the public for those who do not wish to become an architect or those who do not have the ability to attend or afford the lengthy university education required. This opens opportunities for individuals, whether internationally trained or educated here in Ontario. It improves the equity, diversity and inclusion of the architecture profession and helps ensure it is reflective of the public we serve.

To be clear, schedule 1 has no impact on the services other designers in the architectural discipline can perform. These services are available to all members of the public, as established and defined in the Architects Act under section 11(3). These exceptions are often referred to as the public domain, and the OAA does not interfere in this realm. Any unlicensed individual offering services in this area is subject to the Ministry of Municipal Affairs and Housing requirements for this work. Schedule 1 also has no impact on the ability for any other organization to carry out its duties for legislated objects.

On that note, the OAA and the Association of Architectural Technologists of Ontario, or AATO, have a long-standing history of negotiations related to technologists in the architecture discipline. That said, I'm mindful of my time today, and I do strongly feel the discussion should be focused on the matter before you, schedule 1, which is specific to establishing limited licences under the Architects Act.

However, I recognize it is helpful to see a broader context, which is why the OAA has provided briefing notes to all MPPs. So I will provide just a brief summary of the history of the OAA technology program, and I'm more than happy to answer any specific questions you may have afterward.

In the late 1970s, leading up to the Architects Act of 1984, the AATO advanced successive requests to the Attorney General that their members be permitted to practise architecture. The Attorney General of the day

acknowledged the OAA has the statutory responsibility for regulating the practice of architecture under the Architects Act, and so any discussion regarding scope of practice inside that realm was within the OAA's responsibility. While attempts at discussions were made, there were no positive advancements.

Successive Attorneys General requested that the OAA address the emerging paraprofession in architecture in accordance with the association's mandate to regulate the practice of architecture. It was suggested that the OAA work with the AATO and subsequently the Ontario Association of Certified Engineering Technicians and Technologists, or OACETT, to develop a system to integrate qualified individuals in the architectural profession. The main goal was the creation of a specific membership category within the OAA. This, as I stated before, is consistent with the OAA's legislated mandate to regulate the practice of architecture in the public interest and would mitigate the need for separate legislation as well as the need to create a second licensing body related to the practice of architecture.

While the AATO did not wish to continue in this process, the OAA collaborated with OACETT to establish an internship program in 2003 that provided a path to license with terms, conditions and limitations. The title of the licence was Licensed Technologist OAA. On May 15, 2023, the OAA council reconfirmed its commitment to the regulation of this important paraprofession under the Architects Act and asked for direction to seek the necessary legislative amendments to recognize a limited licence provision in the Architects Act, with a designated class of licence established through regulation 27.

The creation of a limited licence framework under the Architects Act is long overdue. Through the passage of schedule 1 of Bill 157, government can demonstrate its commitment to improving consumer services and public protection while also advancing more a diverse, competitive Ontario economy.

Establishing a paraprofessional legal licence class is not uncommon for regulators in Ontario, with examples found in the engineering, medical and legal professions. For example, the paralegal profession has been under the regulation of the Law Society of Ontario now for 17 years. Since coming under the regulation of the LSO, the paralegal profession has helped enhance access to justice for individuals who cannot otherwise afford legal services or representation, expanding competition and opportunities for members of the profession and the public. Under the regulatory auspices of the LSO, the scope of services that paralegals can offer to the public has also been expanded, advancing accessibility to justice for all Ontarians.

The OAA looks to following a similar path with the passage of schedule 1. Currently, qualified individuals in the architectural profession provide key services to the public domain. They are an integral part of the creation of new housing across the province, and they support the work being done at architecture firms throughout Ontario.

Under the regulatory mandate of the OAA, the limited licence class will:

—be accountable to the public interest;

—be required to maintain standards of practice and conduct, including mandatory professional development and competition standards;

—be subject to the OAA's legislated complaints and discipline process; and

—have a path to licensure to offer services to the public within a restricted scope of work, which expands competition and opportunities for members of the profession and of the public.

The OAA remains committed to the technology program and its important services those with a limited licence provide to the public. The association enjoys a long-standing collaborative relationship with the government and looks forward to working alongside—

The Chair (Ms. Goldie Ghamari): Thank you. That's all the time that we have.

We'll now turn to our next presenter, the Association of Architectural Technologists of Ontario. Please state your name for the record, and then you may begin. You will have seven minutes.

Mr. Alonzo Jones: Hi. My name is Alonzo Jones. Thank you for this opportunity to meet with you. I am the current president and treasurer of the Association of Architectural Technologists of Ontario, also known as the AATO. The AATO has been the regulator of architectural technologists since 1969—I was four. We are 100% self-funded. I don't think anyone would dispute that we have been a very effective regulator. But since the AATO began, we have struggled with the Ontario Association of Architects, also known as the OAA.

The AATO has wanted a legislated expanded scope of practice for its architectural technologists beyond our current scope, which is restricted to the public domain. For decades, the OAA has refused to co-operate with the AATO in pursuing a legislated scope of practice for our members.

1310

Then, to make matters worse, the OAA created its own class of technologists and gave them an expanded scope of practice. The education program they used was virtually identical to ours. We believe that they did this to put technologists under the thumb of architects. So the AATO sought legal advice. It is just wrong for the OAA to blame the AATO for any fallout of the litigation that ensued. Our lawyers wrote the OAA in September 2021, a full year before the court application, hoping to reach a mutually acceptable accommodation. We laid out exactly what our legal position would be, and the court order we would seek, if necessary, so there would be no surprises.

The OAA persisted, so the AATO proceeded with the litigation. The OAA gave no warning to anybody that the legal authority of its program was being challenged even after the court application was commenced. Right before cross-examinations were to happen, the OAA approached us about possible negotiations and finally agreed to everything we had asked for. Schedule 1, by the way, cancels out everything we worked for and achieved in that litigation. Even after the negotiations were finished and we were

just waiting for the court to issue the order, which took about a month, as far as we know, the OAA still gave no warning to its members about the court order that, by then, they knew was coming. They waited until the night the court order was issued to send an email blast to their members, telling them about the order and blaming the AATO.

Brazenly, the evidence the OAA filed with the court showed that the OAA knew all along that they could not lawfully do what they were doing and just did it anyway. The OAA was concerned that an announcement about getting the legal authority they needed would generate opposition from stakeholders, and they specifically mentioned anticipated opposition from the AATO. It is clear on the evidence from the OAA itself that the OAA has been out to control technologists and knowingly disregarded legal requirements to pursue that objective. The bill rewards that bad behaviour. In fact, it goes several steps further. The OAA has said in writing that it intends to use schedule 1 to regulate more than just architectural technologists but also other paraprofessionals in the architectural sector.

The essential point I want to make to this committee is that the premise, the reason for being provided by the government, is completely off base. Whatever chaos was caused, was caused by the OAA. In fact, there was no chaos. About one third of OAA's architectural technologists were also AATO members, and right after the legal settlement, we the AATO offered to grandparent all the others into our membership.

Ms. Chairman, schedule 1 will be the end of the AATO. It will impair competition in the sector and increase pricing for developers, builders, homeowners and business people. I can assure you that schedule 1 won't help the government achieve its objectives in building infrastructure projects, affordable housing and long-term-care homes. It will create more red tape, regulatory duplication and conflict and confusion. It will undermine the AATO's voice and the network of Canadian and international regulators and associations of architectural technology.

The Chartered Institute of Architectural Technologists in the UK has written to the Attorney General in this regard and asked him to scrub schedule 1. That international network is important. It shares best practices in regulation and education and facilitates the movement of architectural technologists into Ontario and to help address the shortages here.

I heard what the AG said this morning about the extensive consultation and massive stakeholder involvement in Bill 157. I can tell you that the AATO was never consulted, at no time, in no way.

So, in closing, I ask you to scrub schedule 1 completely. It cannot be fixed. It is totally unnecessary and it will do major harm. Thank you.

The Chair (Ms. Goldie Ghamari): Thank you very much.

We'll now turn to our third presenter, the Committee of Architectural Technology Professionals. Please state your name and then you may begin. You will have seven minutes. Thank you.

Mr. Rick Mateljan: Thank you very much. Good afternoon. My name is Rick Mateljan. I own a small architectural design practice in Oakville. I'm a former licensed technologist member of the Ontario Association of Architects. I'm here on behalf of the Committee of Architectural Technology Professionals to speak in support of Bill 157, specifically schedule 1.

The Committee of Architectural Technology Professionals represents 150 former licensed technologists and 44 small businesses most profoundly affected by the unexpected revoking of our licences, and also represents 150 interns who were on the path to licensure. All of us held a class of architectural licence that the OAA had issued under a 20-year-old policy that had never been in question or dispute prior to recent events.

That all changed on May 10, 2023, when the architectural professionals involved with this licence were informed by email, and with no prior consultation or warning, that our licences and certificates of practice were null and void. We were no longer members of the OAA. Those of us with businesses were no longer able to provide services to the public. Forty-four small businesses were put out of business that day. The status of many millions of dollars of projects under development and under construction was unclear. Our clients were inconvenienced and financially disadvantaged. They lost confidence in us. Our employees feared for their jobs. Some of us have somehow kept our businesses afloat, but others have not. Those employed by architectural firms lost professional status. Their firms suffered. The losses were huge and are continuing.

We want our licences back, and we want to get back to work as members of the OAA. That's why it's critical for Bill 157, in particular, schedule 1, to become law. We were proud to belong to the OAA and to have architects as colleagues and friends. We have very high regard for the OAA as a regulator and organization.

It's important to note, however, that the roles and the hierarchy of relationships in architectural practice are complex and often unknown by those outside the profession. Some licensed technologists are partners in architecture firms, others hold leadership roles in the public sector, and in both cases, it's common that architects report to them. We are more than a support profession. Those members in large firms often have expertise on large, complex projects well outside of what's usually regarded as a technologist's scope of practice. Some licensed technologists are autonomous architectural practitioners who work in collaboration with architects; others are entirely independent. Some licensed technologists have qualifications in interior design, heritage conservation or engineering technology or have other complimentary degrees. Licensed technologists have long been involved in the training of intern architects. Like architects, licensed technologists are professionals in the practice of architecture, not paraprofessionals.

While we support the OAA and believe it's the only association equipped to manage the licensing regime for licensed technologists, we believe the program can and should be improved for the benefit of architecture, the industry and the public. That's why, as the provincial government develops the associated regulations when this legislation comes into force, we ask it to work with licensed technologists and the OAA.

We need to address key issues regarding how the licensing regime for licensed technologists will be structured as well as the rights licensed technologists will have within the association. Specifically, we must be relicensed seamlessly without additional examinations, fees or other requirements. There must be reasonable increases to our scope of practice. Our scope, at a minimum, must align with what non-licensed architectural practitioners in other provinces in Canada may do. It must implement recommendations and expert reports the OAA has already previously commissioned. There should be a program, as well, of regular review of this scope. We expect reasonable changes to issues of ownership of firms and rights of the technologist licensees to vote and to serve on OAA council. We must be full members of the association.

We want to develop a path to full licensure as architects for those of us who have the necessary experience and knowledge. If I were working in British Columbia, I would not be before you today because I would have been licensed as an architect 10 years ago under the Architectural Institute of British Columbia's alternative qualifications program. Many of my colleagues are also similarly fully qualified to participate in that program. Jurisdictions in the United States have comparable policies. The fact that there's no similar program in Ontario is unjust and the province risks losing talent.

Finally, we want to ensure that OAA-licensed technologists are recognized as professionals, not paraprofessionals, within the OAA and the industry.

We thank the government for introduction Bill 157, schedule 1. This legislation will help all licensed technologists severely impacted by the events of May 10. We look forward to collaborating with the government and the OAA to ensure licensed professional technologists are able to participate and collaborate within the OAA, making full, productive use of our specialized skills, education and credentials, all while serving and protecting the public interest. Thank you for your time and I look forward to your questions.

The Chair (Ms. Goldie Ghamari): Thank you very much.

This round of questions will begin with the independent member. MPP Collard, you may begin. You have four and a half minutes.

M^me^ Lucille Collard: Thank you, Madam Chair. I think this is the first time that we have presenters that are pitting a pitch—that are sort of against each other. I have had several concerns and several communications regarding the impact of schedule 1. I did ask the Attorney General this morning why he came up with this piece of legislation, and he told me his answer: basically, that he had to be responsive to the court order to resolve that situation.

So is that right? Is that what this schedule 1 is doing? I'll first ask the AATO to respond to that.

1320

Mr. Alonzo Jones: Can I refer to my—

M^me^ Lucille Collard: Yes, of course.

Mr. Alonzo Jones: Okay. That would be Valerie.

MPP Kristyn Wong-Tam: I don't think she heard.

M^me^ Lucille Collard: She has got her hand up.

Ms. Valerie Wise: Thank you. There is no court order asking that this be resolved. The only court order is the one saying that the OAA had no legal—

The Chair (Ms. Goldie Ghamari): Sorry. Can you just please state your name for the record?

Ms. Valerie Wise: I'm sorry. It's Valerie Wise. I apologize.

There is no such court order asking for clarity. The only court order is the one stating that the OAA had no legal authority to issue licences. I understand that the Attorney General referenced a Court of Appeal decision this morning. The only Court of Appeal decision is a Federal Court of Appeal decision in which the Court of Appeal actually rejected the OAA's position that the AATO did not regulate architectural technologists. It actually found that the AATO did regulate architectural technologists.

It also rejected the argument of the OAA that the AATO did not regulate in the public interest. In fact, the federal Court of Appeal found that the AATO did regulate for the benefit of the public. So I don't know what court decision the honourable minister is talking about, but there is no such decision.

M^me^ Lucille Collard: Okay. Thank you.

To the OAA: In your presentation, you made the statement that the new schedule 1 doesn't have any impact on other organizations that are licensing other professionals. The AATO is evidently of the opposite opinion. Can you explain that? How is it not having an impact, since you're creating a subcategory of architectural technologists that already exists under the AATO? It looks like you're creating a group that already exists, and then you'll be competing for the same resources.

Mr. Settimo Vilardi: To be clear, the OAA is the provincial regulator for architecture and the profession. The AATO is a voluntary organization. And so, just like the OAA has members who are members of both the OAA, the regulatory body in Ontario—we are also members of the Royal Architectural Institute of Canada, and that's also a voluntary body to which architects belong.

So this change does not affect the ability for AATO to do anything that they've done in the past. They can continue to have members who are both members of our regulatory regime to regulate the practice of architecture in Ontario, and also, under their regime, to advocate for the licensed technologists within the province. So it doesn't really affect anything that they're doing at all now, and they can continue to do that. They've done it for the last 20 years and they can continue to do it for the next 100 years.

The Chair (Ms. Goldie Ghamari): One minute.

M^me^ Lucille Collard: Okay.

I would like to give you an opportunity to rebut that. How is it affecting your ability to continue what you're doing?

Mr. Alonzo Jones: Our scope is in the public realm, so our scope is no more than a homeowner, except that we are more educated than the homeowner. For them to have an expanded scope within their act, it would now make our members dwindle away to them, because they're seeking that expanded scope.

That's what happened when they introduced the program the first time out. We started out with more than 2,700 members when I started in 2007, and it was growing. Then, as this program started to come about, people started to dwindle and leave to become a licensed technologist with OAA. The only difference is that after the 20 years, they still only have about 150. I have about 200 members in private practice—

The Chair (Ms. Goldie Ghamari): Thank you. That's all the time that we have.

We'll now turn to the government. MPP Saunderson, you may begin.

Mr. Brian Saunderson: Thank you to each of our presenters today for coming and volunteering your time to give us input. My question is to Mr. Vilardi. My understanding is that the court hearing decision said that the OAA did not have within their scope the ability to regulate technologists, and so the reason for schedule 1 is to bring the technologists into the purview of your regime. Is that a fair way to comment on it?

Mr. Settimo Vilardi: Yes. Well, it's specifically for us to be able to issue limited licences, and within that limited-licence category we would have these individuals become part of that subcategory, I guess, for lack of a better term.

Mr. Brian Saunderson: Okay. We heard from both Mr. Jones and Mr. Mateljan with somewhat differing opinions, but I'm wondering if you gentlemen can comment, then, on what your prior relationship was with the OAA, and what will it be now moving forward.

I'll start first with you.

Mr. Alonzo Jones: Well, for years we've been trying to work with the OAA. The OAA has refused to have an amicable, mutually beneficial meeting with us. That's what brought us to this court case. It was just out of a defence of our title. They were about to expand the name of the title to "licensed architectural technologist," and we are architectural technologists. The title has been protected. It's been protected for years. And because the OAA has been gone unchecked, they just felt like they can keep moving the ball forward with no one to hold them accountable. That's why they went ahead with the licence without having the prior permissions in place to do so. All this is doing now is just fixing something that they knew they should have done in the first place.

Mr. Brian Saunderson: That being said, I guess implicit from your comment, then, is that this is fixing something that was a problem in the past, but moving forward, it will be resolved?

Mr. Alonzo Jones: No, it's not fixing a problem; it is covering up something that shouldn't have been in the first place. Those titles should have never existed legally because it was not done legally. And then to blame the AATO for something that the OAA did not do legally is wrong.

Mr. Brian Saunderson: And Mr. Mateljan, you are speaking in support of schedule 1?

Mr. Rick Mateljan: Yes, I am.

Mr. Brian Saunderson: So perhaps you could give your perspective on that question.

Mr. Rick Mateljan: I would be happy to. Thank you. My own history is that, prior to my being licensed with the OAA, which was in 2015, I was operating a business under the BCIN system. I guess in about 2010, approximately, I applied to the licensed technologist program that the OAA was running. I applied through what was known as the advanced standing program. I applied through the advanced standing program; I had already been involved in the OAA—I was involved in some committees and things—so I applied through the advanced standing program, I was accepted into that program, I was given my licence in 2015. And so, from 2015 on until our licences were revoked in 2023, I was operating a small business using, as my authority, an OAA licence. I was calling myself a licensed technologist OAA; I had a certificate of practice for my business. I was very happy doing that, and I was one of the ones who lost that ability in May.

I'm here, effectively, asking the committee to pass this schedule 1 that will allow us—and allow me and the 44 others like me that lost their licence on that day—to have our licences back and to get back to business. The other issues that I talked about were issues that I would like to discuss and have ongoing discussions about when it comes to the regulation. But the fundamental thing that I'm here today to ask is that the schedule be passed so that people like me can get back to business.

Mr. Brian Saunderson: All right.

My last question is for you, Mr. Vilardi. My understanding from your answers today is that schedule 1 doesn't exclude the jurisdiction of the Association of Architectural Technologists of Ontario, but what it does is bring them into the fold, so it enhances that and they're not mutually exclusive. But this is solving a problem that, as I understand it, resulted in 150 technologists losing their licences.

Mr. Settimo Vilardi: Yes, any AATO member was welcome to become a member under the licensing regime of the architects' association. We are the regulator of architecture in the province. The Attorney General's office has granted us that ability to do so, and so any architecture that takes place that needs to be regulated should be done through that authority. There's no reason why members cannot. The AATO members have always been welcome to be under that regulatory regime and are still welcome to do that. And as Mr. Jones noted, the two programs have existed side by side for the last 20 years. There has maybe been some movement of membership, but there is no exclusivity. You can be members of both societies or both organizations. One is a regulatory body; the other is a

voluntary advocacy group, and that exists in a number of other jurisdictions, like the Law Society of Ontario. The law society regulates the profession, and there are numerous associations that advocate for the legal profession, and this is no different.

Mr. Brian Saunderson: Okay. Thank you very much. Those are my questions.

The Chair (Ms. Goldie Ghamari): Who's going next? There's no more questions?

Okay. We'll then turn to the official opposition. Who would like to begin? MPP Wong-Tam.

MPP Kristyn Wong-Tam: Thank you to everyone for your presentation. Earlier today, the Attorney General was commenting that the OAA had been regulating technologists for decades. He also mentioned that there were 152 technologists registered under the OAA. With respect to that particular claim, why are there only 152 technologists after licensing them for 20 years? It seems like a small number considering the number of architects that I know that work in Ontario.

1330

Mr. Settimo Vilardi: Sure. The architecture profession in the province is not big in general. There are only close to 6,000 architects in the entire province. If you were to compare us to, say, Professional Engineers Ontario, there are about 80,000 or 90,000. It's quite a small profession, so, then, proportionally, the architectural technologists also make up an even smaller proportion of that number.

Now, why are there those numbers? One can speculate that it's just the process by which—the OAA has a rigorous process for ensuring that these professionals are properly educated, have the proper experience and the proper expertise to undertake the work. There's always some difficulty in that, I guess.

MPP Kristyn Wong-Tam: Thank you. And with respect to the 152 licensed technologists under the OAA, the affidavit that was provided by the executive director during the court deliberations seemed to acknowledge—actually, they did acknowledge—that the OAA knew that it had no authority to actually issue these licences, but you still went ahead and did it. Why did you do that?

Mr. Settimo Vilardi: Well, at the time, we had received legal advice that we were fully within our mandate to do this. We had received direction from the Ministry of the Attorney General that they wanted us to incorporate a paraprofessional class, and so we wanted to get this done for the government because we saw the value in having that group regulated. Of course, we went ahead. Certainly, we thought we had the authority at the time. We operated that way, transparently, for 20 years. It's not like we tried to cover anything up. It just came to pass this way.

MPP Kristyn Wong-Tam: So when you said you received legal advice and believed that you were operating within the realms of what is constituted as the law, are you talking about legal advice from your own solicitors, interpreting information provided from previous Attorneys General? Or are you talking about the Attorney General's advice to you, that you deemed it as legal advice?

Mr. Settimo Vilardi: No. We had independent legal opinion that obviously reviewed our act and our regulation and, within that, provided direction to our council of the day. We had independent legal counsel.

MPP Kristyn Wong-Tam: Is it surprising to you that when the AATO then challenged your position of issuing what was deemed as illegal licences in court, that the court then ruled against you—not you, per se, but the OAA. Was that a surprise to you?

Mr. Settimo Vilardi: Well, there wasn't actually a court decision because we ended up complying with the order in the end. But certainly, yes. We all know we get legal advice, and that changes as some have different opinions. Of course, that's why we get second and third opinions. At the time, we thought we had the proper advice, and it turns out that there was an issue here, so we wanted to resolve it.

We asked the AATO if we could have sufficient time to be able to go through this process while our members were still regulated and practising. They did not allow us to do so, and so we had to comply with the order and move on to the next task, which was going through this committee and getting this legislation passed.

MPP Kristyn Wong-Tam: Can you describe for the committee what specifically did compliance look like by way of court order? What did they ask you to stop doing?

Mr. Settimo Vilardi: Issuing these licences and then, basically, nullifying the previous licences that existed.

MPP Kristyn Wong-Tam: And yet I think I hear from your submission today that you seem to be blaming the AATO for the fact that issuance of these illegal licences were under way by the OAA. So where does that responsibility lie? Is it with the AATO? Is it with the Ministry of the Attorney General? Is it bad legal advice that you rendered—or did the courts make a mistake?

Mr. Settimo Vilardi: I want to be clear: We're not blaming the AATO. They brought this issue to our attention, and we wanted to resolve it. We asked for time to resolve it through this process, because we knew we were the regulator of architecture. Certainly, if they would have allowed us the six or eight or 10 months to do this, then we would be going through this process.

We said, "Thank you for finding this issue. We want to resolve it. We want to continue to work this way." It just so happened that they didn't want to allow us to proceed that way, so we had to follow the court order and move to the next steps, which is to go through this process and get the limited licence passed.

MPP Kristyn Wong-Tam: My understanding is that the AATO has actually offered to provide grandfather qualifications and licensing under their regime to those who were licensed under the OAA. Does that not provide us an elegant solution to what is the problem today?

Mr. Settimo Vilardi: No, because they don't have any protected scope of practice, so they would not regulate—the only thing that they regulate right now is the title of "architectural technologist," so there is no protected scope. They're an advocacy body, and we're the regulator, and so any regulation should fall under a single regulator. Other-

wise, it causes confusion because you would have to go—just like the legal profession; if there were two authorities that licensed lawyers in the province, that would be confusing, so there's only one: LSO. The same thing would happen for architecture.

MPP Kristyn Wong-Tam: But the court order did not go as far as saying, "This is the solution that you need to extrapolate from the government," meaning schedule 1. The court order was specifically to stop issuing illegal licences, correct?

The Chair (Ms. Goldie Ghamari): One minute left.

MPP Kristyn Wong-Tam: Therefore rendering the architectural technologist licence under the OAA to be illegal. That was the court order.

Mr. Settimo Vilardi: Through policy, right. So we had done it through policy, and we understood that the proper way to have done it was through statute, which is what we're doing now—to go and modify the statute to be able to do it.

MPP Kristyn Wong-Tam: Thank you. My final question is that in an earlier meeting that I had with the OAA—and thank you for coming to meet with me—I had asked specifically, "Would you be open to working with the Ministry of the Attorney General, as well as the AATO, to develop a path forward that allows all the voices to come forward?" Your answer at that time to me was, yes, you would be open to those consultations. Are you still open to those consultations?

Mr. Settimo Vilardi: We continue to be open to consultation. We have tried to, but for—

MPP Kristyn Wong-Tam: Sorry. Then, if you are open to those consultations, then schedule 1 cannot proceed as it is worded today.

Mr. Settimo Vilardi: No, no, it can continue to proceed because we can still—the two groups, as I've noted before, can still operate in parallel. There's no reason why their organization cannot continue and—

The Chair (Ms. Goldie Ghamari): Thank you. That's all the time that we have for this round.

We'll now turn to the government. Who would like to begin? Who would like to begin? MPP Dixon.

Ms. Jess Dixon: Thank you, Chair. For Rick—

Interjection.

The Chair (Ms. Goldie Ghamari): Oh, my apologies. I'm so sorry. My apologies. It's the independent member. My apologies, MPP Collard. I am so sorry about that.

M^me^ Lucille Collard: That's why they were not ready, because I was supposed to be in between.

The Chair (Ms. Goldie Ghamari): That's true. No, you're absolutely right. My apologies.

M^me^ Lucille Collard: Thank you, Chair.

Back to the AATO, this dispute over who should license technologists has been going on for 20 years. Why did it take 20 years for the AATO to bring it to the court for resolution?

Mr. Alonzo Jones: Because our group is primarily made of our members. We don't take any money from any other groups. We don't have any sponsorships; we don't have anything. It's our member base. At the time, we were not in a financial position to challenge. Again, that was something that the OAA kind of knew. Every time we tried to have a consultation with them, again, as I said, they would never return our calls. If we had a meeting, the meeting was more like a fluff piece to just say that they had the meeting, but they were not entertaining any conversation of trying to work with us in any capacity whatsoever.

Again, the technologists that they had have the same exact education as we do. So, if you wanted to expand that scope of practice, you could have had that consultation with us. Then, you would have had that one group under the umbrella of the OAA, but they didn't want to do that.

M^me^ Lucille Collard: What do you think of that statement that the OAA is making about the fact that they are the regulator to license technologists and you're the advocacy group? Both of you are called associations, so I find that confusing. Usually, you have a regulator that's called something else and an association.

Mr. Alonzo Jones: It is, and we're not an advocacy group. I'm going to refer the rest of that question to Valerie.

Ms. Valerie Wise: Thank you. As I said before, the Federal Court of Appeal decided in 2003 that, in fact, the AATO does regulate architectural technologists. I've heard reference to regulation over the last 20 years. The OAA has been purporting to illegally regulate architectural technologists for 20 years, but the AATO has been regulating architectural technologists since 1969. It is a regulator. It is much more than a professional association.

1340

M^me^ Lucille Collard: Okay. And so what kind of changes would you like to see in the legislation, if it was in schedule 1, that would bring some fairness to allowing more technologists to be licensed and to be able to bring the services that are required?

Mr. Alonzo Jones: As I said, the education is exactly the same. The process to accredit an architectural technologist or to license a technologist with OAA is virtually the same. Only the expanded scope is different.

And they have to work under an architect. They can't work for an engineer; they can't work for an interior designer. They have to work directly under an architect, whereas, again, we are plans examiners. We work for interior design firms. We are building inspectors. We work for engineering firms. And so we get our accreditation in different disciplines of architecture and construction, whereas theirs is just limited to an architect.

M^me^ Lucille Collard: So would it help for the AATO to have a protected scope?

Mr. Alonzo Jones: Absolutely.

M^me^ Lucille Collard: And you said you haven't been consulted by the minister at all in the crafting of this legislation?

Mr. Alonzo Jones: No, not a soul. No one.

M^me^ Lucille Collard: And you have? Has the OAA been in consultation with the Attorney General in the development of the legislation?

Mr. Settimo Vilardi: Absolutely, sure.

The Chair (Ms. Goldie Ghamari): One minute.

M^me^ Lucille Collard: All right. Just a quick question for the committee, because I had a hard time finding information about your statute, about how you exist. Are you member of the OAA?

Mr. Rick Mateljan: Are you asking me?

M^me^ Lucille Collard: Yes.

Mr. Rick Mateljan: I was up until May, yes. That's correct. I was a licensed technologist member of the OAA.

M^me^ Lucille Collard: But the committee itself—what level of training are the architectural technologists, the members that you are representing, required to undergo under your committee? I just need to understand.

Mr. Rick Mateljan: To become a licensed technologist prior, with the regime that was in place, what you required was you required a three-year diploma in architectural technology from an Ontario college, and then you required about 5,500 hours of practical experience working in an architectural office under the supervision of an architect or a licensed technologist—

The Chair (Ms. Goldie Ghamari): Thank you. That's all the time that we have.

We'll now turn to the government side. MPP Dixon, you may begin.

Ms. Jess Dixon: I believe my question is for Valerie. I just wanted to first check if there was—my understanding is that the Superior Court, the SCJ, was the one that in May 2023 issued the order. You had mentioned the Court of Appeal. We're stopping at Superior Court, right? The Court of Appeal wasn't involved.

Ms. Valerie Wise: That was a Federal Court of Appeal decision back in 2003. I just was responding to the Attorney General's comment this morning that the Court of Appeal has indicated something. That is the only Court of Appeal decision, and it in fact found that the AATO was a regulator in the public interest.

Ms. Jess Dixon: Okay. So did the AATO change its practice or stance at all after the court decision that the OAA didn't have that authority to issue the certificates? Or did you continue on—

Ms. Valerie Wise: So the—

Ms. Jess Dixon: Sorry, go ahead.

Ms. Valerie Wise: Sorry. The AATO did meet with MAG. They reached out to the ministry to update them on the litigation and specifically to ask for a legislated scope of practice and also to be recognized as a stakeholder and, should any regulation be contemplated under the Architects Act, as schedule 1, that the AATO be consulted. And we heard nothing. The AATO heard nothing about the regulation or the schedule until the morning that the legislation was tabled.

Ms. Jess Dixon: Okay. And when was that, that you had reached out?

Ms. Valerie Wise: We met with them in early May, and we also met with them during the litigation to tell them what was happening. But we met with them on May 1 to tell them about the settlement that had been reached and what court order was coming, and that's when the AATO asked to be involved with any proposed legislation.

Ms. Jess Dixon: Can you describe a little bit further what you feel—if we're looking at the order from May versus the legislation being proposed today that we're discussing, can you compare the two for me? Like, what happens when this becomes law, from your perspective?

Ms. Valerie Wise: It basically undoes the court order, because the court order said, "You cannot do this the way you've been doing it for the last 20 years. You need a regulation." And so what this schedule is doing is it would be creating the ability for the OAA to govern the technologists and, as Mr. Jones mentioned, certainly it's the position of the AATO that this would put technologists under the thumb of architects. It would be anti-competitive. And I don't know whether this has been mentioned, but the AATO has filed a complaint with the Competition Bureau as a result of this proposed legislation.

Ms. Jess Dixon: Thank you. Those were all my questions, Chair.

The Chair (Ms. Goldie Ghamari): MPP Hogarth.

Ms. Christine Hogarth: This is a first, that we have had people competing in here at the table. It's quite fascinating.

Actually, my question is to Rick: Can you just talk to me a little bit about how this came about, that one day you had a licence and then the next day you did not?

Mr. Rick Mateljan: Certainly, yes. I will begin by saying that I was aware that there was some litigation that was taking place between the OAA and the AATO. The reason I was aware of that is because, prior to this, there was a subgroup of the OAA—and I apologize; there's so many acronyms here—which was called OAAAS, which was effectively the group that ran the technology program, and I was president of that group. As a result of that, I was aware there was some litigation that was taking place. I guess all technologists were, but I perhaps knew first.

But we weren't aware of precisely what the issues were, and we weren't aware that the OAA and AATO were negotiating or that there was any kind of settlement. We had been told that there were going to be some court dates that were coming up, but we didn't know what exactly was happening. And then we were surprised one day to get an email just saying that, in fact, there had been this court decision which the OAA had agreed to, and the substance of the decision was that our licences were void, our certificates of practice—which is what you require to operate a business—were void.

Truly, I opened my email one day at 5 o'clock to be told that I had had no business and no way of knowing what was going to happen with the projects that were under way, no way of knowing what was going to happen to projects that were in for building permit, whether the projects that were in construction could still legally be constructed—because they would be constructed on the basis of a professional seal that I had put on there, which had no effect—and no way of knowing whether I could still invoice work that I had done in the past months that I hadn't invoiced, because it was clearly of no value because nothing could really happen to it. That was the position

that me and the others like me were in, that we had no business, and this business that I had been operating all these years—I simply could do nothing the next day. That's what happened really, yes, from our perspective.

Ms. Christine Hogarth: Okay. Well, thank you for sharing that story. I understand there's about 150 people caught in your same—

Mr. Rick Mateljan: There's 150 caught in that same web; 44 of them were employed with a certificate of practice offering services to the public. The others were working in architecture firms or in government.

Ms. Christine Hogarth: Okay. I guess my question would be over to you, Alonzo: So 150 additional architects—when our province is growing, we need more people working. I'm not sure of why you would not want to see this happen.

The Chair (Ms. Goldie Ghamari): One minute left.

Mr. Alonzo Jones: We have more than 875 members. We have actually 200 technologists in private practice, just like the licensed technologist OAAs. They carry liability insurance. They work with engineers. They do the same exact thing. The only difference is they have the protection of the AATO Act, so they're protected under an act, whereas the licensed technologists OAA were protected under a policy which was taken away from them when they realized that legally they could not do it. That's why they lost their jobs. We have an act. We've had an act. All of our members work within that act. That's the protection—and the French equivalents. So I don't understand quite where your line of questioning is going, because I don't believe that we took anything away from anyone.

Ms. Christine Hogarth: Well, it's not—you actually don't get to ask me questions, but that's fine. I was just trying to get my head around the dialogue today—

The Chair (Ms. Goldie Ghamari): Thank you. That's all the time that we have.

1350

We'll now turn to the official opposition. Who would like to begin? MPP Wong-Tam.

MPP Kristyn Wong-Tam: I'm just going to pick up where my last question left off. The answer from the OAA was that schedule 1 should proceed as worded, because they were consulted, and that you would then continue to have dialogue with the AATO and that that would not stop the dialogue from moving forward.

Maybe I'm going to turn my question to you, Mr. Jones from the AATO—sorry, the acronyms are very confusing, but I'm doing the best that I can.

Mr. Alonzo Jones: It's okay.

MPP Kristyn Wong-Tam: Mr. Jones, based on the answer from the OAA that schedule 1 should proceed and that dialogue with the organization can continue, what would your response be to that?

Mr. Alonzo Jones: That has always been the response of the OAA. They will dangle the carrot of saying they will consult with us and as soon as we say yes, because we're eager to come to some resolution—as soon as they get what they intend to have, they no longer pick up the phone.

MPP Kristyn Wong-Tam: Wait, so you're saying it's not a good-faith comment?

Mr. Alonzo Jones: No, it is not. It has never been.

MPP Kristyn Wong-Tam: It has never been? Thank you very much.

I guess right now we're hearing both the Committee of Architectural Technology Professionals—maybe to you, sir, Mr. Mateljan; I hope I got that as close as possible. I'm just very curious: How long has the Committee of Architectural Technology Professionals been in existence, and how many people do you specifically you represent and have their mandate to speak on their behalf here today?

Mr. Rick Mateljan: The committee has been in effect, really, only for the last several months as a response to this, because we represent the people who previously were licensed by the OAA and presently are not. We represent those people, plus we represent the ones who were on the path to licensure, and they account for approximately 150 more. So we are the ones who effectively were the most affected by the loss of our licenses that took place as a result of that court action.

MPP Kristyn Wong-Tam: And because the AATO has said that they would grandfather everyone who was licensed under "architectural technologist" under the OAA, that will provide a solution forward without us moving forward schedule 1. Would you not agree to that?

Mr. Rick Mateljan: No.

MPP Kristyn Wong-Tam: Why is that?

Mr. Rick Mateljan: Because what the AATO can provide—they can provide us with a title, but they can't provide us with a scope of practice. Someone who's a member of the AATO and can use that title can't hold themself out as a designer of buildings unless they have a BCIN number through the Ministry of Municipal Affairs and Housing. And so, that title doesn't actually give you any right to work.

So for me, for example, that day that I lost my license and certificate of practice, I couldn't work. If I had joined the AATO that day, they would've given me a title, but it wouldn't have allowed me to work. I would still have to have gone and gotten that BCIN number. The two aren't equivalent.

MPP Kristyn Wong-Tam: You completed the BCIN test and you have the number, correct?

Mr. Rick Mateljan: Yes, I did, and that's how I'm operating my business now. That's correct.

MPP Kristyn Wong-Tam: So even though you applied for a program and you have a licence that is now deemed illegal by the court, because the OAA never had the right to issue the license, you still would not join the AATO, despite the fact that they're offering you a grandfathered program that allows you to continue to work as you are working today? You're fighting for your illegal license to be legalized?

Mr. Rick Mateljan: No.

MPP Kristyn Wong-Tam: But that's exactly what you're doing.

Mr. Rick Mateljan: No. I would not join the AATO. I think that the AATO does good work from the standpoint of the programs, the educational programs and so on, that they put on. I think that if someone wanted to join them, I would commend them.

But the fact is that joining the AATO doesn't give you any kind of professional licence. What I would like to have is I would like to have the professional licence that I had previously with the OAA, which I value very, very much. I would like to have that back and I would like to see this schedule passed that would allow the OAA to give me that licence back.

MPP Kristyn Wong-Tam: Thank you. I appreciate that.

To the solicitor for the AATO, Ms. Wise: You commented that the Federal Court confirmed that the AATO has been regulating architectural technologists since 1969.

You probably just heard the submission from Mr. Mateljan. He seems to think that the organization you are representing does not have the ability to provide professional regulation. Do you agree with what he has just said?

Ms. Valerie Wise: No, I don't. As I said before, I think the AATO Act makes it clear that it is a regulator. The Court of Appeal, as I say, rejected the OAA's argument around that and agreed that the AATO does regulate.

There's a lot of talk about a protected scope of practice. That is what the AATO has been asking the ministry for—a legislated scope of practice. That would be a more reasonable and fair solution. It would create a single regulator instead of duplicating regulation, it would be better for competition, and it would keep technologists independent from architects.

MPP Kristyn Wong-Tam: Mr. Jones commented that the OAA will tell this committee that they'll be ready and available for consultation. But should schedule A proceed as it is worded and it becomes law, do you believe, based on past history and communications with the association of architects, that that consultation and dialogue will continue if schedule 1 is adopted and the OAA walks off with what they need today?

The Chair (Ms. Goldie Ghamari): One minute.

Ms. Valerie Wise: No, based on the history, what we've seen is that the OAA wants control. They've made it clear they want to control all paraprofessionals, not just technologists.

MPP Kristyn Wong-Tam: So is there any concern about setting a precedent here, where you have an organization such as the OAA that has overstepped their bounds, issued some illegal licences, been called back by the courts? If this committee goes ahead and rewards them with the schedule 1 as it is written, with no more further consultation, does it set a bad precedent for other professional organizations out there, that they can also step outside of their statute, do what they need to do—break the law, in this case—but then be rewarded afterwards by having the Ministry of the Attorney General just correct it by a new statute? Is that the way we should be moving forward?

Ms. Valerie Wise: Yes. It rewards that bad behaviour.

The Chair (Ms. Goldie Ghamari): That concludes all the time that we have for this round.

At this point, I'd like to thank our presenters for joining us today.

MS. NINA DEEB

MR. TOON DREESSEN

The Chair (Ms. Goldie Ghamari): We'll now call upon our next round of presenters. Nina Deeb and Toon Dreessen, please come forward.

We'll begin with Nina Deeb. Please state your name for the record, and then you may begin. You will have seven minutes. Thank you.

Ms. Nina Deeb: Good afternoon, Chair and committee members. Thank you for having me here today.

In regard to schedule 5, the Coroners Act, and whether an inquest should be held when a worker dies in a mining plant, mine or construction project, exemptions from coroner inquests must not exist when workers are killed on their work sites.

Cannabis schedule 1 and 2 should be deleted. The Indian Act is federal jurisdiction. First Nations need housing, potable water and library resources, not marijuana laws. It's evident these schedules are not necessary when one visits any First Nations reserve. First Nations are already managing cannabis and are capable of managing their own affairs on-reserve.

Amend schedule 6, Courts of Justice Act, section 140—making orders in relation to vexatious proceedings. This should apply to police services, delegated authorities and any outsourced non-government organization that practises the law on behalf of the government of Ontario. There is a growing library of vexatious prosecutions of these organizations. Respect for the law must be maintained. The authorities must behave lawfully themselves, rather than prosecuting vexatiously. These corporations have no meaningful oversight. The minister once responsible for the oversight of Tarion is now sitting on their board. He expanded the arbitration network by adding five new corporations to the system of law arbitration.

1400

Delegated authorities have been designed for profit by lawyers that were elected members of government. These new corporations of the development industry do not contribute any taxes. They collect administrative penalties and charge fines without hearings.

We need laws against vexatious prosecutors that prosecute without evidence. Outsourced corporations that practise the law for profit and abuse their power are not accountable to the people of Ontario. We did not elect these corporations. Corporate authorities break the law they're entrusted with, with impunity. Their independent legal counsel breaks the law by taking over the proceedings. Police services, delegated authorities and non-government organizations must follow the law, too.

Delete section 10, Fire Protection and Prevention Act, 1997. This bill proposes administrative penalties of

$10,000 to $100,000 charged by fire services. Fire departments should concentrate on extinguishing fires. It is a service, not a profiting business. Fire departments are municipally funded by ratepayer taxes.

When the people of Ontario need access to justice, they find themselves facing an army of arbitrating corporations. This is the privatization of dispute resolution. Tribunals are ideal for corporations to profit by running the law in Ontario for profit. Over the last 27 years, Ontario's justice system has been slowly converted to an arbitration system that is run by private corporations. Access to justice is denied or delayed by non-government organizations. These institutions run up the costs on those seeking access to justice.

Self-represented parties have been recently introduced into Ontario's real estate industry by the delegated authority itself. There's no savings or benefits when consumers give up their representation. The delegated authority is a very young corporation that's collected over $1 billion since it was created by one of the directors of Tarion. The delegated authorities are trained police corporations. These entities are defunding the municipalities, ratepayers, Ontario and Canada.

We do not need extractive law in Ontario. Every new corporate authority has a licence to print money by monopoly. Ontario must remove these self-serving corporations.

In-person hearings must always exist. Access to justice must not rely on having two other privileges. Electronic hearings are suitable only for convenience. They're nice to have, but they can't be the only method. They serve those that have other privileges. Access to an electronic device and the Internet must not be prerequisites for access to justice. Access to justice cannot be exclusive to those that have a phone, a computer and the Internet. Everyone in Ontario must have access to justice.

Thank you for having me here this afternoon. I do look forward to answering your questions.

The Chair (Ms. Goldie Ghamari): We'll now turn to our next presenter. Please state your name for the record and then you may begin. You'll have seven minutes.

Mr. Toon Dreessen: My name is Toon Dreessen. Thank you very much for allowing me to be here to present to this committee and giving me a few minutes.

As I indicated in my written submission, I'm a past president of the Ontario Association of Architects, which is a self-funded regulator and the only regulator of architecture in Ontario. Since serving six years on council and two as president, I continue to remain involved in regulatory activities with the OAA as a committee member.

In addition to these volunteer activities, I run a busy architectural practice in Ottawa where we deliver high quality projects both across the country and internationally in complex settings. My practice is now in its fourth decade—obviously not with me as sole owner.

Since my ownership in 2012, it's continued to grow its profile as a firm that leads in technical development of built infrastructure of all kinds. My firm has always relied on the positive relationship between licensed technologists and technical leaders, all of whom have been licensed technologists OAA. My firm had, as I said in my written submission, one of the first licensed technologists in the province. He was a partner in our firm until he was tragically killed in a car accident. My firm would simply not be what it is today without their role and expertise.

It is absolutely crucial that the OAA licensed technology program be reinstated. This is clear; this is a matter of the public interest. Our buildings are becoming more complex while we put increased pressure on delivering more homes faster, homes that are sustainable, durable and accessible. This can only happen with more properly regulated professionals who will continue to work as leaders within firms and as business owners running their own practices. This is crucial. The reinstatement of the OAA-licensed technology program will allow more regulated professionals to continue doing what they have done successfully for years: mainly, creating homes for Ontarians, guided by the professional standards of the OAA; meeting the strict standards of education, experience and examination that the OAA sets; and respecting the public interest and accountability that the OAA brings.

No other organization has the same mandate, provincial act or legislative responsibility to regulate architecture in Ontario, and none should. The OAA does this extremely well, with a track record dating back to its original inception in 1899, and subsequent acts, including the Architects Act of 1990.

I wish to stress the importance of this act that is being considered. Many of the drivers of creating homes in Ontario fall into a desire for greater moderate density. These are often projects that licensed technologists OAA can deliver, but may be too small for many larger architectural practices, and they are out of the scope of a BCIN holder, such as an AATO member. By returning credibility to licensed technologists, this government will enable a broader range of homes to be designed and built—work that is essential to creating not only homes for people, but helping to stimulate the economy.

No other regulatory body has the mandate for this work other than the OAA. OAA-licensed technologists have the training, the skills, the insurance, the professionalism and the responsibility that no one else, other than architects, has in this field.

Architecture is a complex field and not always easily understood by the public. Similar to the practice of law, architecture has broad implications for how people live their lives with dignity and, similar to the practice of law, many people don't always realize how architecture affects them every day in subtle ways. In that sense, just as paralegals are regulated by the law society, so too should licensed technologists be regulated by the OAA.

There are thousands of paraprofessionals working in the field of technology and architecture in Ontario. The majority of those people are graduates of Ontario colleges, they work in Ontario firms and they deliver thousands of homes and other projects in the public interest. There

should be a single regulator of architecture, just as there is a single regulator for medicine or law.

The parallels are clear. Both are self-regulated professional bodies with long histories of serving the public interest. Both organizations are made up of self-governing boards or councils which broadly serve to protect the public interest. They have complaints mechanisms to manage public complaints about the conduct of their members, along with disciplinary bodies for those very rare cases where a member transgresses. They both set standards for admittance of members based on the triple E of education, experience and examination. They both have agreements with other similar professional bodies in other provinces.

Paralegals provide essential services within law practices and, when practising independently, offer a range of paraprofessional services to the public that can offer a lower-cost service than a full legal practice while not replacing the services of a fully registered lawyer. In that same way, a licensed technologist OAA provides services to the public that may not need the services of a full architect. Both paraprofessionals have access to the regulatory services of their respective bodies, who hold them accountable for continuing education, for upholding standards of practice and for being properly insured in the public interest.

For more than a decade, OAA-licensed technologists demonstrated a track record of excellence and service delivery, bringing thousands of projects to light that might not otherwise have been possible. By passing this legislation, this government will ensure that more homes are safely designed. It will allow the OAA to continue the path it started with regulating technologists and open the door to enhancing access to the profession. It will create opportunities for thousands who are currently working in an architectural technology field to become regulated, contributing to the practice of architecture and aiding to participating meaningfully in regulatory activities such as serving on council and contributing to a safer, healthier Ontario.

And, at a deeply personal level, this legislation is important to me. As I stated in my written submission, I would not be the architect I am today, nor would I have the firm I have today, were it not for the role licensed technologists have played in my life. In particular, one licensed technologist, Derek Ruddy, has worked by my side for more than 20 years and was crucial in supporting my growth as a business and as a professional.

The Chair (Ms. Goldie Ghamari): One minute.

Mr. Toon Dreessen: I learn from him on a regular basis.

In my career, I've had the honour and privilege of working with some of the best in their field. I urge this committee and this government to pass this legislation as soon as possible so as to return legitimacy and credibility to a crucial branch of the profession who are essential to practices, essential to our economy and essential to creating homes for Ontarians. Thank you.

The Chair (Ms. Goldie Ghamari): Thank you.

This round of questions will begin with the government. MPP Coe, you may begin.

1410

Mr. Lorne Coe: Chair, through you to Mr. Dreessen—is that correct, sir?

Mr. Toon Dreessen: Correct.

Mr. Lorne Coe: All right, thank you. You mentioned in your response that you're supportive of what we're discussing today, schedule 1 and the bill overall?

Mr. Toon Dreessen: Yes.

Mr. Lorne Coe: Right, okay. In your deputation, you talked about some of the disciplinary processes that are in place at the present time. Take us through those so we understand what bodies exist at the present time and what processes they follow to safeguard the practice that you remember of at the present time.

Mr. Toon Dreessen: I actually happen to be chair of the complaints committee at present. So the complaints process is public. Yourself, if you've hired an architect and found that you didn't receive the service you expected or there was a problem or a concern, any member of the public is able to make a complaint against that other member and fill in a form and provide a summary of what the issue is. The complaints committee assesses the validity of the complaint: Has there been a transgression of the act? Has the member behaved dishonourably? That member would apply to whether that person is a member of the OAA or would apply to some one who was a formerly licensed technologist as well. So, a member of the OAA is given an opportunity to defend themselves, answer the questions, so forth. That process is then reviewed by the complaints committee. A decision is made as to whether or not that complaint has resulted in a transgression of the Architects Act and is then referred to the discipline committee, which then acts essentially sort of as a court in determining innocence or guilt.

If the member has done something that is not necessarily a transgression of the act, but it's clear that they are deficient in learning about something, an aspect of law or something that's necessary, they may be given a recommendation that you've almost stepped over the line—you've not quite but you've almost—and you really need to learn something, improve your knowledge in a certain field. Then they're sent back into practice. If that person is complained about again, that process continues.

Mr. Lorne Coe: All right. Then through you, Chair: supplementary, please?

The Chair (Ms. Goldie Ghamari): Yes.

Mr. Lorne Coe: Okay. I want to turn to restoration of licences of former OAA-licensed technologists. How will restoring the licences of former OAA licensed technologists help ensure the safety of our communities and spaces overall? It's an extension of the question I just asked.

Mr. Toon Dreessen: Right now, if someone wants to design a house, you want to design a house for yourself, you would hire an architect or someone who has a BCIN, a building code identification number, which is a very—I want to say, generously, it's a very baseline, the very minimum code of knowledge, the very least amount of insurance you could possibly get away with. That person can design that house.

A licensed technologist, in order to become that licensed technologist, has to have demonstrated years of internship, of training, under the mentorship of an architect and a licensed technologist, and pass an examination that is far more rigorous than the examination of a BCIN holder. They have then access to a public-facing professional insurance program that protects the public interest from errors and omissions and that is somewhat different, subtly different, than the E&O insurance that a BCIN holder might carry. That licensed technologist can design not only something significantly larger than what a BCIN holder can do, but can deliver multi-unit housing, low-rise residential apartment buildings up to, I'm going by memory, something like four storeys. So they can design a larger scope of practice that a BCIN holder cannot. They demonstrate a greater degree of knowledge, training and experience. Even if they're designing just a home for yourself, they have more training, more experience as well as more credibility as being a regulated professional.

If you hired a draftsman with the BCIN, you would have no body to complain to should you have a problem with their behaviour. You have no recourse. You have no mechanism to complain about their behaviour. Whereas with the OAA, you have that mechanism.

Mr. Lorne Coe: Thank you, sir, for that response. Through you, Chair, to MPP Hogarth please.

The Chair (Ms. Goldie Ghamari): MPP Hogarth.

Ms. Christine Hogarth: Sure. Well, thank you both very much for being here. It's nice to see you again, Nina. Thank you for making your way to Queen's Park. I think we were in Cornwall last time that we saw each other.

Actually, my question is going to be for Mr. Dreessen, because we had that conversation just from the last group of people and we see one side for schedule 1 and then there was one group that was opposed to schedule 1. We're building Ontario. We need more bodies. We need more workers. We need more architects. We need more of everybody—skilled workers. Can you talk to me a little bit about how this all began? What I've read and what I've heard is that it's been 20 years an organization has been giving out licences. All of a sudden they were told they could not. So, is this fixing a mistake, schedule 1?

Mr. Toon Dreessen: That's my understanding. I wasn't around in 2007, and I'm not a member of council now, so I don't have legal advice beside me. But my understanding is that when licensed technologists were first started by the OAA, the advice they were given, the direction they were given, was that this was permitted, and perhaps in the same way that legal advice changes over time, that advice was, whether it was faulty or it was right at the time and no longer right today, that decision is that that decision by policy is not applicable. So reinstatement of OAA licensed technologists, by passing of this bill, will essentially create by act rather than by policy.

Ms. Christine Hogarth: Okay. In my opinion, there's more work for more people. So having more people in the field, what does that do?

Mr. Toon Dreessen: It allows more homes to be built, and one of the key things that is—

The Chair (Ms. Goldie Ghamari): One minute.

Mr. Toon Dreessen: One of the key things that is a benefit of the licensed technologists is that they're able to take on projects that a large firm, or even a medium-sized firm like my own, may not be able to take on in a cost-effective way, so they're able to bring more regulated practice of providing homes to more people, professional services to more people in a more effective way.

Ms. Christine Hogarth: Will these homes be safe?

Mr. Toon Dreessen: Yes.

Ms. Christine Hogarth: Thank you.

The Chair (Ms. Goldie Ghamari): Thank you.

We'll turn to the official opposition. MPP Wong-Tam.

MPP Kristyn Wong-Tam: To both our speakers, thank you for coming out. Nina, it's always nice to see you. I listen to your presentations with a lot of interest and always learn quite a bit.

My question today is for Mr. Dreessen. I'm a big fan of yours. I read your op-eds with a lot of keen interest. I always follow your comments on social media. Overall, I recognize that you are a civic-minded individual, so I thank you for appearing today. Obviously you feel very passionately about this issue. You're very busy. You have a successful practice, a practice I believe that you've mentioned that you've had now 40 years.

Mr. Tom Dreessen: Well, the practice has been around for 40 years, yes.

MPP Kristyn Wong-Tam: So considering that the OAA has only been licensing technologists for the past 20 years, I'm assuming that earlier, before that, from year 1 to year 20, you would have been working with licensed technologists who were regulated by the AATO; is that correct?

Mr. Toon Dreessen: I'm not sure about all the history prior to my joining the firm in 2012. I know that when I joined the firm, the technical leaders in the firm were technologists, and this is where there's, I guess, a little bit of a challenge, that there are thousands and thousands of people working in architectural practices in Ontario who are not members of the AATO. They derive no particular benefit from being members because they do not have an expanded scope of practice. The only thing that benefits them is the use of the title "architectural technologist." So my firm has always relied on people who are architectural technologists without misusing the title because they're not members of AATO.

MPP Kristyn Wong-Tam: So you're claiming that the AATO is misusing the title, even though they've been a regulator since 2003 and actually verified by the federal court since then?

Mr. Toon Dreessen: I don't know about the federal court decision. My understanding is the AATO is a title legislation only in the same way that ARIDO interior designers have a title legislation, same as landscape architects.

MPP Kristyn Wong-Tam: Thank you, Mr. Dreessen. You are a former president of the OAA?

Mr. Toon Dreessen: The OAA—correct.

MPP Kristyn Wong-Tam: And how long were you president for?

Mr. Toon Dreessen: I served the longest term that I possibly could, for two years, much to the exhaustion of myself and my family.

MPP Kristyn Wong-Tam: I'm sure they thank you for that service. When did your presidency begin?

Mr. Toon Dreessen: It would have started January 2015 and ended January 2017.

MPP Kristyn Wong-Tam: So by the time you became president, the OAA was already issuing the licences for the technologist category; correct?

Mr. Toon Dreessen: That's correct.

MPP Kristyn Wong-Tam: So you would not have been privy to the earlier discussions with the legal counsel of that day.

Mr. Toon Dreessen: Correct.

MPP Kristyn Wong-Tam: Okay. Obviously we have a dilemma, and it's one that sits within this sector, obviously creating quite a bit of acrimony as well. Whenever anybody goes to court, I say oh, boy, we couldn't resolve it outside of the courts, which of course is the best way to resolve anything.

1420

You are now here before us today. We have a schedule that is largely crafted in favour of the OAA; I would say it's the only group that it's in favour of. It also provides some additional powers that go beyond what was even, I think, spoken to in the court order, and that is the desire to create paraprofessionals. Do you know about the desire to create these paraprofessionals within the OAA?

Mr. Toon Dreessen: Only by the very highest level, not in intimate detail. I'm not a member of council, and I do not sit here today speaking for or representing the OAA. I'm just little old cranky me.

MPP Kristyn Wong-Tam: Okay. But little old cranky you also served as its president.

Mr. Toon Dreessen: Correct.

MPP Kristyn Wong-Tam: You serve on committees today.

Mr. Toon Dreessen: Correct.

MPP Kristyn Wong-Tam: So you're not exactly independent, per se.

Mr. Toon Dreessen: Correct.

MPP Kristyn Wong-Tam: Thank you. And so, because one third of the OAA's architectural technologists also happen to be members of the AATO—that's my understanding of how the membership is broken down—and the position right now from the OAA as well as from the committee earlier was, "We want to get working again. We need the government to fix this problem"—a problem that I think the court has identified as sitting squarely within the responsibility of the OAA. They created this problem, not the AATO, and now there's a request to government to fix a problem that was created by the OAA.

Mr. Jones from the AATO stipulated that, should schedule 1 proceed, this would be the end of their organization, and I think largely around the fact that there would not be enough competition and that perhaps there would be a duplication of red tape, which this government absolutely loathes. They hate red tape; they talk about it all the time. But yet, we're going to be creating two regulatory bodies, which would, in some ways, look like more red tape.

Mr. Toon Dreessen: I would not agree with that.

MPP Kristyn Wong-Tam: How so?

Mr. Toon Dreessen: The AATO is not a regulator of practice. They have a title legislation. Any member who is an OAA-licensed technologist can become a member of the AATO and have them serve as an advocacy body for them. Any technologist who works, for example, in my firm—I have two technologists who are waiting in the wings, waiting for this schedule to pass, so that they can become licensed technologists. They've been on hold; their careers have been on hold for a year. And I have two other technologists who cannot technically call themselves technologists because they don't see a value in paying a membership to the AATO. But they could, and so they can continue to join the AATO.

I see the AATO as continuing to exist and continuing to serve as a voice for architectural technologists in the province in providing a recognition of their title and the use of their title in practice.

MPP Kristyn Wong-Tam: But your members who are licensed under the OAA—

The Chair (Ms. Goldie Ghamari): One minute.

MPP Kristyn Wong-Tam: Yes, thank you—who had their licences revoked by the courts because they were illegal licences, they can actually continue working now, because there was actually an offer immediately after the court legal settlement where the AATO offered to grandfather all the architectural technologists under the OAA under their umbrella. So then, therefore, there is no need for schedule 1. Wouldn't that be the best solution for your members to get back to work right away?

Mr. Toon Dreessen: For my employees, it doesn't make a difference, because they work under my certificate of practice. But for the 44 practices, for those others who had dreams of opening their own practice, there's no benefit to them, because joining the AATO gives them no expanded scope of practice that they would have if they were licensed OAA members. An AATO member can't design a small restaurant. They can't design an apartment building.

MPP Kristyn Wong-Tam: But one benefit, one very sizable and immediate benefit, is that they would get to work right away, and they would have a legitimate, legal licence—

The Chair (Ms. Goldie Ghamari): Thank you. That's all the time that we have.

We'll now turn to the independent member. You may begin.

M^me^ Lucille Collard: Welcome here, and thank you for your presentations, both of you.

Toon, I'm going to start with you because, again, we need some clarity. I don't know if you were here during the presentations earlier. There's clearly an inconsistency or a decision that's been made, at the very least, by the

government to favour the OAA over the AATO, while AATO claims that they have all that is necessary to be able to license architectural technologists. The Federal Court of Appeal, in 2003, did confirm that they were a regulator, and now they're getting that kind of taken away because the OAA will become sort of the official regulator for the technologists. I can appreciate that they see an unfairness in that and that they are—the OAA and the AATO are competing for the same membership, and when my colleague was saying it may mean the end of the AATO, we understand that point of view.

You did mention that the OAA, in your view, is maybe better equipped to license technologists because they have better protection for the public, because they have a complaint process. Is it a fact that the AATO does not offer the same kind of protection to the public?

Mr. Toon Dreessen: I don't know what their structure is. I don't know how their complaint system works. I've never investigated it. But I know that the OAA's complaints process—mandate to protect the public interest, to serve the public, and its acts and standards go back, as I said, to 1899 or something, and the process for protecting the public interest is their primary mandate. That is their number one objective and their primary mandate, whereas protection of a title is not the same thing. I think that's where the OAA's strength is—that they have the history, the structure and the ability to license technologists not only to practise within firms, but to run their own practices in a way that is far more equitable and delivers a better protection of the public interest than any other organization.

M^me^ Lucille Collard: Okay. The AATO has a membership that is bigger than the OAA for technologists.

Mr. Toon Dreessen: For architectural technologists.

M^me^ Lucille Collard: Why do you think that the OAA hasn't been more successful in attracting licensing for the technologists?

Mr. Toon Dreessen: I think that part of it is time. It is a lengthy time commitment to become a licensed technologist—it is several years, just as it is to become an architect. That is a lengthy time commitment to go through.

Running your own business is extremely terrifying and difficult to do. Even me, running a medium-size practice—it's very difficult to run a small business. That's why there are not very many small firms that launch their own practice as licensed technologists—because it is a very tough, very difficult race to the bottom on fees and chasing-the-last-dollar process, so it is—

M^me^ Lucille Collard: And yet, the AATO has a large membership. Are you saying that those people are not working?

The Chair (Ms. Goldie Ghamari): One minute.

Mr. Toon Dreessen: They are working, but the vast majority of them are either working, as I think their members have said, in government or within other firms. Not many of them work as independent designers and—I don't know. There's no track record. I don't have any data on that—

M^me^ Lucille Collard: Is that a disadvantage to the public? As the opposition said, we need more people to design more homes because we have a big need.

Mr. Toon Dreessen: Not at all. AATO members can continue doing what they do—designing small houses, independent houses, townhouses. They can continue doing that, and they are welcome to do that. They are also welcome to become licensed technologists, OAA members, by going through the regulatory process and having an expanded scope of practice.

M^me^ Lucille Collard: I don't think there are enough seconds for me to ask another question. Thank you.

The Chair (Ms. Goldie Ghamari): We'll turn to the government. MPP Saunderson.

Mr. Brian Saunderson: Mr. Dreessen, I have some questions for you. Following this discussion and the panel that was before you, in some contexts, it seems to me that this is being cast as a bit of a turf war. I want to get a better understanding from you. You talked about the BCIN number versus an OAA membership, the enhanced scope of practice, the regulation versus just the title granting. And you mentioned the Ontario landscape architects as having a similar situation as the AATO, I think.

Interjection.

Mr. Brian Saunderson: Yes. Is this a turf war? What is the enhancement of a membership with the OAA—or having the OAA regulate our technologists? How does that enhance their practice and their abilities to serve the public and get homes built?

1430

Mr. Toon Dreessen: So the best analogy I could do is describe this as if you wanted to build a house. So if you wanted to design your own house, you comply with the building code. You do your own drawings. If it's ugly, leaks, falls down, it's your problem because you designed it. If you decided to hire somebody else to do that, that person would have to have a BCIN, which has a very minimal examination—very minimal. There's no continuing education. There's very little insurance and very little to protect the public.

That's the scope of practice that an AATO member has. Anyone can become a holder of a BCIN as long as you can pass the test; an AATO member has had the education of an architectural technologist, a two-year or a three-year program from a college.

The scope of practice for a licensed technologist OAA is a larger scope, so they can do slightly larger buildings, slightly larger projects, and they have the advantage of having—with that slightly larger scope, they have requirements for things like continuing education and ongoing, regular training updates. They have requirements for insurance based on the scale of projects that they do and the volume of work that they do.

So there's a greater effort to protect the public interest with those mandates and those tools. The advantage of the licensed technologist OAA is that it creates opportunities for more homes to be built—the small-scale, the three-storey, four-storey apartment buildings that we need to create accessible, durable and safe homes for people in

Ontario. That is essential to keeping our economy moving and growing and is a scope of practice that a licensed technologist OAA can bring to the table that AATO members cannot.

Mr. Brian Saunderson: Okay. What I understood from a number of your answers today is that a lot of technologists who work in larger firms work with architects. They don't need to be registered actually in either because they shelter, effectively, under the licence of the architect who's overseeing the business.

What I understood from Mr. Mateljan was that there's a whole kind of niche market in there, wherein the larger firms under which these technologists would be sheltering are too expensive for certain projects, but it might be beyond the scope, as you've outlined, of a member of the AATO.

And so this opens up a market where small firms under OAA-registered technologists can actually take projects, run with projects and get those projects built with the oversight of the OAA, which they would not be able to do under the AATO.

Mr. Toon Dreessen: That's correct, 100%.

Mr. Brian Saunderson: Okay, so what you're telling me then, as I understand it, is that this opens up a market for certified technologists who have the expertise and have taken a licence with the OAA to fill that market and to design projects that are too big for a technologist as an AATO-certified person but allows the scope of up to four storeys and other things—storefronts, restaurants, other things—

Mr. Toon Dreessen: Yes, small restaurants and so forth.

Mr. Brian Saunderson: So, it really fills an important niche in getting homes built in our community and trying to keep costs down. Is that fair to say?

Mr. Toon Dreessen: Absolutely, 100%.

There are projects that will cross my door that I could respond to or put a fee in for, but I can't compete with because I have the expenses that come with having a 10-person firm. You know, my insurance bill is $160,000 a year. I do very large projects. I do work internationally. So I simply can't scale down necessarily to the smaller-scale stuff.

I'm interested in doing it and I have clients who are willing to pay for it, but I can't scale down quite that small and the licensed technologist—and people don't want to hire just a BCIN holder because they don't know what they're going to get. They don't know the quality that they're going to get. They don't know that that person has had necessarily all of the training. Some people are looking for the cheapest drafting services they can, and that's fine, and there is a market for that, but some people want something more than that and that's specifically where the OAA-licensed technologist comes in.

I forget exactly what it is. I want to say it's four storeys and it's maybe a footprint size in restaurants, up to 50 or 60 people, and storefronts and the smaller renovations. So, it gives a slightly broader scope than just a BCIN holder.

Mr. Brian Saunderson: Thank you. And so, this is not a turf war. There are very significant enhancements in the OAA handling this licensing requirement versus the AATO.

Mr. Toon Dreessen: Absolutely.

Mr. Brian Saunderson: Thank you very much.

Those are my questions.

The Chair (Ms. Goldie Ghamari): Thank you.

There's a minute 30 seconds, if anyone else has questions. MPP Kusendova-Bashta.

Ms. Natalia Kusendova-Bashta: I'll just ask, very quickly: What is the difference between a registration and licensing?

Mr. Toon Dreessen: I would say it's semantics. We call ourselves a "licensed architect" because we have a licence that is granted by the OAA. When I retire, I have to hand my licence back, so the OAA takes back the little rubber sticky that I put on drawings. They take that back because it's their seal; I am licensed to use it.

Ms. Natalia Kusendova-Bashta: Do you have to pay a fee every year to have your licence?

Mr. Toon Dreessen: Yes.

Ms. Natalia Kusendova-Bashta: And if there is any disciplinary action, your licence could be suspended?

Mr. Toon Dreessen: Absolutely.

Ms. Natalia Kusendova-Bashta: But this would not occur with just a mere registration. Is that correct?

Mr. Toon Dreessen: I don't know where the term "registration" would come from. A "registered architect" would be the same as saying like a "registered lawyer" or a "licensed lawyer"; a "registered doctor" or a "licensed doctor." It's the same kind of thing.

Ms. Natalia Kusendova-Bashta: I believe the landscape architects have the title protection and they have the right to register, but not to license.

Mr. Toon Dreessen: I think that's the description, yes. There's probably a legal description, but I went to architecture school, not law school; sorry.

Ms. Natalia Kusendova-Bashta: Thank you very much.

Mr. Toon Dreessen: And Carleton, at that.

Mr. Brian Saunderson: I went to Ottawa U, so no reason to denigrate a great institution in Ottawa.

Mr. Toon Dreessen: There you go.

The Chair (Ms. Goldie Ghamari): Nothing further, then? Okay. Thank you.

We'll go to the official opposition.

MPP Kristyn Wong-Tam: This has been a fascinating morning, and now afternoon. I wonder if the word "turf war" is perhaps not the right term to describe what I think is before us, because we have the OAA who have entered the market, providing the issuance of licences for architectural technologists without the legal regulations permitting it. So they need to have a fix, and so they come here for the fix, but the fix, of course, is rewarding behaviour that probably should not have taken place in the first place.

Granted, OAA received horrible legal advice, I think we can all agree—

Mr. Toon Dreessen: Yes.

MPP Kristyn Wong-Tam: Just absolutely horrible legal advice. I don't know who the lawyers were, but I'd just—

Mr. Toon Dreessen: Before my time.

MPP Kristyn Wong-Tam: Don't use them again.

And I think there have been some claims made about the AATO, and to be quite honest, it was the only organization I really knew before walking into this building as a former city councillor for 12 years in downtown Toronto, where we actually make and build some of the tallest buildings in North America. I've only ever really worked, I believe, with architects who came to my boardroom table, so I've actually now come to this issue probably very similar to my colleague from the independent bench, with now a bit more of a bigger understanding of the fact that there are these two groups. And so, because of that, I'm really trying to do my best to educate myself as much as possible.

There have been several statements made that OAA has the complaint process and that it's quite regimented, that there's an opportunity to protect the public. It seemed to then suggest that the AATO did not. Just very quickly, I went onto their website and I see that not only do they have a process for complaints, but they have a registrar; they have a set of bylaws, obviously; there's a code of ethics for their members; there are rules of professional conduct and standards of practice; and there's also a complaint committee that actually takes confidential complaints and goes through deliberations. So it's just for the record that I want to state that it's not true that there is no complaint process from the AATO, because clearly there is a complaint process and one that's wrapped with quite a bit of the terms of reference and scope.

I want to just come back to the challenge that we have before us today. The challenge before us today is so sizable that if schedule 1 proceeds as it is worded, we now have on the record that one organization, one significant stakeholder, was deeply consulted and probably had their lawyers help craft the language of schedule 1, and we have another group who have the largest number of architectural technologists licensed in Ontario, who did not have any say and were not notified of schedule 1 before it became public, when we all learned about it. They want a seat at the table, and they're coming to us with a court settlement that says that the licences that were issued by the OAA were illegally issued. They still want to have opportunities to speak to the Ministry of the Attorney General, who has then turned and said that this whole situation is chaos, and yet there is a role for the ministry of the Attorney General to actually fix the problem and reduce the chaos and not create more regulatory red tape, and we don't have that before us today.

1440

So how can this committee move forward in good conscience and in good faith knowing that there's a legal settlement and ruling out there that specifically says the licences from the Ontario Association of Architects are illegal—they did not have a mandate to issue them, but here we are—and a schedule that actually doesn't really address at all what the legal settlement procured? How is this committee supposed to move forward with this very complicated and yet very simple problem?

Mr. Toon Dreessen: So let me just say one thing: I don't know what the complaints process is with the AATO, just like I don't know exactly what it is with landscape architects and ARIDO and other organizations. I've never really investigated because I'm not a member of their organization, so I don't know what their process is. So thank you for explaining that. That's good to know—

MPP Kristyn Wong-Tam: Google.

Mr. Toon Dreessen: Yes, well, I've never looked it up because I've never needed to.

MPP Kristyn Wong-Tam: Me too, until now.

Mr. Toon Dreessen: It's good to know.

I think that the issue that's before us is that a decision was made, and it was made with perhaps the wrong advice, the wrong direction. A decision was made 20-some years ago to grant OAA licensed technologists a licence through policy. That decision was made in error and with the best of intentions. It was not done underhandedly; it was made with the best of intentions under the advice and direction at the time.

Today, now, having recognized the error of our ways, the OAA wishes to have that reinstated, and the mechanism to do that is before us. The solution will bring us essentially back to where we were in May of 2023, in that it will grant the licences back to the people who were previously licensed and continue opening the door to the path for licensure for thousands of others. There are thousands who are in the queue, waiting to become licensed technologists and expand the role of professionals in designing safe buildings in Ontario.

MPP Kristyn Wong-Tam: Okay, thank you very much.

In the submission from the AATO, they say that they have always wanted the legislated and expanded scope of practice. This is something that's been on the public record for some time and that they have been speaking to. They have tried to advance it. At the same time, I understand that the OAA has also been on the record for opposing the legislative scope of practice that the AATO has been asking for. And yet, you're willing to allow—or the OAA; not you—the OAA is willing to allow licensed technologists licensed under only the OAA, who have the equivalent competencies and qualifications as those licensed under the AATO, but will not allow the AATO members to have that expanded scope of practice.

Mr. Toon Dreessen: So those AATO members can become licensed technologists, OAA, and have that expanded scope.

MPP Kristyn Wong-Tam: Yes, but the AATO to has been on the record for years of wanting the legislated scope of practice.

Mr. Toon Dreessen: Because what that would essentially do is duplicate the regulation of architecture in Ontario. It would create a duplicate licensing process for those who provide services to the public in Ontario. Right now, for example, there is one—

The Acting Chair (Mr. Lorne Coe): Excuse me, sir, that concludes your time, and it concludes the opposition's time.

We now move to the independent, please. MPP Collard, s'il vous plaît.

M^me^ Lucille Collard: I need to continue on that line. You just admitted that you weren't really aware of the claims of the AATO and whatnot. Again, like my colleague, we're seeking what is the right solution and what is just, here. We have to wonder why the government consulted extensively with the OAA to develop the legislation while ignoring the AATO, which is obviously a very important stakeholder.

I don't know if you can appreciate how I feel about that, because I feel that there is some kind of injustice when a government that crafts legislation—they need to do their homework, and their homework is to do in-depth consultation about the impact the legislation will have on the principal stakeholders and on the community at large. It doesn't seem to me that the government has met that requirement.

I know you're a sensible person. You're a professional. How do you feel about that?

Mr. Toon Dreessen: I don't know what process the government uses to consult with other stakeholders. I have no idea what that process is. My only guess, the only thing I can conclude with, is in the same way that if—let's say that I wanted to regulate massage therapists under a regulatory structure; I don't know if massage therapists are regulated or not. But if I wanted to regulate waiters somehow, and I wanted to bring them into a group that was in existing legislation, I would seek the group that already has the closest, nearest mandate and regulate them through there. So I would—

M^me^ Lucille Collard: Don't you think the nearest mandate for regulating architectural technologists is the Association of Architectural Technologists of Ontario?

Mr. Toon Dreessen: No, I disagree.

M^me^ Lucille Collard: So you think it was right just to ignore them; that they have no business in really weighing in on how the legislation should go by way of defining how architectural technologists should be—

Mr. Toon Dreessen: I think when it comes to regulating architectural practice, there is one regulator, and that's the OAA. I think that the AATO is an organization that has title legislation. It's an advocacy body. You do not have to be a member of the AATO to practise in the field of architectural technology. You do not. Anyone can practice in the field of architectural technology, and there are thousands of people working in Ontario who are not members of the AATO but who practice in the field of—

M^me^ Lucille Collard: Because they have a BCIN.

Mr. Toon Dreessen: Because they have a BCIN or they work in a firm like mine.

M^me^ Lucille Collard: Okay. And you did mention—it's going to be more of a technical question. I want your professional advice on that, because you did mention the BCIN is kind of a very basic requirement and potentially could expose clients to bigger risk, right?

Mr. Toon Dreessen: Yes.

M^me^ Lucille Collard: So in your opinion, are the current BCIN requirements sufficient experience for someone to design a building of a three-storey, for example? And would the public benefit from better oversight in regulating the BCIN requirements?

Mr. Toon Dreessen: It would. The BCIN came about 14, 15, 20 years ago, as a result of Bill 124, I think it was at the time, in regulating who could apply, who could do drawings for the public. It applied to everybody: architects, engineers, draftsman, interior designers, everybody. There was a court order, and a decision was made that architects and engineers are exempt from BCIN legislation, because we already have all of the steps in terms of licensure and insurance and so forth.

BCIN holders provide a valuable service to the public. They provide a drafting service to the public with a minimum amount of insurance. For most projects, that's probably okay. But if you hired someone with a BCIN who screwed up the drawings, caused all kinds of problems, delayed the project, had all kinds of issues, you have no regulatory body to speak to. If that person was a member of the AATO, you would have a complaints process, but you have—

The Chair (Ms. Goldie Ghamari): Thank you. That's all the time we have for this round. I'd like to thank our presenters.

Since we ended a little bit early and not all of our presenters for the next round are here, we're going to take a brief recess, and we will resume at 3 o'clock. Thank you.

The committee recessed from 1450 to 1458.

The Chair (Ms. Goldie Ghamari): Good afternoon, members. The committee will now resume its public hearings on Bill 157, An Act to amend various Acts in relation to the courts and other justice matters.

MR. KAMIL WROBLEWSKI
LIUNA OPDC AND CECOF
CENTRE FOR ISRAEL AND JEWISH AFFAIRS

The Chair (Ms. Goldie Ghamari): At this point, I'd like to call upon Kamil Wroblewski. Please state your name for the record, and then you may begin. You will have seven minutes for your presentation.

Mr. Kamil Wroblewski: Thank you for the invitation to speak today. I'm Kamil Wroblewski from North Bay. Seeing all these OAA and AATO acronyms can be confusing. I considered offering maybe using "the oh-ah" and "ah-toh." That's just a small joke just to get it started, but I digress.

I am previously a small business owner—previously, but I want to get back to work, and for this to happen, schedule 1 of Bill 157 must be adopted. As you discuss this legislation, I implore you to consider the profound impact it holds not only for the architectural profession at large but for people like me who have personally felt the effects of the events that led us here.

After more than two decades of dedicated architectural work, I realized a long-held dream when I established my own architectural practice, Kam Sparrow Design. My thriving practice and my livelihood came to an abrupt end last year when I was advised by the OAA that my licence was null and void. I was forced to close my business. In North Bay, there are only four architectural firms, and fortunately, I have since joined an amazing architect and his team designing health care facilities in Moosonee, but I know the limitations of working for someone else, and I want to get my OAA licence back. There's nothing like working for yourself, taking ownership of all the challenges, mistakes and rewards. The fact that I cannot work for myself at this moment causes me many sleepless nights.

These events have left me deeply disillusioned and questioning how this is even possible. From achieving the highest level of licensure in Ontario for graduates of advanced architectural technology programs to complete paralysis, this impact is taking a severe toll on my personal and professional well-being.

The bulletins published by the OAA and the AATO outlined the developments from their own perspectives, and in my opinion, the AATO has misrepresented the situation. What I find most disturbing is that they are demanding that none of us previously licensed technologists should be re-licensed at all. Where is the rationale in this?

I have no interest in joining the AATO. As a licensed technologist OAA, I provided a level of service and professionalism that is not required by people who practise with a BCIN.

The OAA process I completed was tough; it required an advanced diploma, apprenticeship with architects that far exceeded that of an intern architect at the time and, of course, the difficult exam. I earned my licence. Passing Bill 157 will enable me to get it back, so I can resume my independent work, serving my clients in North Bay and contributing to Ontario's economy.

I want to continue the dialogue that Rick Mateljan, representing the Committee of Architectural Technology Professionals, initiated earlier today. During the last few months, many of us previously licensed technologists held discussions on how to best navigate through this challenging time without proper representation. Because we were no longer members of the OAA and have no desire to work with the AATO, we realized the importance of self-representation. That is why I am also a part of the Committee of Architectural Technology Professionals.

From this group, I have derived that licensed technologists have proven their patience, professionalism and commitment to working with the OAA. We want to ensure the technology program, going forward, is as effective as it can be for the profession and, most importantly, for the public.

For these reasons, while I fully support Bill 157, I urge the OAA and the ministry to collaborate with us to improve the program the following ways:

(1) All previously licensed technologists should be reinstated without any further requirements.

(2) The government should direct the OAA to increase the scope of work of licensed technologists. We are established professionals in architecture, capable of safely and effectively designing and building larger and more complex structures than what we are currently permitted to do. Why is it that members of the public in other provinces, without training or academic qualification, can do more than us previously licensed technologists can in Ontario? It doesn't make sense.

(3) We must have reasonable rights as OAA members to own firms, to vote on matters that affect us and to hold elected office within the OAA.

Lastly, there should be a pathway to full licensure to become a full architect. This could be modelled on British Columbia's alternative qualifications program. I would welcome this chance, fully understanding it would require me to prove that I have the experience and knowledge to do so, but keep in mind that my current position doing Moosonee health care facilities demonstrates that I'm capable of independently working projects that are currently limited to only architects.

In a time of inclusion, transparency and diversity, all licensed technologists must have the chance to prove themselves once again.

Please pass Bill 157 and please direct the OAA and the ministry to make the changes necessary to ensure that me and my colleagues can get back to work, serve the public and contribute to our community and economy.

Thank you for your time and attention. Thank you for considering my personal story and I hope you will keep it in mind as you make your decisions.

The Chair (Ms. Goldie Ghamari): We'll now turn to LIUNA. Please state your name for the record and then you may begin. You will have seven minutes.

Mr. Sean McFarling: Good afternoon. My name is Sean McFarling. I want to thank the committee for allowing me to appear before you today.

As I said, my name is Sean McFarling. I'm general counsel for the Labourers' International Union of North America—their Ontario Provincial District Council. As such, we represent our 10 local unions within the province of Ontario. They, in turn, represent over 110,000 construction workers in Ontario, making us the largest construction union in Ontario, Canada and, in fact, all of North America.

You will hear from my colleagues later today from the provincial building trades, Igor Delov and Carmine Tiano. They're going to make submissions similar to mine; we've shared information with one another. They're going to tell you, on behalf of all of the building trades, they represent 150,000. So that tells you a sense of LIUNA's size within the construction industry here in Ontario.

I'm here today to express our support for the proposed changes in the Coroners Act set out in schedule 5 to Bill 157. In addition to the experience that we bring to this committee as the largest construction union, I bring my own personal experience of over 20 years representing deceased LIUNA members and their families in coroners' inquests. I've had both the privilege and, at the same time,

the tragedy of having done over 20 inquests in the course of my career, and that doesn't include inquests done by my colleagues here in Toronto; that's outside of the GTA.

I can tell you from my direct experience that the current system is not working, and I can give you two examples. The worst experience I've ever had, which was in 2021: I represented the union in the Jesus Sanchez inquest. Brother Sanchez died from a fall from heights in 1996, and the inquest was held 25 years later. That was an administrative error. It's an anomaly, but it's indicative of what the worst-case scenario can be. You can imagine, in 2009, we had the tragic Christmas swing stage incident, and had we done an inquest into Mr. Sanchez's death, we could have possibly come up with recommendations that would have ensured working from heights was safe and that may have prevented that 2009 tragedy.

The best case that I've experienced was when I was representing both the family and the union in the Brian Daniel inquest. Brother Daniel was tragically struck by a motorist while doing flag person duty outside of London on a highway construction project. He was killed in 2014. The inquest was held in 2018. Following the recommendations that we made, a committee was struck through IHSA where I had the privilege of chairing that committee to recommend changes to the Occupational Health and Safety Act in order to make flag person jobs safer. That committee was struck in 2020. We concluded our work in 2023, and we await the legislation and I hope some day to appear before a committee like yourselves to endorse those changes.

But the best-case scenario under our current system is still 10-plus years from a fatality in the workplace on a construction site to recommendations being implemented to prevent future deaths.

Our current system, despite being called an inquest and inquisitorial, is actually still structured very much on an adversarial courtroom-like process, where counsels argue, cross-examine witnesses and make submissions to a jury, and a jury that is, as is our tradition, a lay jury that has no expertise in the construction industry. So a tremendous amount of time and resources are spent educating jury members on the basics of the construction industry before they can even begin to make recommendations for change to make things safer.

Of course, I have historically worked with coroner's counsel and Ministry of Labour counsel on the files to ensure that we present joint submissions to juries. We try to create the appearance of solidarity and agreement, but it doesn't always work. What we need is a more collaborative and actually inquisitorial approach aimed at getting expert advice and recommendations so we can avoid future fatalities.

Having had the opportunity to meet with the chief coroner and reviewing this legislation, there are four key takeaways that I have that I think are important to support the changes that are being recommended. The first, and this concerns everybody in the construction industry, is the confirmation that every construction death shall be investigated by the chief coroner. It's been suggested to me that we will engage in a process that's far more collaborative and flexible than the current adversarial courtroom process where all the stakeholders will have an opportunity to answer the five questions. In my experience under the current system, we spend a disproportionate time answering the five questions, and for those of you who don't know, they're: Who died? When did they die? Where did they die? How did they die? And by what means? It's the "by what means" that we really need to get to because it's when we determine that the "by what means" was an accident that we actually start making recommendations. Under the current system, 90% of our time is spent answering the first four questions. Educating the jury, bringing in autopsy reports, subjecting the family to hearing the gruesome details of their loved one's passing, and then we spend 10% of our time talking about recommendations to make sure this never happens again.

The new process, in my conversations with the chief coroner, which were very encouraging for me, suggests that we'll have a far more collaborative process—

The Chair (Ms. Goldie Ghamari): One minute.

1510

Mr. Sean McFarling: One minute? Okay.

Let me highlight the next important thing: Every accidental death shall be the subject of an annual review by the coroner's inquest. We look forward to developing procedures and working with the coroner's office on what that process will look like. And I think key to the family members and to us as a trade union is the right, if the coroner's process is unsatisfactory for some reason and the report is issued—there remains the right to insist that a formal inquest occurs. That's built into the legislation. I was assured by the chief coroner that this would remain in place, as well. Of course, if we have—God willing, that it does not happen—another incident like the Christmas Eve swing stage disaster or an issue of profound public importance, that we will indeed have an inquest, as well, to the extent that that's necessary to satisfy the public that necessary steps are taken to ensure the safety of workers in the workplace.

In conclusion, with my remaining time—and I do hope I have a chance to answer questions to expand on this. We're supportive of these changes. We think a change is absolutely necessary.

The Chair (Ms. Goldie Ghamari): Thank you.

We'll now turn to the Centre for Israel and Jewish Affairs. Please state your name for the record, and then you may begin. You will have seven minutes.

Ms. Jaime Kirzner-Roberts: My name is Jaime Kirzner-Roberts. I'm the vice-president for the greater Toronto area for the Centre for Israel and Jewish Affairs. Thank you, Madam Chair, and thank you to all the lawmakers here today for providing me with this opportunity to speak to this important piece of legislation on behalf of the Jewish community and all Ontarians.

We all are probably aware that we are living in a moment of dramatically escalating hate-motivated crime. Unfortunately, the sad reality is that this is a problem that disproportionately affects the Jewish community.

Last year, in Toronto—the Jewish community here makes up 4% of the population, and yet we were the target of almost 40% of hate-motivated crime. Similarly, in Ottawa, where there are only 15,000 Jews, one in five hate-motivated crimes are targeting our community. Not only are these numbers high, but again, they're growing very rapidly.

In Ontario, there has been a 52% increase in hate-motivated crime since 2020.

So we are in a difficult and challenging moment, and I think we would all agree that these are the kinds of statistics, the kinds of figures that we cannot accept as the new normal.

I'm here today to advocate for the rights of Jewish Ontarians and other Ontarians victimized by hate-motivated crime.

With Bill 157, the government has signalled its intent to expand the list of prescribed crimes that have been deemed to cause emotional distress. We ask that hate-motivated crime is added to that list; that is to say, anyone who has been victimized by hate-motivated crime should have the right to take the perpetrator to court to sue for emotional damage, the same way that victims of other kinds of crime, like sexual assault, may do. Specifically, I'm hoping that the committee will support the idea of amending the Victims' Bill of Rights, the 1995 bill of rights, in subsection 3(2) to explicitly identify hate crimes as one of the types of crimes where the victim is presumed to have suffered emotional distress.

Hate crimes are particularly insidious and they're particularly dangerous because they affect not just the individual who is directly impacted, but they affect the whole community. In more than a decade of working in this space, I can tell you that when a hate crime happens, it put fear in the heart of a community. It leaves emotional and psychological scars, again, not just for the immediate victim, but throughout the community, throughout a population of people who no longer feel safe going out, attending their place of worship, going to school, living their day-to-day life.

We tackle hate crime as a society by confronting it wherever, whenever it occurs and holding the perpetrators of these acts accountable. By making the changes that we ask for, we hope to see Bill 157 empower the victims of hate crime to seek civil remedies, adding one more avenue for justice and hopefully acting as a further deterrent for future hate acts.

I thank you again, Madam Chair and the committee, for including me in your deliberations.

The Chair (Ms. Goldie Ghamari): Thank you very much.

This round of questions will begin with the official opposition. Who would like to begin? Okay. MPP Wong-Tam.

MPP Kristyn Wong-Tam: I appreciate the opportunity, and thank you to all the speakers.

I want to start my line of questioning to the LIUNA representative. Thank you so much for coming and appearing before us. I understand that the change with respect to the coroner's inquest is the result of work that came from LIUNA as well as the building trades organization. I think that's a very positive step that you had different unions coming together saying there's a problem here that needs to be streamlined.

Because there is general support, I want to just ask specifically, is the process—as it's going to be refined based on what's outlined in the schedule—as good as it gets, or do we need to do anything else? Because this is the opportunity for us to further give it some considerations, some further refinements. Is it missing anything?

Mr. Sean McFarling: That is something I took a serious look at. If our discussion is on the current system which focuses on construction fatalities and dealing with unionized—well, all construction workers, but my experience is with unionized—then I am confident. The details are always where things lie.

The process that we work with the chief corner on, on how we actually do the investigative process—I think there's work to be done there, but it's not within the structure of this legislation. I think this legislation sets the framework.

Now, of course, I also sit as LIUNA's vice-president at the OFL. I'm aware that the OFL takes the position that inquests should occur in the case of every worker's death. As a workers' advocate, I don't disagree with that but, having said that, that is not the current legislation, and it's not the legislation that this schedule seeks to fix per se. So I am focused on the narrow construction interest. In a perfect world and with unlimited resources, maybe we could do more, but I'm mindful of expanding the scope of current inquests unless there are adequate resources to ensure that they can be investigated properly.

MPP Kristyn Wong-Tam: Thank you for that very thoughtful answer.

If we do away with individual inquests and we surmise it is an annual review, we would need to have some parameters. I would think that we would have a scope in the legislation that doesn't exist right now in the way it's written. I'm curious to know, is it possible for us to do some further work at committee with recommendations that could come from yourself as well as the building trades to bulk it up now, rather than just to set the framework, but to actually put some details to it before we let it go? Is this not the right time to do that work?

Mr. Sean McFarling: When we talk about the inquiry, maybe, with an individual worker, but there's the power to—in fact there's a directive, I think, that says we may—look at systemic change. In my discussions with the chief coroner, that will be a point of emphasis, because I can tell you, as someone who has done so many inquests, in isolation they can often seem like tragic accidents, but if we took a systemic view and reviewed, say, four falls from heights within a year, we would see a broader systemic problem. I'm not sure if that would be achieved through amending the current schedule, or if it's work to be done with the coroner's office on how this process is going to work going forward.

I know, as a lawyer, you sometimes want to think, well, there's a legal answer to everything. But this may be something where it's actually process-driven with key stakeholders participating in it. In the absence of a concrete issue to put my teeth into, I'm not sure if I can answer.

MPP Kristyn Wong-Tam: Thank you. I think that is very important, and I appreciate the answer.

What I gather from the schedule is that setting out the framework that allows us to streamline the work and to ensure that we're not wasting resources but taking a look at overall trends, I think, is a very good step in the right direction. What I'm unclear about right now is the process of how to set that up. Who is going to be on the expert panel? What considerations are they going to be reviewing as they determine what is going to be reported out? And if there is the ability for the government to cherry-pick recommendations from the different coroner's inquests—because sometimes that happens; coroner's inquests, albeit they take time, when they do come out, seem to not always be implemented or even thoroughly acknowledged by any government of the day.

1520

So, then, we have a bit of a trap where the work is done; the families have gone through a very trying, emotional and exhausting time; and then the inquest goes nowhere. I'm just very mindful that if we have a chance here, because we're going to be opening up that act, let's fix it and get it right this time around. Is there anything else that you believe can be done at this committee level? Understanding that it is a framework, can the framework be improved before we let it go?

Mr. Sean McFarling: I think when we look at subsection (5) and conducting the review under this section, this is what always gives a lawyer pause: a coroner "may," or a coroner "shall." In this one, it's "the coroner may consult with ... the family." What was important to us was that they actually enumerate "any organization that represents workers," like a union, because historically I had to make submissions to get standing and convince the coroner I should be there, so I'm encouraged to see this.

The question would be, should it be "the coroner may" or "the coroner shall"? It's that distinction. If they shall, then it leads to—I don't want to bring the process to a halt because they shall do this and we didn't get everybody who may have a right to be there. It's a bit of a leap of faith, to be fair.

The Chair (Ms. Goldie Ghamari): One minute left.

MPP Kristyn Wong-Tam: Okay.

Because there's that a leap of faith, it's a perfect segue to my next question: Will a review be adequate to find individual actors—so, therefore, employers—guilty of violations of the Ontario health and safety standards act? And will that review allow us to make sure that they comply with obligations?

Mr. Sean McFarling: Well to be fair, I don't think that's the purpose of the review. I don't see that as changing. It will continue to be the prerogative of the Ministry of Labour, the Occupational Health and Safety Act and the Criminal Code to find guilt, where this process currently—and, as I understand it, going forward—will continue to be not so much looking at fault, but recommendations to prevent future accidents.

Certainly I encourage criminal law and the Occupational Health and Safety Act to be used where appropriate, where there is fault with a worker's death, but this process has been—and I understand will continue to be—one where we actually don't so much look for blame and fault, and focus rather on what the recommendations—

The Chair (Ms. Goldie Ghamari): Thank you. That's all the time that we have for this round.

We'll now turn to the independent member. You may begin.

M^me^ Lucille Collard: Thank you to the presenters. It's very useful to hear from you to understand the impact of legislation.

I'm just going to start with you, Mr. McFarling. I have a simple question, really, because you have presented a reason in support of the modified schedule and why it's important. I'm just wondering: Have you encountered any kind of concern or opposition with the proposed legislation?

Mr. Sean McFarling: The concerns we had were primarily around what I was discussing with your colleagues here, which is: Do we use the word "shall" or do we use the word "may"? When it's permissive and we're using "may," there's room for things to not work out the way we intended them to or to not reach the expectations that I as a workers' advocate would have. But "shall," then, can sometimes be restrictive. I raised my concerns with the chief coroner, and I said, "When it says 'may,' how are you going to treat me when I appear in front of you and say, 'I need to be here. I represent the worker'?"

The thing that gives me some confidence—and this will expand on the previous question asked to me, I think—is that if the "mays" fail, then the family or the representative of the family, which would typically be a union in a construction context, can insist on an inquest. So if the new system isn't satisfactory, then we have the right within a year to go back and say, "Do you know what? We want a formal inquest to be done." That creates, I think, the backstop that compels the coroner's office and the chief coroner to work towards a process that is satisfactory to the key stakeholders like us and family and construction employers.

M^me^ Lucille Collard: Okay. So is the proposed change, the proposed process, then—you're saying it would save time in terms of attaining the objective of the inquest, which is to make recommendations to make sure that something like that doesn't happen again, but does it have the effect, as well, to increase the number of inquests that will be conducted and, therefore, maybe end up not saving time?

Mr. Sean McFarling: There are statutory timelines in the proposed legislation, which suggest that things have to happen. Currently, there are no timelines, which is why—the 25-year example I gave is an anomaly, but the one with brother Daniel, from fatality to inquest, was a four-year period. That's four times longer than what would happen

under the proposed legislation, which requires something to be done within a year, and then a report to follow within 18 to six months, depending on when the report is requested.

So I like seeing these timelines. I think that's important. Things can always be better, but I'm concerned about efforts to tinker that ultimately delay the process when what we have here is a good framework for moving forward. I'm open to suggestions, or if I was asked to make—well, I was asked to make suggestions, but on the spot here, my main concern is, "Does this address my constituency's concerns?" And the answer to that is that yes, it does.

Mme Lucille Collard: Well, hopefully, in the development of regulation, your input will be required.

The Chair (Ms. Goldie Ghamari): One minute.

Mme Lucille Collard: I'm just going to turn to Ms. Kirzner-Roberts with the limited time that I have. There's no doubt in my mind that hate crime definitely would qualify as suffering emotional distress for any of the victims. This is not included in the list or in the proposed list, and this is your wish, that hate crimes be included. Is there currently no other remedy available to victims of hate crimes to sue people that are perpetrators?

Ms. Jaime Kirzner-Roberts: According to the press release about this bill, it said that the proposal was to add hate crimes targeting places of worship to the list, so I'm asking that that be broadened a little bit to include any kind of hate crime—

The Chair (Ms. Goldie Ghamari): Thank you. That's all the time that we have.

We'll now turn to the government. MPP Dixon, you may begin.

Ms. Jess Dixon: Mr. McFarling, my questions are for you. I was a crown attorney for eight years, but I only ever acted as crown counsel in two inquests. One was a high school death, actually, in shop class, and the other was a fall-from-heights down an elevator shaft—so very minimal experience there.

I heard you explaining this, but I'd like you to go into it a little bit more, because I think I heard the misapprehension over there. There's a lot of misunderstanding amongst the general public about the point of an inquest, because, again, as you were saying, it has the appearance of a trial, and there's that confusion that it is about blame. Can you clarify for us, again, as somebody who has done many of these, what the purpose is?

Mr. Sean McFarling: The purpose of a coroner's inquest is to answer five questions: who died; when did they die; where did they die; how did they die, which is accident, suicide, murder or unknown; and then by what means—no, sorry; that's "by what means." "How" is the medical explanation, so blunt force trauma etc. So the purpose is to answer those five questions.

There was a time, certainly, when it was really important to answer those five questions because we wouldn't know who died on a construction site, and you think of the group of people that were the subject of inquests: vagrants, people in custody, people on construction sites. We now live in a society where we almost always know who died. We know where they died. We know when, approximately, based on a coroner's inquest. All of that stuff is—we spend time in the inquest trying to bring the evidence before the jury, and they're really quite simple questions to answer.

Once we get to "by what means" and land on, "It was an accident," now, we need to start talking about how do we prevent that. So the five questions need to be answered and then what recommendations can be made to prevent future similar accidents.

It's explicit, when we start an inquest, that you are not to find fault and that we can't elicit evidence on that that suggests that. And what results in the most acrimonious inquests is that parties dance with each other, trying to avoid or get into questions of liability or fault.

1530

I represented a father who was very upset in his comments to the jury. He wanted to speak directly to the jury, and he got up and he said, "They killed my son," placing blame on the employer. The coroner had to clear the courthouse. Reporters were there. We had to recuse. I had to have a private meeting with the coroner, explain to my client that he would be removed if he continued with that. It's a horrible process for a grieving parent to be in. Of course, what they want is blame from the process.

What's even worse, because we have so little time to spend on recommendations in the current process, is that I've done inquests where we have no recommendations. What a horrible feeling for the family that their family member died and we can't say anything that would prevent it in the future because it looks like an accident, when in fact it may be part of something broader and more systemic. This new process suggests the chief coroner will have the ability to say, "Listen, we had five people struck by vehicles on construction sites. This seems to be a systemic problem, not individual failings to obey safety standards."

Ms. Jess Dixon: Thank you. Would you agree, then, that the purpose that we've moved to—really, we're at an information-gathering and prevention perspective. I remember on the high school inquest I was involved with, that was the first time I had ever been involved in trying to handle a grieving family where it was an accident, and they really wanted somebody to be responsible. Obviously, these are very, very emotionally charged.

But if we are looking at this information-gathering and this prevention, at how do we make sure this doesn't happen again if it was preventable, do you think that what we're suggesting here is—you know, you don't like to contrast emotion with efficiency, but again, what we're focusing on: that taking some of that performative aspect out of it, the adversarial nature out of it will actually lead to better results from a prevention perspective?

Mr. Sean McFarling: I do, because I think it will allow us to spend more time focusing on the collaborative aspect of prevention instead of the adversarial process of proving facts to a jury. Our justice system is based on that adversarial process, but it's ill-suited for what a coroner's inquest is intended to achieve. It creates the impression

that we're actually not co-operating with one another because you're calling a witness and then I'm cross-examining them, which is inherently adversarial.

Ms. Jess Dixon: Yes. Your expertise is obviously in the construction-related deaths, so I would assume that, particularly in those cases, we're more likely to be—obviously, we would hope not to—finding commonalities of circumstances that led to a death that we're then able to issue those recommendations that that not happen again. Do you think it makes those recommendations even stronger if you're saying, "Look, based on a pattern of deaths here, we are making these recommendations"?

Mr. Sean McFarling: Yes, because they're currently done in isolation. It often looks like this is a tragic accident when in fact it's not; it's part of a larger pattern. But we don't see that pattern because we're focused on this individual fatality and the individual grief of the family involved. By taking a broader look and saying across Ontario—different locations, different job sites—the same thing keeps happening, how is it that our Occupational Health and Safety Act isn't adequate to prevent this from continuing? What can we do differently?

Ms. Jess Dixon: Do you think ideally, with this, we're making workplaces safer, with increasing this process and that prevention focus?

Mr. Sean McFarling: That's certainly our position—

The Chair (Ms. Goldie Ghamari): One minute.

Ms. Jess Dixon: Do you have a question?

Mr. Robert Bailey: Sure. I've only got a minute, Madam Chair, but I wanted to applaud you for being here today, Mr. McFarling. I spent over 30 years in the petrochemical industry, worked with construction people every day. The one thing that surprised me—I'll probably have some questions in the next round. Could you expand upon—I think I read in the notes that 20 people are still dying every year in the construction industry in Ontario. Is that a fact?

Mr. Sean McFarling: Yes. Well, I think we had our first reduction this year that was just reported in the Daily Commercial News, but on average, 20 die a year. In my experience, at least one of them is a member of LIUNA.

As I say to juries, there's no other profession where that's acceptable, right? If someone said a lawyer dies every day going to their office—well, maybe not lawyers. That might be a bad example. But any other profession—is tragically killed every day on their way to the office—

The Chair (Ms. Goldie Ghamari): Thank you. That's all the time we have for this round.

We'll now turn to the official opposition. MPP Mamakwa.

Mr. Sol Mamakwa: Meegwetch. Thank you to the presenters: Kamil, Sean and Jaime.

Jaime, you spoke about schedule 18, the Victims' Bill of Rights, 1995. You spoke about an increase in hate crimes. Currently, within the schedule, it's not included in there. Is that what you're saying? And you're coming to the committee—that there should be something with regard to hate crimes. Can you explain again?

Ms. Jaime Kirzner-Roberts: I would like to see the victims of hate crime added on the 1995 Victims' Bill of Rights, subsection 3(2), which is a list of crimes in which the victim is presumed to suffer emotional distress. Other crimes like that are domestic violence and sexual assault. Hate crimes are an ultimate act of dehumanization and othering, and they are damaging, destructive and dangerous for whole communities, so they are every bit as distressing emotionally as other kinds of crimes. We feel that this is a way to give victims some more accountability.

Mr. Sol Mamakwa: Thank you for that.

I'm going to switch over to Mr. Sean McFarling. You mentioned previously that there are approximately 20 construction-related deaths per year, and that has been increasing since 2017.

Also, I hear that there are some 130 construction-related deaths—the backlog—that are awaiting inquests currently. Is that correct?

Mr. Sean McFarling: That's my understanding, yes. To the best of my knowledge, give or take, that's—I think my colleague Carmine Tiano, who is appearing at 4 with the provincial building trades, has more numbers on that. I have his report with me. I don't want to steal from his time, but that sounds accurate, yes.

Mr. Sol Mamakwa: So, what you're essentially saying is, this would eliminate or fast-track some of the work that needs to happen in dealing with the inquests and the recommendations that are put forth from the inquests?

Mr. Sean McFarling: It will, I think, prevent increasing that backlog. I'm not sure if the way the legislation is worded, previous deaths are going to be treated under the old—that's a question of law, whether or not what happened before will continue under the old act or if it will fall under the new act. If it falls under the new act, then I'm optimistic it could speed things up. But adding to that backlog by keeping the current system, I think, is untenable.

Mr. Sol Mamakwa: Also, when you presented, you spoke about some of the—one took 25 years. I don't know if that was a mistake. And then the other one took four years, and the—

Mr. Sean McFarling: The one that took 25 years is—as I said, this is a system completely failing. I don't want to use "to be fair," because there's nothing fair about something happening like that—but for whatever reason, it didn't get processed. And because the legislation requires a mandatory inquest in every case, we had to go through the motions of an inquest for an individual who passed away 26 years previously. Any amendments to "falling from heights" that could have been changed in the act were done post-2009, so there were no recommendations. In this case, there were no family. I think he was from El Salvador—Central America, in any event. His family returned to Central America following his death. This was a hollow exercise, but it wouldn't have been, had it been done in a timely manner. I contrast that with what is currently, for the current system, an expeditious process, and it's still four years from fatality to inquest. This proposed legislation puts much stricter timelines on when things have to happen and, for myself and my colleagues and on behalf of LIUNA, we think those stricter timelines

are really important to this proposed change and will help move things along.

1540

Mr. Sol Mamakwa: Also, in your presentation, you mentioned that you were involved in some inquests, right?

Mr. Sean McFarling: Several, yes.

Mr. Sol Mamakwa: And out of those inquests come recommendations.

Mr. Sean McFarling: Yes.

Mr. Sol Mamakwa: How important—or how were those recommendations implemented? How did they help?

Mr. Sean McFarling: I thought they were all important. But here's the sad reality: Because of the time lag in which it takes for things to occur, of the approximately 20 inquests I've ever done, only the Brian Daniel inquest resulted in at least a proposal for legislative change—we haven't even got there yet—with this committee being struck with IHSA, that I was asked to chair, with stakeholders across the industry in the traffic control world.

We also took three years as a committee to work. The process needs to be fixed at all kinds of levels, but four years was lost to the inquest process, which could have been one to 18 months, followed by, "Okay, now let's strike a committee and get working and hopefully get legislation passed." But it takes a lot of work to convince the government to act on these recommendations. That's another issue and another problem, potentially, but this is the beginning of fixing that, I hope.

The Chair (Ms. Goldie Ghamari): One minute.

Mr. Sol Mamakwa: I know you spoke about the backlog of about 130 construction-related deaths awaiting inquest. Do you know the overall number of inquests that were backlogged, in total?

Mr. Sean McFarling: I don't, not off the top of my head. I know there are well over a dozen with respect to our organization, but exact numbers, I don't have. Because, unfortunately, I wasn't focused so much on dealing with our current situation as, "How can we make the future better?" That was the focus of my efforts in coming to you today.

Mr. Sol Mamakwa: Yes. I believe it's a 500-plus inquests backlog.

Mr. Sean McFarling: Right—which is tragic.

Mr. Sol Mamakwa: Okay. Thank you. That's all I have.

The Chair (Ms. Goldie Ghamari): We'll now turn to the independent member.

M^me^ Lucille Collard: I will go back to you, Ms. Kirzner-Roberts, just to complete your answer, because I'm looking at the sub-article 3(2) regarding the presumptions of the crimes. Effectively, I don't see hate crimes specifically stated there. But you mentioned something about the press release mentioning that it would, that those changes would address crimes happening in places of worship, for example. Can you elaborate on that? I don't recall the press release. What is your concern?

Ms. Jaime Kirzner-Roberts: I'm sorry, I don't have the press release in front of me, but it was the release put out by the Attorney General on this bill back in November. It said that one of the goals of the bill was to add institutional victims of hate crime to the list of victims that could pursue redress in civil courts.

M^me^ Lucille Collard: Okay. So you're here today because you don't see that reflected in the actual bill? Is that correct?

Ms. Jaime Kirzner-Roberts: Well, I didn't see that in the actual bill, but also, I wanted to push beyond just institutional victims of hate crimes—in other words, not just a synagogue or a mosque that's been vandalized, but also individuals who have been, say, assaulted because of their background. They should have the right to pursue damages, also, in civil courts.

M^me^ Lucille Collard: And have you had a chance to make these representations to the minister? If so, what kind of feedback did you get from the minister about that proposition?

Ms. Jaime Kirzner-Roberts: I had the opportunity to discuss this at length with the Solicitor General, who was very supportive and thought it would be a great addition. I don't want to speak for him—

M^me^ Lucille Collard: Right. But yet, you're here because you're not really satisfied with what the bill now reflects?

Ms. Jaime Kirzner-Roberts: Well, he suggested that I bring the same suggestions that I brought to him to this committee.

M^me^ Lucille Collard: Okay. Fair enough. Cool. Thank you for that clarification.

I would like to turn now to Mr. Wroblewski, just to give you an opportunity to just explain a little bit better. I totally understand your support for schedule 1. You want your licence back from the OAA. But you did mention that you have no interest at all in joining the AATO, and I would like just to understand why. Like, why does the AATO seem to be such a bad option for you?

Mr. Kamil Wroblewski: I suppose I can go back to my first encounter with the AATO. Upon graduating from college, my first small architectural firm was actually run by a MAATO, so that's a member of AATO. He was the boss, and I asked him what the benefits of joining were. He said, basically, he could use the title "architectural technology" in his business name. Apart from that, he still actually was the subcontractor to an architect, because he didn't have a scope of practice. So he paid for a stamp that he couldn't use, and he had a ring on his finger that he bought as symbolic. Well, I didn't see the benefit in joining an association where, basically, they just let you use the title at the time. This was in 2002.

Several years later, I, with another colleague of mine, upon joining an architectural firm, went to one of the AATO meetings, and the first 10 minutes we spent moving furniture. So we left pretty upset, thinking this organization is not for us. They don't offer any scope of work for us, they don't benefit—other than the title. We were looking for a title at the time because we were fresh out of college. But they asked me to move furniture, and I thought, "Do you know what? It doesn't sit well with me. I'm not paying fees to an organization that"—they didn't benefit us.

To address what Mr. Jones earlier said about how the education is identical to the OAA, it's actually false, because upon joining the OAA technology program, it was outlined exactly how many hours we had to do, the apprenticeship hours and all that, whereas the AATO at the time—

The Chair (Ms. Goldie Ghamari): Thank you. That's all the time we have.

We'll now go to the government. MPP Bailey.

Mr. Robert Bailey: I'll—

Mr. Lorne Coe: I'm going to go.

The Chair (Ms. Goldie Ghamari): Okay. All right, MPP Coe.

Mr. Lorne Coe: Madam Chair, through you to Mr. McFarling: Thank you very much for being here today. That was an excellent presentation. I want to talk about the process a bit. You touched on this in your presentation. You talked about the ability to include industry representatives and experts. This is new to the process, as I understood your presentation, going forward.

I'd like you to talk about you think the outcome will be, through the inclusion of industry representatives and experts, in framing recommendations that can be implemented and that are sector-specific, like the construction industry, and that arrive at broader public health and safety trends as well, if you would, please? Thank you.

Mr. Sean McFarling: Again, this is where the details are going to matter in collaborating with the chief coroner on process going forward, but it's—I'll give you an example. Hopefully it will help. Under the current system, I was doing an inquest one time, and it occurred to me that if we brought in one of our trainers from the training centre to testify about the training that's in place for the type of work that was being done that ultimately resulted in a fatality, that would be helpful to everybody. Because it's an adversarial process, the coroner took the position that I ought to have given notice 30 days in advance that I was going to call a witness and let the other side prepare for it, disclose documents—all very proper in a trial format—and then ruled that we wouldn't hear from this person.

I can't imagine, looking at the proposed schedule, that the chief coroner would say, "No, no, I don't want to hear from an expert." It specifically contemplates bringing experts. I see not a court room with a jury and a bailiff and a sergeant-at-arms and whatnot. I see a room like this, with people collaborating and saying, "Okay, you're an expert on the law, so to speak, and you represent the union's interest. I'm here on behalf of the family to help articulate their point of view in a way that they might not be able to because of grief or whatever else they may be experiencing. You're going to be the expert on working from heights, and you've worked with IHSA for decades."

Instead of having a meeting in advance where the coroner has got to decide, as a matter of law, should I or should I not hear from you, with advice from his crown counsel, I anticipate it will be, "Who do we need to answer these questions?" First is "Who do we need to answer the five questions?", which is fairly straightforward; there will be doctors and EMS there to take us through in a hopefully very abbreviated manner to answer the five questions.

1550

But then, how are we going to make recommendations? I see that process as being one where the coroner is going to want input from everybody on how to move forward. You can't legislate that; that's a discussion. It's a discussion we had, and it's a discussion I anticipate we'll continue to have.

Mr. Lorne Coe: Thank you for that response, sir. I think we both agree that we're going to end up with better recommendations by the inclusion of sector-specific experts in the process.

Mr. Sean McFarling: Oh, 100%.

Mr. Lorne Coe: Chair, through you to my colleague just down the table here, MPP Kusendova-Bashta.

The Chair (Ms. Goldie Ghamari): You have four minutes left, MPP Kusendova-Bashta.

Ms. Natalia Kusendova-Bashta: My questions or comments will be addressed to CIJA. Thank you for coming, to all of our presenters.

I just wanted to clarify: In schedule 18, the Victims' Bill of Rights, 1995, it creates a presumption of emotional distress when suing a convicted offender for emotional distress for some of the additional victims of crime, including victims of sexual offences, human trafficking, voyeurism, recording etc. I did want to state for the record that in conjunction with these legislative amendments, changes were also made to the regulations under the Victims' Bill of Rights, 1995, to also add hate crime offences, including targeting clergy or disturbing religious worship, to the list of crimes where victims can sue the convicted offender for emotional distress. Does this clarify our position a little bit?

Ms. Jaime Kirzner-Roberts: I think so. But I guess we're asking to broaden that not just to be members of clergy or those representing a place of worship, but any individual targeted because of their background.

Ms. Natalia Kusendova-Bashta: Would that not fall under hate crime offences? If somebody is convicted of a hate crime offence against an individual, not necessarily a place of worship, I believe that would cover that.

Ms. Jaime Kirzner-Roberts: That's what we're asking for.

Ms. Natalia Kusendova-Bashta: Sorry; I believe that that's—

Ms. Jaime Kirzner-Roberts: You believe that's already covered?

Ms. Natalia Kusendova-Bashta: I think that matter is dealt in regulation, and that's why it's not explicitly in the legislation.

Ms. Jaime Kirzner-Roberts: If that's true, that's wonderful. But in our conversations with the Attorney General's and the Solicitor General's offices, that did not come up. So if that's true, that's wonderful.

Ms. Natalia Kusendova-Bashta: I think the difference here is that the presumption of emotional distress for the victims of sexual offences, human trafficking and voyeurism is already assumed once the individual is convicted

criminally. But for the others, which include hate crime offences, targeting clergy and religious worship, the victim would still have to prove emotional distress in a civil matter. I think that is the difference.

Ms. Jaime Kirzner-Roberts: Okay. I see. So it is still not included in the list of those presumed to have suffered emotional distress. That's what we're asking.

Ms. Natalia Kusendova-Bashta: They can sue, but they would still have to prove emotional distress under these types of crimes. I hope that clarifies our position.

Ms. Jaime Kirzner-Roberts: Yes, I think that clarifies some of the discrepancy between what I saw in the press release, but our ask remains that we wish to see victims of hate crimes added to the list of those presumed to have suffered emotional distress.

The Chair (Ms. Goldie Ghamari): One minute.

Ms. Natalia Kusendova-Bashta: Thank you.

I wanted to also ask some questions for Kamil today. We've heard from many presenters on this issue, and there are some who are for schedule 1 and some who are against schedule 1 of our bill. Can you just tell us briefly what difference it will make to you personally once schedule 1 is passed and your licence is restored?

Mr. Kamil Wroblewski: The number one difference—and thank you for the question—is basically that I can get back to work. Right now, I'm not able to work independently. I had to close my business. Even if the schedule didn't pass and if AATO had offered to grandfather me in as they had, I called Alonzo Jones and he still couldn't offer me a scope of practice. Without the passing of this bill, I cannot independently do my work unless I basically take a step down to a BCIN level, where I could do smaller structures, where I've been already designing bigger structures.

The Chair (Ms. Goldie Ghamari): That's all the time that we have. I'd like to thank our presenters for joining us.

ONTARIO ASSOCIATION OF FIRE CHIEFS

PROVINCIAL BUILDING AND CONSTRUCTION TRADES COUNCIL OF ONTARIO

The Chair (Ms. Goldie Ghamari): At this point, I'd like to call upon the Ontario Association of Fire Chiefs to please come forward.

Please state your name for the record, and then you may begin. You will have seven minutes. Thank you.

Mr. Rob Grimwood: Thank you. Good afternoon. My name is Rob Grimwood. I'm a deputy fire chief with the city of Mississauga and the president of the Ontario Association of Fire Chiefs. I appreciate the opportunity to be here this afternoon.

I will be brief. We are here in total support of this bill. It is a multi-pronged bill, obviously, with fire being one component, with a revision to the Fire Protection and Prevention Act, but this is a very important move forward for the fire service.

In 2022, 133 people died in fires in Ontario, and in 2023, 121 people died—while it's a slight reduction, there was actually an increased number of fatal fires; just a decrease in the total number of fatalities.

Fire services prevent death and serious injury in fires through what we call the three lines of defence: the first being public education, where we teach people how to stop fires from starting, we teach them how to react, we teach them how to suppress fires and manage cooking fires before they grow. The second line of defence is enforcement, where we use the Ontario fire code to ensure that buildings are safe and they have the appropriate fire separations, exits remain unblocked, fire alarm systems and sprinkler systems work etc. And the third line of defence is actually responding to and suppressing fires.

What administrative penalties will do for the Ontario fire service is provide what, in our view, is the most efficient and effective option for enforcement. As it stands today, most Ontario fire departments enforce the Ontario fire code through issuing orders and are hesitant to pursue prosecution.

I've been a fire chief since 2007, and I'll quickly recount a story that shaped my career. In 2009, I attended a conference where Pat Burke, the fire marshal of the day, in response to an increase in fatal fires, declared that there should be zero tolerance for Ontario fire code violations. I was really inspired by this. I went back to my municipality at the time, which was Haldimand county, and I met with my fire prevention officers. I said, "Zero tolerance. As soon as we find a contravention of the Ontario fire code, we're going to prosecute"—and we did. But we were a small municipality. We did not have an in-house solicitor, so we contracted a solicitor externally. As the case went through the court system, what we learned was, there were so many delays and remands in the court system. The final conclusion was that the person was convicted and given a $600 fine, and I was given a bill for almost $10,000 for legal services. No sooner was I back in my office before my CAO said, "No more of this. We're going to just issue orders, and we're going to work with the person who's in contravention."

Sometimes orders are very effective, and sometimes prosecution is very necessary, but the missing key component is administrative penalties. Administrative penalties will allow a fire service to issue a penalty, which is a deterrent to people in the community for violating the Ontario fire code. It keeps these cases out of the court system, which helps administratively with a court system that's already overwhelmed. It gets managed at a municipal level, with the most ease of use for the person who's being charged, and the money goes back into the municipality, which can then use it for more robust fire prevention programs. So we're here today in total support of this. We applaud the Attorney General, the Solicitor General and the fire marshal. We had done a lot of work with the groups and we felt like this was at the finish line, and then COVID came and it really delayed things. So, we're thrilled to see this picked back up as a priority.

1600

I'm happy to answer any questions, but I just wanted to come here and convey how important this will be to all 437 Ontario fire departments.

The Chair (Ms. Goldie Ghamari): Thank you for your presentation.

We'll now turn to the Provincial Building and Construction Trades Council of Ontario. Please state your name for the record, and then you may begin. You will have seven minutes.

Mr. Igor Delov: Good afternoon, esteemed committee members. My name is Igor Delov, and I am director of government and stakeholder relations at the Provincial Building and Construction Trades Council of Ontario. Thank you for allowing us the chance to present to the committee.

Our council represents 15 international construction craft unions with a membership of 150,000 workers in the province of Ontario. The building-trades employees that we represent build every piece of infrastructure that Ontarians depend on every day, from schools and hospitals to roads, bridges, transit and power generation facilities.

Our council has a long history of working with government of all political stripes to help ensure that construction workers are well trained and safe. That said, we welcome the chance to provide input on aspects of Bill 157 dealing with proposed changes to the Coroners Act, as found in schedule 5.

Since 1999, on average, there have been 21 yearly deaths in Ontario's construction industry. The majority of these deaths have been related to the following five categories: falls, crushed-bys, struck-bys, electrocution and other causes.

Construction worker fatalities continue to plague the industry despite the fact that our prevention system spends $300 million per year on health and safety programs. From 2014 to 2022, $2.4 billion have been spent on prevention activities, yet construction workers continue to be killed and maimed in the workplace. This is unacceptable.

Worker health and safety needs to be on the radar of Ontario's chief decision-makers in a much more prominent way than it is now. Identifying and better understanding the causal patterns of construction worker deaths can help us apply lessons learned in the service of preventing future deaths and injuries. Our industry has a key role to play in disseminating those lessons through our training infrastructure and broader network.

Presently, the Coroners Act requires all construction deaths to be subjected to an automatic inquest. Each year, there have been, on average, 20 bereaved families who have lost a loved one in a construction workplace, awaiting the scheduling of a coroner's inquest. Currently, there are more than 130 construction-related deaths awaiting an inquest, some of which from over 10 years ago, as the committee heard earlier this afternoon.

Due to these backlogs, the current system of mandatory inquests needs to be improved while maintaining respect and dignity for the workers who have lost their lives. At the same time, we must continue to be sensitive to the needs of family members. With diligence and focus, we believe that the proposed changes in Bill 157 have the potential to simplify the review process for everyone concerned: families, fellow employees, employers, government regulators, safety system partners and the general public. Efficiently addressing the backlog of inquests can help bring closure to grieving families.

Reviewing construction worker deaths based on systemic patterns as identified by the chief coroner can help us better isolate practices of high risk, where resources can then be deployed by the construction industry to deal with those practices with a view to preventing them in the future. Such an approach would help improve safety outcomes for workers and for the general public.

I will now turn it over to my colleague Carmine Tiano, who serves as our council's director of occupational services. Thank you.

Mr. Carmine Tiano: Good afternoon, and thank you for hosting us.

Ontario building trades support Bill 157, which will amend the Coroners Act and move away from mandatory inquests and to reviews. The intent, as my colleague indicated, is to prevent deaths in construction. The proposed changes will help ensure the following:

(1) Every construction death shall be investigated by the coroner. The five questions, of who, where, how and—will still be answered. These questions, importantly, will be answered by and through the assistance of the parties. This will include the coroner, emergency services, police, worker family, employer representatives and union representatives. The key in the changes is that it will be done collaboratively, and it will move away from the litigious nature of the current process.

(2) Every death in the construction industry will be subject to an annual review. It is our understanding that that review—the building trades have been told we will be part of implementing the mechanism for the review. The review will look at the death of the individual. The purpose of the review will be to make recommendations. It will be broad in scope. Unions, employers and families will be part of it, and we will be able to determine systemic trends.

(3) This has been a problem, that people thought we were going to be removing inquests totally. No, the family will have the right to ask for an inquest, or the union representative will ask for an inquest.

(4) The chief coroner will still have the power if it is of public interest, i.e. Kipling Avenue in 2009 or the Live Nation collapse, to still call an inquest.

In our opinion, the current system is broken. With all respect to the people that sit on the juries of coroner's inquests, the recommendations very rarely have any substantial impact. The new system will allow us to look at systemic problems and target intervention.

The Chair (Ms. Goldie Ghamari): One minute.

Mr. Carmine Tiano: Now, just because we are moving to a revamped system—there is no solace if a worker dies. We are asking the government, as they're making changes to coroner's inquests, to look at targeting prevention services and enforcing. Our council is hopeful that the changes

will start to produce better safety and will be key to get the workplace parties together to identify what needs to be done, stop the 20 deaths on average in construction and give families some kind of solace.

Thank you. We're open to take questions from the committee.

The Chair (Ms. Goldie Ghamari): Thank you very much.

This round of questions will begin with the independent member.

Mrs. Karen McCrimmon: I do have a question, first of all, for the building and construction trades to start review. If the coroner's inquest was indeed provided an element of deterrence and enforcement, how do we make sure that those elements are not lost in this change?

Mr. Carmine Tiano: Well, they won't be lost, because the way it's happening now is that some of the coroner's inquests go back 10 years, so there really isn't anything that comes up very quickly. Under the new targeting, the coroner needs to report six months from when the review started, so within that six-month time frame, it will allow us, the parties, to put better training in place if it's identified that it's a training issue. It will allow the ministry, within that six months from when the death happened, to target enforcement. It could be blitzes. It could allow the system to target prevention dollars. The way it is now, there really isn't much coming out of it.

And moreover, the changes do not prevent the ministry from going after the employer under provincial offences or under criminal charges. So I think this will actually be a nice segue and actually be ancillary support to provincial offences violations and to criminal charges, if we need them.

Mrs. Karen McCrimmon: So if I'm hearing you correctly, it's about you wanting the results sooner, so that you can turn around and make the changes to the training or whatever the processes were, so you'll have things out there quicker and they'll be more up to date. Is that correct?

Mr. Carmine Tiano: Yes, 100%. And also, we cannot get lost in the fact that the family will still have the right, after the review, to ask for a coroner's inquest. That's extremely important. In the media reporting in November, it made it look like we were completely abandoning it. That was not correct.

1610

Mrs. Karen McCrimmon: Okay. One final, quick question: Are you concerned at all about the transparency of this, making sure that the people who need to know do know?

Mr. Carmine Tiano: Before the building trades went down the road of getting involved in looking at revamping it, one of the issues we had was transparency.

The Chair (Ms. Goldie Ghamari): One minute.

Mr. Carmine Tiano: This is why we feel that once the actual investigative process starts to go, the building trades and other parties need to be part of creating the policies. If we're at the table creating the policies, there will be no issue with transparency. If it is done in a boardroom somewhere in a government building, then we have problems with the transparency. The way it is now, we've been assured that there will be a committee of building trades reps—employers, as well—that will start to lay the foundation to create the policies around the review.

Mrs. Karen McCrimmon: All right. Thank you very much.

I have a quick question for Chief Grimwood, and it's about the same thing. What we want is a result to prevent more fires in the future. Having that administrative penalty, I think, is one more tool in your toolbox. How are you going to make sure that the process—

The Chair (Ms. Goldie Ghamari): Thank you. That's all the time that we have for this round.

We'll now turn to the government. MPP Hogarth.

Ms. Christine Hogarth: Thank you to President Grimwood for being here today, and thank you for your service to the people of Ontario. You and I have met in various locations all around the province, and I certainly admire the work that you do, and that all our fire chiefs and fire service men and women do across our province, so thank them for us, on behalf of our government.

I just want to touch a little bit on schedule 10, which is what you brought to our attention. I was reading your document. I think one thing that we talked about or that we heard from our Attorney General early today is that part of this legislation—you know, we want the system to function better. We want it to function better for the public, for our associations. We want to have a modernized system.

One thing you talk about in here, which you mention at the bottom of page 3, is costing money to issue orders. Time is money; money is time. How much money or time do you think you would save with the changes that we're bringing forward in this legislation in schedule 10?

Mr. Rob Grimwood: Through the Chair: It's an excellent question, and the answer is that it will vary greatly by department, but it has the potential to be substantial.

If a department pursues an order, they issue the order and then they continue to do a series of follow-up inspections, which takes that fire prevention officer and inspector's time, when they could be inspecting new buildings that have never been inspected before and potentially saving lives. So the more we rely on continued re-inspections on the order, it's not only costing staff time; it's really diminishing our effectiveness, because we're not getting into as many buildings as we could.

If a fire department pursues a prosecution, then it's costing the time of the solicitor and the fire prevention officer as a witness, and, frankly, it's adding to capacity issues that exist within the court.

And so, we see administrative penalties solving both of those. We see it as a diversion out of the court system, which is going to allow the courts to function more effectively. It's going to diminish the amount of time and cost for fire services. But it's going to act as an effective deterrent, and that's really what we need. We need enforcement to be an effective tool, and this, in my view,

in my opinion, is going to be that effective tool that's going to work wonders in our world.

Ms. Christine Hogarth: One thing we've heard and we've read in the paper is about court time and cases being heard or not heard, because of a lack of people or lack of staff to handle some of those court cases. It doesn't matter what career we're in; we're always looking for people. Human resources seem to be—we're not sure where all the people went after COVID, but they seem to have disappeared in all careers. So we have to figure out streamlined systems to make sure we can get work done properly and people remain safe.

One other piece—I was reading your letter—was that maybe some bad actors may get away with not paying or paying a lesser fine because of waiting time. Would this be a true fact?

Mr. Rob Grimwood: I don't believe so, because a fire chief still has the discretion on how to pursue an offence. That's why I think this will be so successful. It's optional. Municipalities don't have to adopt it and it's only a tool.

As a fire chief, there are going to be times where I'm going to say it's very appropriate to issue an order, provide education and move forward. There are also going to be times where it's a repeat offender, it's a landlord or it's an egregious life safety issue, where prosecution is going to be an effective tool, and there are going to be times administrative penalties will be an effective tool.

And so, I really think it will be incumbent upon my organization, in large part, to educate fire chiefs about the various tools, the pros and cons of each, and how to effectively utilize them. But I do not believe that this exposes any gaps for those bad actors. I think the variety of enforcement tools remain in place for the system to work.

Ms. Christine Hogarth: I think, in the end, we just want to make sure our communities are safe, so thank you very much.

Mr. Rob Grimwood: Thank you.

Ms. Christine Hogarth: No further questions.

The Chair (Ms. Goldie Ghamari): MPP Kusendova-Bashta.

Ms. Natalia Kusendova-Bashta: Thank you very much, Chief, and thank you also for the great work you're doing in our city of Mississauga.

With regard to schedule 10, it would give the power for administrative monetary penalties to be used when it comes to contraventions of the Ontario fire code. Can you give us some examples what these contraventions could include and who would be the individuals perpetrating them?

Mr. Rob Grimwood: Sure, thank you—great question. Through the Chair: There are numerous. Some of the most common ones we see are lack of fire separations, so holes in drywall, walls and ceilings; sprinkler systems that haven't been tested; alarm systems that haven't been tested; disabled or missing smoke alarms; blocked fire exits; that the exit signage won't work and light bulbs are burnt out; hallways that aren't wide enough to facilitate exits—I mean, I could go on literally forever.

The "who" is interesting. It ranges from a single-family dwelling where they were just simply cooking last week, the smoke detector went off, they took it off the ceiling, it was a nuisance and they never put it back up—there's a great example where a little bit of education will go a long way—all the way up to people who are landlords and own multiple buildings and have responsibilities for maintaining sprinkler systems, fire alarm systems and much more technologically complex life safety systems. Unfortunately, in our world, we do see some trends where property owners are failing to maintain life safety standards in multiple buildings, so that would be a great example where a prosecution may be appropriate.

Luckily, most fall in the middle, where there are a few fire code violations in a building—not too egregious—and a monetary penalty would likely solve the issue.

Ms. Natalia Kusendova-Bashta: This reminds me of that tragic fire that was in Quebec in a long-term-care facility, where seniors actually died.

The Chair (Ms. Goldie Ghamari): One minute.

Ms. Natalia Kusendova-Bashta: Do you think if these monetary penalties were in place in Quebec, it could prevent such tragedies from happening in the future?

Mr. Rob Grimwood: In different buildings, for sure. In Ontario, actually, years ago, the government enacted very strong fire-protection language within the FPPA for long-term-care facilities, so in Ontario we have some of the safest long-term-care facilities in the country because of legislation that was enacted in the past decade. But definitely, in a multi-family dwelling, an apartment building, a midsize, the same life safety principles will apply, and absolutely, effective enforcement saves lives.

Ms. Natalia Kusendova-Bashta: Thank you so much.

The Chair (Ms. Goldie Ghamari): We'll now turn to the official opposition. Who would like to begin? MPP Wong-Tam.

MPP Kristyn Wong-Tam: Thank you to everyone who has been presenting this afternoon.

My first question is going to be sent online to the building and construction trades council. Thank you for all your advocacy in supporting the workers, making sure that they're safe and doing all the exceptional follow-up. I recognize that this is a very trying time in construction and trades, with just a lot of economic changes and fluctuations abound.

1620

I'm very curious to know—obviously, the changes to the coroner's inquest as contained in the schedule are largely supportable, so I'm glad we're here. What I'm curious to know is the annual process, what that could look like, because I don't think that's outlined in detail as of yet. Because you've had consultation with the minister, do you have any indication for us about what that scope would look like, how it would be determined, who might be on the expert panel? I hear from Carmine that you anticipate being there, or at least your organization. What would that look like, if you can?

Mr. Carmine Tiano: Well, thank you for the question. I think the next step is, like you're asking, how do we get

there? Well, we've already provided names of reps from basically all the 16 trades that make up the building trades, so that will already be multi-union. Then the next step would be, we're going to start looking, potentially—this is me, how I would look at it: All right, let's just sample out. We take five deaths that have happened. Let's start working through them. What do we need to look at? Were there issues with the training? Could one of the issues maybe, possibly be hours of work preceding the death? Were there changes in change orders? Were there organizational changes? We start working them out. We've already sent in about how to take samples of deaths, and we start working it out. There, with the coroner, we can start determining a process.

Right now, the way it is, a death happens—well, here: We were involved in Kipling Avenue, 2009. In 2021 or 2022, the coroner's inquest; after the fact, expert panel, working at heights, training. We spent north of $80,000 to be part of that coroner's inquest and the recommendations provided zero value.

The new process would have allowed us to get in there quick, and maybe we would have blunted some of the deaths that are happening—on average 20 a year.

MPP Kristyn Wong-Tam: Fantastic. Thank you. Thank you for such a full answer. I really appreciate that.

Because I don't believe we have in our submission the proposal that you've outlined to the minister, and it may be helpful for us to understand the process in terms of determining the annual review and the scope and the terms of reference, I would be very interested if you wouldn't mind sharing that with the committee as well so we can all understand what is the overall arc of thinking of how the annual review will look. I think that would help us fill in some of the blanks that are not before us today, so I thank you for that.

Mr. Carmine Tiano: What we could do is we could send you another document that we forwarded that actually has a sample review process.

We can send you that as well; all right, Igor? I think the one we sent in December would help the committee get their grasp on what a review could look like, definitely.

MPP Kristyn Wong-Tam: Fantastic. Thank you so much. We're getting some nods from the members here, so I think that will definitely be helpful.

My next question is to the chief. Thank you so much for all that you do. Thank you for representing the association. I do recognize that this is a very trying time in all municipal departments and services. Everyone is looking for additional support, resources, and of course, there's the rising challenge around the diminishing number of staff in mostly every single department, I want to say.

I recognize that you're here in support of the changes to schedule 10, so thank you very much. That's really clear and helpful. I'm just curious to know whether or not, in your opinion, the changes in schedule 10 help clarify whether or not the fines against landlords would need to be explicitly contained in the bill, or is it good enough to say you have the ability to sort of go back and give administrative penalties?

Mr. Rob Grimwood: Through the Chair, I believe it is sufficient as written. The reason, again, is that a fire service has various tools, and so if they don't feel an administrative penalty is the right fit for this offence, they have other options to pursue.

MPP Kristyn Wong-Tam: Thank you. That's very helpful.

At this point in time, there are 437 fire departments across the province, divided into some additional categories. I was actually quite informed; I had to educate myself coming to Queen's Park, because I worked in the city of Toronto. We have a system in place where everyone is a paid firefighter. They go through their requirements, and they're highly trained. We want them to be well paid, because it's a very dangerous job. It's dangerous work, and sometimes it comes with unfortunate health complications. Can you just describe to this committee what some of those challenges are, especially when it comes to the health and well-being of our firefighters?

Mr. Rob Grimwood: Through the Chair: I'm passionate about health and safety, so I'm always happy to talk about that.

The Chair (Ms. Goldie Ghamari): One minute.

Mr. Rob Grimwood: Firefighters, in brief, are much more likely to be diagnosed with both cancer and post-traumatic stress disorder. The evidence supports that they're predisposed to both of those because of the occupational stress, whether they're a volunteer firefighter in a small department right up to a career firefighter in the city of Toronto. I'm in my 29th year, and it's a challenging but rewarding profession, but it comes with its personal risks, without a doubt.

MPP Kristyn Wong-Tam: How can the provincial government support you and the service in doing that work better?

Mr. Rob Grimwood: In short—I know I only have a few seconds—we will be at Queen's Park on May 29. Our association is coming back to meet with MPPs, and we'd love to have much more dialogue, because there's a number of things. But we are certainly feeling very—

The Chair (Ms. Goldie Ghamari): Thank you. That's all the time we have for this round.

We'll now turn to the independent member.

Mrs. Karen McCrimmon: Chief, back to my question I was going to ask you in the first place: We have the administrative penalties, and it does look like it would be a useful, flexible tool for you to use. And I read about the right to review. Are you concerned that those who have more access to legal help etc. will be able to slow the process down and not pay those fines?

Mr. Rob Grimwood: Through the Chair: I'm not, because the right to review is embedded in all of our processes now. The right to review an order exists and the right to defend against an appeal of prosecution exists, so the right to review is embedded in our world. We feel that generally it's properly used.

We're not perfect. The fire service and our inspectors aren't perfect, and so we feel that it's only fair that the property owner have the opportunity to have it reviewed.

Sometimes it's as simple as a technical error. Occupancy is based on square footage and complex math, and so we're certainly accepting that a review is reasonable.

Mrs. Karen McCrimmon: All right. Thank you. When I think about the right to review, we're going to need people like you to do review. Do we have the manpower with the requisite experience that we can afford to let them do that work?

Mr. Rob Grimwood: We do. The right to review fire inspection orders has existed for as long as I've been in the fire service, and we have some very, very smart people who are able to do that review from a neutral technical perspective and adjudicate the decision.

Mrs. Karen McCrimmon: Okay. Thank you.

I'm all about prevention. You mentioned some of the contraventions that you would see these administrative penalties be useful for. How will you use that in your individual fire departments to actually get that word out, to make those changes?

Mr. Rob Grimwood: Great question; thank you. Really, we see doing true prevention two ways. One is that it's a deterrent: If I'm a property owner, there's a penalty and a deterrent that will motivate me to comply with the fire code.

The other is that it allows us to collect data, and we're a data-driven organization like any other. At the end of the year—not even at the end of the year; on an ongoing basis—we can use administrative penalties to do a landscape across the province and what type of penalties are being issued. Are they predominantly smoke alarms? Are they blocked exits? We use that information to tailor our public education programming. If we're seeing a high number of blocked exits, then we target that in our public education campaigns. So we're really dependent on data, everything from how fire deaths occur, where they occur, what the causes of the fire were to what types of violations we're finding—because you have to be really targeted and focused with your public education. In today's world, there's a short attention span. You have that 20-second public service announcement, so we need to get it right. If it's cooking fires, let's be really good at messaging cooking fires, and I think this process will allow us to collect that data to get really good at figuring out where those violations exist.

1630

The Chair (Ms. Goldie Ghamari): One minute.

Mrs. Karen McCrimmon: Okay.

It's interesting, when we talk to the building trades, they're also talking about an annual review in order to dig down deep and find out what are the actual causes of some of these deaths and losses. So, yours is not predetermined, is it? It's something you will do on a continuous basis.

Mr. Rob Grimwood: Absolutely. It ebbs and flows. Lithium-ion batteries are a really emerging cause of fires and three years ago, I would have said electrical, cooking and careless smoking. We're seeing a lot less careless smoking and we're seeing a lot more lithium-ion battery fires. So, we have to shift how we do prevention and public messaging. It changes not even year to year; it can change month to month. We have to stay on top of it.

Mrs. Karen McCrimmon: All right. Thank you very much, Chief.

I'm done, Chair.

The Chair (Ms. Goldie Ghamari): We'll now turn to the government. MPP Bailey.

Mr. Robert Bailey: Yes. Thank you, Chair. Through you to the all the presenters here today, I want to thank them.

I think I'll direct my question—I'll have only one—to the provincial building trades. I recognize Mr. Delov there and Mr. Tiano from my years in the construction business. I worked in Sarnia–Lambton, and you'll be well aware of Sarnia–Lambton. We have over 6,000 tradespeople in Sarnia–Lambton, the bulk of them members of building trades, I might say.

The former Minister of Labour always told me—this was in the former government, even. He said that you were 25 times safer if you worked in Sarnia–Lambton. Now, most of the trades are unionized there. So, that 25 times safer doesn't come without a cost.

We have great co-operation in Sarnia–Lambton from the industry, from the building trades, and of course the local academia, where a lot of these nice training centres are now too, thanks to a lot of government money from the ministry of labour recently. Is that some of the cause, across Ontario, with accidents because maybe, in some areas, the proper resources aren't being directed towards health and safety? Like I say, we take advantage of that in Sarnia–Lambton. Are we kind of an outlier, and would the industry—like, the building trades—like to see something similar that takes place in Sarnia–Lambton across the rest of the province?

Mr. Igor Delov: Thank you, MPP Bailey, for the question. I would say to you that a large part of what we're trying to accomplish through this legislation as indicated to us by the chief coroner is that we apply the lessons learned. So, where the legislation talks about identifying systemic issues and causes of deaths, we want to be able to disseminate the lessons learned from what those causes are and apply them in the workplace. But doing so, it will take a multi-pronged approach, but we can leverage our vast training infrastructure in Ontario, such as the training centres and union halls that we have in communities like Sarnia. So, to get to an effective dissemination of the lessons learned, we need to address this backlog that's there in the system right now with the 130 pending inquests, some of which are 10 years old. By being able to consolidate the process through this legislation, I'm hopeful that we can rely on our network to help apply lessons learned in preventing future tragedies.

So, the organized sector has a big role to play in that regard, obviously, but I think, generally speaking, provincial legislation and the entire health and safety system in Ontario, including in the unorganized sector, needs to apply those lessons as well. We want to play a constructive role in doing that and delivering those lessons. Thank you.

Mr. Robert Bailey: I'll yield to one of my colleagues if—Ms. Dixon?

The Chair (Ms. Goldie Ghamari): Go ahead.

Ms. Jess Dixon: My question is for the chief. I had a meeting recently with Chief Rob Martin, who is the new Cambridge fire chief. He was in Kitchener for ages and then Brampton for a few years. One of the things that he talked about, I think particularly calling on his experience in Brampton, was—to be blunt, he was talking about student housing, particularly the challenges faced by international students; bad actor landlords, that type of thing. Essentially, what he was telling me was, "You have the chance in Waterloo region to stop this. Brampton had gotten a bit behind." With the monetary penalties, that type of thing, do you think that we're creating a better framework to really go after those types of bad actors, and how do you see that working, especially in that kind of context?

Mr. Rob Grimwood: Thank you. Through the Chair, that's a great question; very timely. We're not immune from the housing crisis ourselves. As more houses are built, there's more work for firefighters: more houses, more people, more calls, more inspections.

Certainly, the crisis has caused people to work outside of the public safety framework and we are seeing it. I work, obviously, in a big city. We are seeing it. We are seeing illegal basement apartments. We're seeing too many students—and it's not always students, but too many people housed in a building that wasn't designed for that. So we do see administrative monetary penalties helping as an enforcement tool.

Again, there will be egregious cases that fire departments will choose to prosecute, either because it's a repeat offender or it's just at such a scale that it's above an administrative penalty. But there will be times when this will be absolutely an appropriate and very effective enforcement tool for exactly those types of situations.

Ms. Jess Dixon: Do you see fire services as being prepared to put together those—it's almost like an investigation brief. It's almost like a crown brief. I was a crown; of course, I'm thinking about that. But do you have the resources you need to prepare for those types of prosecutions, so to speak?

Mr. Rob Grimwood: I mean, I can't say that all 437 fire departments are resourced without a doubt. We have all kinds of resource challenges like so many other sectors do. I guess what I would say is this is not going to add a layer. It's just another tool. So if a fire department doesn't have the resources within a fire prevention division today to pursue orders of prosecutions, this is not going to worsen the problem. It actually may alleviate it because this could be an option that takes less time.

I can't say with any confidence that all fire departments are properly resourced. In fact, I can tell you many aren't. We struggle, like others. But this—it will definitely not make it worse and can only make it better.

Ms. Jess Dixon: Okay. Thank you, Chief.

The Chair (Ms. Goldie Ghamari): Thank you.

We'll turn to the official opposition. MPP Mamakwa.

Mr. Sol Mamakwa: Meegwetch. Thank you to Rob and also Igor and Carmine. Maybe perhaps going to Rob: Thank you and meegwetch for the work that you do. I know that, looking at your submission, you have some background on who you represent, how many departments and firefighters. And one of the things I think about is the number of Indigenous firefighters or fire departments that are included when you talk about that. Like, are there any—

Mr. Rob Grimwood: Yes. Thank you. Absolutely, First Nations fire departments—in fact, I'm very proud to say the vice-president of our association is Jeremy Parkin, who is the fire chief of Rama First Nation. Up until yesterday, Jeremy hoped to join me today but he had a conflict.

First Nations fire departments absolutely have unique challenges. They have a disproportionate rate of serious fire injuries and death. I'm happy to say that the Ontario Association of Fire Chiefs is an advocate. We certainly partner with the organizations that represent First Nations and we have many First Nation fire departments who are our members and one who is a board member.

Specific to this bill, if an enforcement tool is effective in municipalities, it will be effective in unorganized territories and it will be effective in First Nations. We believe that good public education, good data collection, good enforcement tools are applicable in any community regardless of its demographic, so we certainly see this having applicability.

1640

Mr. Sol Mamakwa: Thank you for your answer. I asked that question because there are times I travelled to my riding where you know those deaths were preventable. I think probably three weeks ago, I went to Fort Hope, also known as Eabametoong First Nation, and they lost a whole school. They just looked at it burn down because they did not have the capacity, the surge capacity, to be able to fight it because of some of the infrastructure issues they have with water pressure—those issues, right—and even the training and the fire suppression equipment.

So I just see it, and then I go to other deaths too, like, you know, where five people, three people—so I commend your work, and I think when you talk about the first three lines of defence, public safety is so important. I think about, when we talk about schedule 10, Fire Protection and Prevention Act—I think sometimes jurisdiction is an excuse not to do anything on-reserve. I'm not sure; will this schedule 10—I support it, but will it have an impact for on-reserve?

Mr. Rob Grimwood: Thank you for the question. I'm going to offer something that I think is helpful, but it's certainly not the answer. The Fire Protection and Prevention Act does not apply on First Nations' lands. That said, the principles of fire safety do. I've been very fortunate in my career. I was the fire chief in Haldimand county, so I had an exceptional relationship with Six Nations, the

largest First Nations fire service in Ontario. They were our immediate neighbour. And then I spent a year and half as the fire chief in Dryden, Ontario, so no stranger to unique northern and rural circumstances.

So I would offer this: The legislation may not apply, but the principles do. Effective public education is effective public education, and effective enforcement is effective enforcement. There are certainly a lot of jurisdictional boundaries that we need to work hard to eradicate, without a doubt. In the short term, though, fire safety is fire safety is fire safety. If this is an effective tool, which we believe it will be, it's also something that First Nations can make available in their communities, at least as an option. It's something that we will be able to collect the data to show the efficiency of it in municipalities, and then share that with non-municipal communities that they may implement regardless of the jurisdictional challenges.

Mr. Sol Mamakwa: Thank you for that.

I'm going to switch over to Igor and Carmine. I know you talked about that you support schedule 5. I'm happy to see Dr. Dirk Huyer here as well, as the chief coroner. Before I became an MPP, he and I had this dialogue a while back, and we were dealing with some of the issues that we dealt with, with the chief coroner. I don't know why I said this, but I remember calling him "Dr. Death," because he dealt with people that died. So it's good to have you here, but I want to go to either Carmine or Igor.

I know that, currently, coroners' inquests make recommendations and sometimes—generally—they're ignored.

The Chair (Ms. Goldie Ghamari): One minute.

Mr. Sol Mamakwa: What will be, I guess, the mechanism to implement any findings of what we spoke about earlier in an annual review? What mechanism would be in place on any findings—

Mr. Carmine Tiano: I think the hardest problem with the current system is that the people that are making the recommendations aren't from the industry and they're not aware that the legislation is already there. When you have the experts from construction, we will be able to move those recommendations into practice. That's the key. We can move them into practice.

The way it is now, they don't understand that working at heights, the legislation is there. We need to figure out why people aren't following it and why they're dying, and the industry can do that.

The Chair (Ms. Goldie Ghamari): Thank you. That's all the time we have.

This concludes this round. Thank you very much for joining us.

We don't have our presenters? Okay. So we'll have to recess until 5 o'clock, because our presenters are not here yet for the next round.

The committee recessed from 1646 to 1700.

The Chair (Ms. Goldie Ghamari): Good afternoon, members. The committee will resume its public hearings on Bill 157, An Act to amend various Acts in relation to the courts and other justice matters.

WORKERS' HEALTH AND SAFETY LEGAL CLINIC

SOUTH ASIAN LEGAL CLINIC OF ONTARIO

JELLINEK ELLIS GLUCKSTEIN LAWYERS

The Chair (Ms. Goldie Ghamari): At this time, I'd like to call upon the Workers' Health and Safety Legal Clinic. Please state your name for the record and then you may begin. You will have seven minutes.

Mr. John Bartolomeo: Good afternoon. My name is John Bartolomeo. I'm a lawyer and co-director at the Workers' Health and Safety Legal Clinic. By way of background, the clinic is a community legal aid clinic, funded by Legal Aid Ontario and overseen by a community board of directors. We have a provincial-wide mandate to assist non-unionized, low-income Ontarians with respect to health and safety issues that arise at the workplace. That means representing workers who have been terminated for raising health and safety issues at work. It also includes representing workers who have difficulty with the return-to-work process and their worker's compensation claim or occupational disease claims. And finally, we assist workers who have been terminated for making WSIB claims. In addition, we provide ongoing public legal education to workers and students about their workplace rights.

My submissions to you today will focus on one schedule, schedule 5, with the proposed amendments to the Coroners Act. It is our position that the schedule, while we understand the intent and purpose of the proposed amendments, does not achieve a goal directly to advance occupational health and safety in the province of Ontario.

Considering the amount of fatalities we have seen in the province of Ontario, they remain high. According to data from the Ministry of Labour, Immigration, Training and Skills Development—and if I have to say that again, I'm just going to say Ministry of Labour—we see from the numbers, the last data available, in 2022 there were 65 fatalities across all sectors in the province. The year before that, in 2021, 58. We have not had fewer than 40 fatalities since 2012. And I grant you that this covers more than what the coroners' inquests cover with respect to the construction and mining industry, but I raise this to highlight the deep concern we as a clinic have with the state of occupational health and safety in the province.

These numbers are buttressed by the numbers that come out of the WSIB. In 2022 and 2023, there were 90 traumatic fatalities in both years, and I'm not even getting to the number of occupational-disease-related fatalities or workplace exposures in latent diseases. What we have in this province is what I would submit is an endemic problem with respect to health and safety.

Similarly high numbers can be found in the Ministry of Labour's data with respect to critical injuries. In my view, the number is simply staggering. Since 2018, we've had over 2,000 critical injuries across all sectors. I submit that when we look at what changes we can make to improve health and safety in the province, we need to assure

ourselves that we're making changes that will improve health and safety to protect Ontarian workers.

That leads me to my concerns about the changes proposed with respect to coroners' inquests. What we see proposed today, if passed, would change from a system of coroners' inquests and jury recommendations to an annual review—with, I grant you, an opportunity for families to still request an inquest—which results in recommendations from the coroner's office.

Let me address the difference there with respect to jury recommendations. It's my respectful submission that jury recommendations in a sense represent the will of the people. A jury is made up of five community members. As prior speakers have outlined, they hear evidence, they hear witnesses, they hear from those who have standing, they listen to the parties and through that, they take that information and provide recommendations. This is an example of one of the rare opportunities where average citizens can make recommendations to the Ministry of Labour to say, "We want to improve health and safety in the province and here is how we think it should be done."

Even if they don't have a background in construction or in mining, that's no different than asking an average citizen to sit on a fraud case, a criminal trial of some kind. Any serious criminal offence is made up of jurors who don't have that background, and yet we trust the system to do that. When I see that being challenged, I have a great difficulty knowing that we are taking away the agency of the average Ontarian in our health and safety system.

As well, I'd also comment briefly on the role of the family, and I reference this in my written submissions. When I heard about the amendments and I listened intently to the sister of a deceased worker on CBC Metro Morning, she was of the position that these changes were wrong. As a clinic, we offer advice. I had the opportunity to speak to a family member of a deceased worker, and to that person, the only place they got the answers they wanted as a family member to this deceased worker was through the coroner's inquest system. They were able to participate. They were able to put forward their recommendations. So I think there's a great role for the family that needs to be assessed when making changes.

I suppose, if you ask, the fundamental difficulty with the proposed recommendations—which not only take out the role of families, which take out the role of jurors—is, where do these recommendations go?

The Chair (Ms. Goldie Ghamari): One minute.

Mr. John Bartolomeo: I don't want to sit here and just say I'm against all changes and nothing can ever be done that is new or different. But I'll tell you, truly, if the Ministry of Labour issued a press statement saying, "When these changes come through, whatever the coroner recommends, we're going to do it," that would put me in a situation where I feel a lot more comfortable with the proposed changes.

What I fear is that the prime motivator of these proposed amendments is an issue of spending. I respectfully submit, when it comes to health and safety, I appreciate that there is an expense put in by all the parties, but that shouldn't dissuade us from making sure that as wide a net as possible is cast to provide us with as many recommendations from as many different sources as possible.

Let me close by saying I would support any amendments that guarantee improvements to health and safety, participation of the family and guaranteed implementation. Thank you for the opportunity to speak to the committee.

The Chair (Ms. Goldie Ghamari): Thank you.

We'll now turn to our next presenter, South Asian Legal Clinic of Ontario. Please state your name for the record, and then you may begin. You will have seven minutes.

Ms. Shalini Konanur: My name is Shalini Konanur and I'm executive director and senior lawyer at the South Asian Legal Clinic of Ontario. Thank you to the committee for this opportunity.

I am coming before you today from an organization called the South Asian Legal Clinic of Ontario, which I am now going to refer to as SALCO. Much like my predecessor John, who just spoke, I come to you from a not-for-profit legal clinic with a mandate to enhance access to justice for low-income South Asian communities in Ontario.

We serve a wide population across the province, and we provide direct legal service in a number of areas of law, but in addition to that, we do a lot of work more on systems advocacy. And in that work, we think about the ways in which we can dismantle the systemic racism and barriers facing the communities we serve and the larger communities of colour in Ontario, and how that can improve life outcomes for the people that we're working with.

In addition, you'll see from my request that I'm coming to you as a founding and steering committee member of something called the Colour of Poverty–Colour of Change, COP/C, and that is an organization that initially started in Ontario but is now nationally based with a wide number of stakeholders who are looking at ways to create racial equity and better life outcomes for people of colour across the country.

Really and truly, the reason I'm here today is because both SALCO's work and Colour of Poverty's work have focused over the past 20 years on a number of issues. One distinct issue is the collection of disaggregated race-based and other identity data and how it can help us as community, how it can help the public, how it can help governments, how it can help the private sector to improve the lives of people and to make better decisions.

So really and truly, today, I am speaking to you about one very small piece of Bill 157. It's found in schedule 6, and it's an amendment to the Courts of Justice Act. The amendment proposed is that our Judicial Appointments Advisory Committee is no longer required to include statistics on cultural identity for appointments as provincial judges in its annual reports. I'm really here to talk about why we believe, and our position is, that that's the wrong direction to go. Actually, I'm going to make recommendations on probably bolstering the way in which we collect data.

But I wanted to give a little bit of background on our work, in particular with the province. Both SALCO and

the Colour of Poverty, in 2019, were actively involved in supporting Ontario's creation of the Anti-Racism Act, including drafting some of that legislation. We sat on the province's expert advisory for the Anti-Racism Directorate for a number of years, right up until, I believe, about 2019-20. We have appeared, gratefully, at the United Nations, both at the Committee on the Elimination of Racial Discrimination and at Canada's Universal Periodic Reviews, just most recently in 2023, to talk about disaggregated data collection.

I personally have been involved in training judges through the National Judicial Institute and Superior Court judges across Ontario on cultural competence as it intersects with the justice system, as it intersects with decision-making, and how important data collection truly is to making the justice system more diverse and more legitimate.

1710

We are in the process, as Colour of Poverty, of providing expert advice and consultation to Statistics Canada on updates to the collection of identity data. Some of that advice was used in the 2021 census, and some will be used in the 2026 census. If any of you get a chance, I encourage you to Google "Colour of Poverty–Colour of Change" and look at our fact sheets, which are mined from the statistical data that Ontario provides and that Statistics Canada and Canada provide around the life outcomes for racialized people.

In reality, when I'm here before you today, I think the first question to think about in my submissions is: Why is it important to collect and report disaggregated, race-based, cultural identity data; ethno-specific data? There are a number of terms used, right? For me, the framing actually comes historically from the Ontario Human Rights Commission and its own handbook, which told us that not only does the code permit the collection and analysis of identity data based on enumerated grounds for code-legitimate purposes, but also, appropriate data collection is necessary for effective monitoring of discrimination and removing systemic barriers, ameliorating historical disadvantage and promoting substantive equality.

Really and truly, for us, our understanding of how Indigenous, Black and people of colour experience justice in Canada has consistently been hampered by a lack of readily available data that is disaggregated based on race, cultural identity and/or ethnic origin. Ontario, in my view, is one of the provinces that is actually advanced. In creating the anti-racism legislation, they have mandated in many sectors the collection of disaggregated data. In doing this work nationally, I would say that Ontario is probably at the forefront, along with the jurisdiction of Canada, in terms of thinking about the collection of that data. The requirement to report that was created by Ontario is really and truly a tremendous step forward in highlighting what has, for a long time, been unknown.

The Chair (Ms. Goldie Ghamari): One minute.

Ms. Shalini Konanur: You can actually look at Canada's framework for a Black justice strategy that has identified gaps as presented, included disaggregated data and racial identity data. I want to tell you that providing this information is, first and foremost, going to enhance our justice system. Reporting on diversity on the bench will make it fairer, will make it more judicially independent, will create a sphere of allowing us to have more diverse opinions.

To conclude, I would strongly recommend that judicial advisory appointment committees continue to collect cultural identity for candidates and also to report that to the public. When we look at the annual reports that are coming out of this committee, we see positive change and growth across the board. Those are the numbers we want to continue to see and to compare. We would further recommend a consideration to enhance that data collection around other disaggregated identity data, so that we get a very clear picture of the pipeline of candidates who are coming in to diversify the bench, which has long been recognized as a critical way for the judiciary to enhance its effectiveness.

I want to thank the committee for the opportunity to provide—

The Chair (Ms. Goldie Ghamari): Thank you. That's all the time that we have.

We'll now turn to our next presenters. Before we do so, do we have unanimous consent from the committee to have two presenters? Thank you.

Please state your name for the record, and then you may begin. You will have seven minutes.

Ms. Erin Ellis: Good afternoon, Madam Chair and committee members. My name is Erin Ellis. I'm joined today by my colleague Vanshika Dhawan. We are lawyers at Jellinek Ellis Gluckstein.

Our team almost exclusively represents survivors of sexual assault and historical child abuse in civil lawsuits. Collectively, our lawyers have decades of experience helping survivors of sexual violence bring civil actions against their perpetrators and the institutions that enable them. Thank you for the opportunity to speak today about Bill 157, specifically the amendments to the Victims' Bill of Rights in schedule 18.

The Victims' Bill of Rights has been an invaluable tool for us over the years. The presumption of emotional distress contained under section 3 has helped shield our clients a little from having to explain over and over again how emotionally traumatizing their assaults are. We commend the ministry's initiative to broaden the scope of the kinds of cases where civil liability is no longer a question. We particularly appreciate and support the inclusion of revenge porn and trafficking.

Today, we aim to discuss two main points: First, I will speak to the proposed language of subsection 3(2)(4), which references victims of crime of a sexual nature, where victims are minors or people with disabilities. We believe this amendment should be broader. Second, I will discuss the fact that, under the current legislation, section 3(2)(1) only speaks to victims of physical assault, where the perpetrator was a spouse, as defined under the Family Law Act. This narrow definition does not capture many instances of intimate partner violence, and it excludes victims of assault who are minors—so child abuse—or

people with disabilities who we would argue should enjoy the same protections.

Turning to my first point, the proposed subsection 3(2)(4): Although we appreciate the focus on minors and people with disabilities, in our experience, all victims of crimes related to sexual misconduct are vulnerable and deserve the same protections. They all experience psychological and emotional harm that is lifelong. For example, as it is currently drafted, the provision would fail to capture inappropriate sexual misconduct between a vulnerable student who happens to be over the age of majority and a teacher who is clearly taking advantage of a position of power in order to harm and manipulate them. Adults are vulnerable to power imbalances, which can lead to criminal misconduct; for example, within work settings or doctor-patient relationships; situations such as criminal harassment, stalking etc. These are classes of incidents where, in the words of the Attorney General, "it is quite clear there would be an effect." Thus, we propose amending the language in subsection 3(2)(4) to read, "A victim of a crime related to misconduct of a sexual nature," which would capture crimes of a sexual nature towards children and people with disabilities, as well as adults who are also vulnerable due to the circumstances and facts surrounding these types of crimes.

Turning to our second point regarding victims of physical assault, the legislation as is only covers crimes against spouses. It's difficult to bring claims on behalf of children who are physically abused, and damages for these cases remain low. However, the same principles apply in these cases. It is an incredibly traumatizing experience for a child to be physically assaulted by their parents or guardians. In our experience, they often require lifelong counselling to recover from being physically abused at such a formative age. They are incredibly vulnerable and impressionable, and the lasting psychological impact of these kinds of assaults cannot be understated; it is, once again, quite clear that there would be a lasting effect on victims. Ensuring that the Victims' Bill of Rights captures cases where children are physically assaulted would then require courts to appropriately compensate them for the blatantly obvious harm they have suffered. Thus, we propose adding a seventh provision: "A victim of an assault if the victim was under the age of 18 or was a person with a disability at the time of the crime."

These changes, although small, would go a long way towards ensuring many of our clients get the compensation they deserve for the heinous crimes that they have suffered.

Despite our trauma-informed approach and our best efforts to shield our clients from the re-traumatization inherent in the legal process, bringing a civil action against a perpetrator is incredibly difficult for any survivor, regardless of how old they were or how long it has been. We commend the ministry's commitment to ensuring survivors are able to seek justice and to making the process a little bit easier for them. We are, once again, grateful for the opportunity to provide input on how to best achieve this goal.

Both of our suggested amendments can be found in our written submissions. Thank you for our time. We welcome any questions you have.

The Chair (Ms. Goldie Ghamari): Thank you very much.

This round will begin with the government. MPP Hogarth.

Ms. Christine Hogarth: I want to thank everyone for being here. You are our last group of the evening, so I appreciate your patience with us today. It has been, certainly, a day full of information.

I'd like to begin my questioning with regard to schedule 5, the Coroners Act amendments. My questions will to go to you, John. I just want to clarify something about what's coming in the act. The chief coroner has been here all day, in the corner. I want to thank him for sitting and listening to comments from both sides. We had a group from LIUNA here, and also from the Provincial Building and Construction Trades Council of Ontario—they were here in support of the changes in schedule 5.

The chief coroner also has consulted with numerous organizations: the IBEW Construction Council of Ontario; the International Brotherhood of Boilermakers; the International Union of Operating Engineers Local 793; Iron Workers Local 721; Labourers' International Union of North America; the Merit OpenShop Contractors Association; Ontario General Contractors Association; Progressive Contractors Association of Canada; the Provincial Building and Construction Trades Council of Ontario, who, as I mentioned, were already here chatting and sharing their point of view with us today; United Association Local 787, HVACR Workers of Ontario; United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada; International Union of Painters and Allied Trades. And the Minister of Labour, Immigration, Training and Skills Development has also met with numerous organizations to have this conversation about changes to the Coroners Act. They're all very supportive of the change.

1720

One concern that I have to note you mentioned was about the family input. I want you to be rest assured that family still does have that opportunity to be included and have their input heard. It is a very tough time when any loved one dies. That is, it's a horrible—if it's an accident or what have you, it is a very sad time for any family members. What our proposed change would require is a coroner-led review at least annually of an aggregate of accidental deaths that occurred at or in a construction project in the previous year. This review would not include deaths that occurred in mining or at mines; this is just on construction sites.

Moving to the different model we feel sets the stage for greater industry input to determine where safety improvements can be made across this sector. It allows an aggregate response. But some families may still wish to ensure that an inquest takes place into the death of their loved one, and the proposed amendments to the Coroners Act will require a coroner to conduct an inquest for a construction-

related death if requested by the family. So I want to assure you that families do have that opportunity to be involved. We have the coroner, who is here listening in to your comments, but please rest assured that families certainly do have their involvement.

Did you have any further comments with regard to schedule 5? Does that help clarify your concern?

Mr. John Bartolomeo: Let me say, I appreciate that my colleagues in the unionized sector do a lot of the heavy lifting, if not all of the heavy lifting, and I sit on the sidelines, picking holes where I see the deficiencies.

My problem with this legislation comes from something I see constantly with proposed amendments: that there are further questions down the road. Let me just take the example of the family option to have an inquest at their request. I have difficulty knowing when, how and who will provide that information to the family, what counselling advice they will get, and what benefit or promises can be made to them so that they know that, going forward, they have had the best opportunity to put their foot forward in advance of preventing further tragedies that have already happened to their families.

I appreciate that the unionized sectors would support this approach, given the heavy financial cost one has to do to participate in an inquest. But for those of us in the non-unionized world, we have to answer questions from these families, and we have to provide advice to them, but they don't have these similar luxuries.

Ms. Christine Hogarth: Well, sir, regardless of if they're unionized or not, if there is a death and an accident, they certainly will be part of a coroner's inquest. Again, families will have that opportunity to get involved as they feel they need.

I think what we want to make sure is that we are saving lives at the end of the day. That's why this change is being put forward. It is about finding best practices. Perhaps some thread can be found that can help the coroner or help the public safety of all our workers, because at the end of the day, we want to make sure our workers go home safe.

Mr. John Bartolomeo: Well said.

Ms. Christine Hogarth: All right, thank you.

No further questions.

The Chair (Ms. Goldie Ghamari): MPP Dixon.

Ms. Jess Dixon: What's our time, Chair?

The Chair (Ms. Goldie Ghamari): You have two minutes.

Ms. Jess Dixon: All right. These might go into the next round, but my questions are for our counsel here. I'm just trying to understand: When I look at your proposed amendment to section 4 to add "related to misconduct" and then delete the rest—can you clarify for me: What do you mean by crimes related to misconduct? Because the way I read it as written, we're talking about exploitation, incest, voyeurism. All of those are already captured in our wording, so I'm trying to understand what you mean by misconduct.

Ms. Erin Ellis: I guess the reason why I like the wording "related to misconduct of a sexual nature" is that mirrors the Limitations Act where there's no limitation. That's the exact wording that's in the Limitations Act, and so I like that because it's consistent. I like it because it seems to be broad. So if I'm in a conversation with opposing counsel, the wording—if you feel like you have a bit more leeway, you get farther in those discussions and negotiations. So I think "misconduct" just kind of softens it a bit more and makes it clearer and aligns with the Limitations Act wording.

Ms. Jess Dixon: Okay, so—because my confusion—I appreciate you pointing that out about the Limitations Act. I'll look into that. When I hear "misconduct," I think about more disciplinary proceedings, the type of things that we might see teachers being subject to where we have not risen to the level of an actual criminal offence and conviction but something below that. So is it fair to say that is not your intention, that you are still keeping it at the level of a criminal offence?

Ms. Erin Ellis: I am, but the other thing that I would like this section to apply to is that, quite often, there are plea deals that are made. So—

The Chair (Ms. Goldie Ghamari): Thank you. That's all the time we have for this round.

We'll now turn to the official opposition. MPP Wong-Tam.

MPP Kristyn Wong-Tam: Thank you to all the presenters. It has been a long day for us, but I really also want to echo my colleague's comments. I really appreciate your perseverance.

My first question is for John Bartolomeo from the Workers' Health and Safety Legal Clinic. Sir, I share your concerns. I had raised some of those very similar comments in my earlier deliberations and comments with both unions. What I gather from them is that, currently, it takes six to eight years on average to get through an inquest—and my thanks to the chief coroner, who is here; my goodness, you have a tough job—and that there's a current backlog of over 130 construction-related deaths that are awaiting their inquests. So this is a monumental task. But this outcome that we have, this current situation we have, is also largely due to chronic underfunding from the government of the day over the past six years and probably from previous governments. That chronic underfunding and the under-resourcing of the coroner's office is part of the reason why we now have an amendment today to try to sort of swoop it all together, package it up in one annual year review and see if we can get it to a better outcome.

But you raised a very important point, sir. You said that the recommendations out of the coroner's review, including the annual review, still don't have to be adopted by the government. So we don't really necessarily have a full and proper line of sight on an outcome that will, number one, give families the justice and the honest answers that they need at the end of the day, but also, we still haven't necessarily fixed the problem, which is making sure that the government actually follows the recommendations and the advice of either the jury's inquest or the coroner's inquest or whatever this expert panel review will come up with. Is my assessment there correct?

Mr. John Bartolomeo: That is correct. At the heart of it is—again, I don't want to sound like someone who sounds negative to all changes, but if we're switching to a system where someone else is making those recommendations, I would hope and want to see a guarantee that those recommendations, as they potentially come from the office of the coroner, will be followed and adhered to.

MPP Kristyn Wong-Tam: My advice to you—and I'm just going to deviate from question-and-answer for a moment. Because we have LIUNA and all the other union trades that my colleague from across the aisle has mentioned who have the ear of the government and they are happy with the changes that are proposed right now, it may be worthwhile for you to reach out to them if it hasn't already taken place just to find out if there's a way for you to make sure that your concern gets addressed as we go through the clause-by-clause review next week.

1730

My next question is for you, Shalini from the South Asian Legal Clinic. Thank you very much for your time and also for all your hard work. I recognize that legal clinics in Ontario are woefully underfunded. My goodness, you folks are doing just remarkable work, especially since this government cut $133 million from the 2019 budget and you've never been able to recover, and they're still underspending this year by $130 million. So, I don't know how you do it; I am very, very impressed.

The issue that you raised regarding the category of cultural identities being removed is one that I am also perplexed about, because I'm not too sure who asked for it and it's not been made clear to me by answer, even in the Attorney General's submission today on why it needed to come out.

But I do know that the Judicial Appointments Advisory Committee is supposed to be producing an annual report and they haven't produced an annual report in some time. I think they haven't produced a report now going back to 2019, 2020, 2021, 2022, and I doubt there's a 2023 report. That report is supposed to outline for all of us in Ontario the Judicial Appointments Advisory Committee's work, and yet we have no clear sightline on what it is that they're doing because there's no annual report.

So, your question—and I think it's a very important question about making sure we collect more of this aggregate data: In your opinion, do you believe the government is going in the right direction by not having annual reports coming out of the Judicial Appointments Advisory Committee, but also by striking the culture identity category today?

Ms. Shalini Konanur: No, I think it's the wrong direction and I actually think it's one of the easier fixes for Bill 157.

The reality is, when you do look at the reports that are available, there was a shift at one period where you could actually see that data that will be cut by this change and it was very helpful. I just want to speak to you candidly as a racialized lawyer. I'm also a bencher, an elected official at the Law Society of Ontario. Being able to see that data helps us think about people who don't apply and who are not in that pipeline. Having and encouraging data like that that helps people to consider their ability to apply and be considered, and being able to see that people are getting appointed really makes a tremendous impact and it trickles up to diversity on the bench.

What I do want to say to everybody in the room is: Ontario has really set a foundation with its anti-racism legislation. We should not be going backwards. What I didn't say in my remarks is we are the most racially diverse jurisdiction in this country and that number is growing.

The Chair (Ms. Goldie Ghamari): One minute.

Ms. Shalini Konanur: This information will provide transparency, will provide accountability, and it's really important for us to collect it and report on it.

MPP Kristyn Wong-Tam: Thank you. I just have a quick follow-up question for you: The minister has always said that any type of changes he's making to the judicial appointment process—you know, often I say it's been politicized; he says, "No, no, no, I have not." But I want to just identify that he has oftentimes said that the reason why he's making these changes is to ensure that he's improving the diversity on the bench. The change that he's making in the schedule, as we are speaking about it: Does it improve the diversity of judges that are going to be appointed to the bench?

Ms. Shalini Konanur: I mean, the reality is what it does is it doesn't allow us to actually see the data on who is being recommended for appointment. In that way, how could we know if it's improving the diversity?

What we do know is when you report that data, we can look at the pipeline and see if that's shifting to make changes. If you don't report that data, we just are left with a question mark, which is where we've been left—

The Chair (Ms. Goldie Ghamari): That's all the time we have.

We'll now turn to the independent member. MPP McCrimmon, you may begin.

Mrs. Karen McCrimmon: All right. I'm going to start off with our counsels here in the room. In listening to your report today and your recommendations: Are they going to improve how we serve and prosecute and deal with intimate partner violence? As we've heard about it a number of times, lots of people are calling it a pandemic, this intimate partner violence. How will your suggested amendments actually make that process better?

Ms. Erin Ellis: I think our suggested change of adding that—I guess, changing the wording of 3(2)(4) might help a little bit. The section already tries to target intimate partner violence with subsection 3(2)(1). But it's limited in that you have to fit the family law definition of "spouse," and not all intimate partners will fit that definition of spouse. And our addition of number 7 doesn't really speak to that either because it's talking about kids or people with disabilities.

As my colleague has pointed out, the civil system is more responsive than preventative. So it's not going to prevent intimate partner violence; it's whether you can bring a civil claim and if there's presumed damages.

That one section does try and target it by "spouses." That could be expanded, and I obviously wouldn't be opposed to it being expanded more to just "victim of assault" or if it's framed as intimate partner violence, but that definition out there might not be clear enough for people either. So I don't know whether our changes target intimate partner violence would be my answer.

Mrs. Karen McCrimmon: Thank you very much. I like what you had to say about power imbalances. That is one of those things you see over and over again. Will this help that?

Ms. Erin Ellis: I think so. We already have "victims of a sexual assault," "victim of an attempted sexual assault," and then, our change to number 4 to go to anyone who is "a victim of a crime related to misconduct of a sexual nature"—then you're targeting those power imbalance situations.

And I would argue, even where those don't so obviously exist, as soon as it's a crime of sexual misconduct, I feel immediately there's a power imbalance there because of how people respond to being a victim of crime of sexual misconduct. You already feel littler. So even peer-on-peer, as soon as a sexual assault or sexual misconduct happens, you feel smaller than the other person. So I do think our changes are trying to target that in general, yes.

Mrs. Karen McCrimmon: Thank you very much.

My next question, for John: John, the statistics you gave us about fatalities, can you break those down between union and non-union?

Mr. John Bartolomeo: Unfortunately, no, I cannot.

Mrs. Karen McCrimmon: You can't. Okay, I wondered.

I'm going to follow on from my colleague's questions about your thoughts on recommendations. If you could recommend a process to make sure that the recommendations don't get lost, what would it look like to you? Who would you have involved? Who would be essential to have at the table to make sure that those recommendations actually make it out and make a difference?

Mr. John Bartolomeo: Well, like I stated in my opening—

The Chair (Ms. Goldie Ghamari): Thank you. That's all the time that we have.

We'll now turn to the government. MPP Dixon.

Ms. Jess Dixon: Thank you. I'll return. So we were talking about—I took a look at the Limitations Act. My question is: I was a crown attorney before, so I've been on the criminal side but not on the civil side at all, so this part is new to me. When I see the word "misconduct" but also partnered with the word "crimes"—a victim of a crime or misconduct—to me, when I look at it in the Limitations Act, that makes more sense, because we're not talking about just crimes there, if I'm correct; whereas in this case, we are still talking about crimes of a sexual nature. So to me it seems that opening it up to some issues in definition by putting in the word "misconduct" versus leaving it as it is.

Ms. Erin Ellis: I hear your concern. I guess my response to that would be a couple of things. One, that part of the Victims' Bill of Rights is talking about civil proceedings, and then the point I start to make was plea deals, which you probably understand more than me. But I see it a lot: someone is charged with something, they plead to something lesser that might not sound sexual in nature. When you have a crime of a sexual nature, what they were convicted of, they could push back and say, "I wasn't convicted of that." But often, what's read in in their plea deal is still the sexual nature facts. They still often read in, when I get the transcripts—again, I'm not a criminal lawyer, but when I get the transcripts, they read in exactly what happened. Then, the argument is, "Okay, the crime wasn't sexual, but it was to do with misconduct of a sexual nature."

1740

I guess my response is two-pronged: One, this part of the act deals with civil proceedings and civil damages, not criminal; and then, two, it covers those plea deal situations.

Ms. Jess Dixon: I take your point about plea deals, because yes, that happens where it becomes a simple assault. When you are in a proceeding, do you end up stuck in situations where—do you envision yourself stuck in a situation where it's like, well, the conviction was an assault; however, the synopsis read in clearly indicates that it was of a sexual nature, and you feel that the way that this is defined, the way that we've defined a crime of a sexual nature, you don't think that that would be accepted, that an assault essentially in the context of a sexual assault would not be deemed a crime of a sexual nature per this.

Ms. Erin Ellis: I think my argument is made easier the way I have it termed. I think I can still make the argument if you don't accept my recommendation, my proposal, but I think it's easier this way.

Quite often, our cases don't go to trial as much. It's often these early negotiation stages. This legislation, although I can use it sometimes against institutions, it's mostly in individual perpetrator cases. A lot of these individuals hire lawyers who aren't necessarily experienced. It's not the same as when you sue an institution; they have their lawyers who see these kinds of claims all the time. These people don't. That's when I often point to the act right away to just say, "Hey, look, your guy was convicted. It's under this act. You're going to have to pay something, so can we stop arguing about that?" As easy, as straightforward as it can be to help me to do that is what I'm hoping for.

Ms. Jess Dixon: As far as making the argument more simplified, you believe that if we had it as a crime-related misconduct of a sexual nature—if we go back to our example of the simple assault but with the sexual connotations—you believe that, as far as you doing your job, you would be able to make that argument and that you would be more likely to be barred from making that argument if we kept it as we've drafted it.

Ms. Erin Ellis: Yes.

Ms. Jess Dixon: Okay. Then my other question: If we go down to your suggested section 7, I'm looking at it with that nitpicky attitude of, what if we are talking about child-on-child, school fight, that type of thing?

Ms. Erin Ellis: Yes. We had that conversation, too, because I expected that kind of question. I think there still

should be presumed damages, and the court has leeway. They look at the facts of each case. It just gets us over that hurdle of whether or not there's emotional harm, emotional distress. But that doesn't mean that they'll get hundreds of thousands of dollars, right? The court will always look at the facts and award money in accordance with the facts. It will award compensation in accordance with the facts.

So, I think because it—it was the easiest way to word it to target child abuse. I think that that is where there are more criminal charges than peer on peer. Some of the peer on peer that get the criminal charges are the heinous peer on peer, which I'm not worried about being covered. That's excellent if that's covered, too, or the hazing situations where there isn't a sexual component, but there are horrible stories of hazing in the headlines. It would cover all of that stuff.

So, I wouldn't be concerned that it's an overreach because the court can always bring that back, but the damages shouldn't be zero. All this is saying is, "Hey, there's something there. They're on the hook for something." I think that's almost obvious as it is, but it's better to have it written there so I can point a lawyer—"Hey, it's obvious."

Ms. Jess Dixon: Again, I have no idea about the damages perspective; I've never done it. But what about the suggestion of there being some sort of room in the middle? Because, of course, I'm still in my head thinking about the "assault with a weapon, to wit: an empty plastic water bottle," that type of stuff, about the idea of specifying the perpetrator as a parental figure, person of authority or that type of thing, to focus more on the child abuse.

Ms. Erin Ellis: Yes. You could look at, again, some of the wording in the Limitations Act if you wanted to limit it, because I think the Limitations Act does speak to that. It's an assault—I don't have it memorized—but it does have those power imbalances for why there is no limitation period.

The Chair (Ms. Goldie Ghamari): One minute.

Ms. Jess Dixon: Yes. I think you're making a fair point there about the child abuse factor not being included and having it be easier to prove after the fact. If you want to provide me with where I should look in the Limitations Act for that—

Ms. Erin Ellis: Sure.

Ms. Jess Dixon: It would be helpful to see if there's the possibility of focusing a little bit more on the child abuse side of things—

Ms. Erin Ellis: On the fiduciary duty, yes.

Ms. Jess Dixon: —but without opening it up to everything, because I do see a very, very wide door being opened on that one. But I do see your point, as well.

I may have taken up all of our time.

The Chair (Ms. Goldie Ghamari): Thank you.

We'll turn to the official opposition.

MPP Kristyn Wong-Tam: Thank you to counsel, who is sitting before us today in the committee room.

I want to just say that your suggestions—and thank you for the written submission; that's really helpful. I want to just provide a quick response. I think your suggestions are quite elegant. You have clearly identified some gaping holes that need to be addressed. I think that the government, when they made the proposed changes, was honestly trying to ensure that everyone who needed to be captured with the presumption of harm and in support of survivors was there. So I want to say thank you for coming here with these suggestions, and I think that the committee should carefully review it during our clause-by-clause process.

I want to speak to support for survivors as they go through the judicial system overall. In particular, in 2019, the Conservative government ended the Criminal Injuries Compensation Board and replaced it with what we now know as the Victim Quick Response Program+. Earlier this morning, I asked the Attorney General whether or not he would actually put more money into that program, because I think if we're providing supports to survivors, we might as well provide support to them where they need it, where they can access it. I didn't get a commitment from him on that happening, not through this process.

Can you explain how much support survivors and victims of sexual violence are getting through the courts process right now? Are they well supported? Are they under-supported?

Ms. Erin Ellis: I would argue under-supported. Eliminating the Criminal Injuries Compensation Board and what has been brought in as its replacement does not help my clients at all. Many of our clients are historical claims, so it doesn't hit the time periods of what it replaced. And as much as I am happy with this broadening of the Victims' Bill of Rights—it's very helpful and it's good for me to make the points, but it's only applicable if the perpetrator has assets, right? If there are no assets to go after, then that legislation means nothing.

We have a lot of people who contact our office, and it's individuals who have assaulted them, and we have nowhere to tell them to go for help, for compensation, for money, for therapy. There are long wait-lists for free therapy, and so there isn't much support. We used to be able to direct them to the Criminal Injuries Compensation Board, where they could get acknowledgement for having suffered such horrendous crimes against them. They could get money for therapy and it was so empowering for them. Yes, it was limited compared to what could be awarded in the civil system, but they were believed by someone and that was very empowering.

Now we get all these calls and we have to say, "There isn't anything for you." You go through this very invasive civil process, because the civil process can be very re-traumatizing, and at the end of the day all the civil system can award you is compensation, and if there is no one to pay it, you can't do it.

So our dream is that the Criminal Injuries Compensation Board comes back. They have similar things in other provinces. I don't know why we got rid of it. This is helpful, but it's also common-sense help and obvious help and easy help. The other stuff is what would make more of a difference.

1750

MPP Kristyn Wong-Tam: I mean, in Ontario, we have some of the longest wait times for civil cases in the country. It's actually a very shameful record that we carry at the moment. It could take up to five years for a civil case to actually get to trial, and so you as a survivor, as a victim of violence, sexual violence, would have to have the emotional persistence and, I think, the resources to take someone to court. Most of time, my guess is the perpetrator—because it's a balance of power, and power, sometimes, is about financial power—is that you're most likely going to be outgunned anyway, just to use that language.

So how helpful is this change? We're asking survivors to—"You're not going to get compensation, and we acknowledge that you're a victim and we know you've been harmed, but we want you to go through this long and arduous long civil process to then go get your money." How is this helping survivors at all?

Ms. Erin Ellis: If there weren't so much of a backlog, I do think there are empowering things about the civil process. But it is too invasive. It's trying to fit these cases into a model that was designed for contract law, other types of litigation. The documents—you have to produce your therapy records. It's very invasive, and then it's long.

You're right with being outgunned. We might go to a mediation and the defendant knows, "Hey, if they don't take our offer now, we're three years away from trial. I can wait three more years before I have to pay anything." But it hangs over our client's head for that amount of time. They are sometimes, I feel like, pushed to accept lower settlements just so that it's not hanging over their head.

MPP Kristyn Wong-Tam: Thank you. That's very helpful. Historically, the Criminal Injuries Compensation Board has provided, obviously, some compensation, even if the calculations aren't great. But it's better than nothing, right? We all agree to that. Now that doesn't even exist, but we do recognize that that compensation, albeit not great, was there. But it was also very helpful for intimate partner violence survivors, as well as people who were being trafficked. Those funds that they drew upon from the compensation board allowed them to re-establish their lives. Maybe they weren't living in the lap of luxury, but they had a pathway to rebuilding.

The Chair (Ms. Goldie Ghamari): One minute.

MPP Kristyn Wong-Tam: Right now, is there a clear pathway for compensation without going through the civil process? Is there anything that gives women and girls a chance to rebuild their lives?

Ms. Erin Ellis: No, not that I'm aware of.

MPP Kristyn Wong-Tam: Is there anything in the bill that does that?

Ms. Erin Ellis: No.

MPP Kristyn Wong-Tam: And yet we have the Attorney General saying that he wanted to make sure that the victims weren't going to be "revictimized," where they don't have to explain to the judges how they're being emotionally traumatized in the process of retraumatizing them.

With the changes to the schedule, ultimately, how many survivors of sexual violence, victims, are we going to be helping?

Ms. Erin Ellis: I do think it's minimal because, like I said, they have to have someone to sue who has assets. So there are so many people who wouldn't be able to do it and who it wouldn't help. It might help the cases that I have going. It makes my job a bit easier and maybe starts us at something besides a zero, but that's if you're already going to go through—

The Chair (Ms. Goldie Ghamari): Thank you. That's all the time that we have. We'll now turn to the independent member. MPP McCrimmon.

Mrs. Karen McCrimmon: I'll go back to John, and I'll continue my question. If you had your way to make sure that these recommendations that are coming out of these processes don't get lost, what would it look like? Who would be involved?

Mr. John Bartolomeo: Thank you for the question. I think the answer can be seen in a similar theme from the previous question. It's a question of finances. It isn't just about the ability to participate—and I would expect the workplace parties, there's a union-to-union, the family—but the time and resources required of the coroner's office and of counsel for these various parties is intense, and there's a resource issue here.

But, at the end of the day, whatever process comes out of it, I want to know that the Ministry of Labour is going to implement those recommendations, even if it's hard for the ministry to do so. That's really where I come firmly down on. I want to see recommendations, with the participation of families, that are actually implemented, first and foremost.

Mrs. Karen McCrimmon: All right. So that information, the sharing of that information, the transparency, so that it proves to people that this information isn't just getting lost somewhere.

Mr. John Bartolomeo: That's correct. If the process changes but the results don't get presented through amendments to the Occupational Health and Safety Act or additional regulations, then we've just rearranged the deck chairs.

Mrs. Karen McCrimmon: Okay. Thank you.

A quick one for Shalini, if that's all right; same kind of question—because I do believe that information, that data transparency is the key. Explain to me why it matters so much in our attempts to make our judiciary more diverse and fair.

Ms. Shalini Konanur: The reality is, for the judiciary to be more diverse, the recommendations from the committee have to have that diversity. The pipeline has to be diverse. For us to be able to see data on who is being recommended helps us to look at gaps so people like me can go out to lawyers from racialized communities and say, "Listen, maybe you don't feel comfortable. Maybe you're not trained enough. Maybe you're not applying enough." It helps us to see what work we can do to help create that diversity. If we don't have the data, we don't know the picture.

Mrs. Karen McCrimmon: Okay. There's a saying we use: "Nothing about us without us," right?

Ms. Shalini Konanur: Absolutely.

Mrs. Karen McCrimmon: We want to make sure that people have that opportunity to be represented and to see themselves. I appreciate that very much.

When we talk about the barriers and biases, tell me a little bit about what you think the most significant ones are to people of colour and of different backgrounds accessing justice.

Ms. Shalini Konanur: I think there are some systemic issues of discrimination and racism pervasive historically with them getting into the judiciary, but I have to say I've seen advancement. Having started about 25 years ago, I've seen tremendous growth.

What we've also seen is that a diverse bench is making amazing decisions in Ontario, right?

The Chair (Ms. Goldie Ghamari): One minute.

Ms. Shalini Konanur: The diversity of thought is giving us decisions that look at the unique experiences of Black communities, in sentencing in R. v. Morris, that look at—like our other speaker was talking about—when we have more people who identify in different genders that are looking at cases in different ways around sexual assault and sexual violence than they were 20 years ago when I started.

That diversity is advancing, but if we can't see the numbers, I fear that we won't be able to do the good work that's starting. The bottom line is the benefit of that diversity to the judicial experience is tremendous. The amount of difference in thought, of difference in lenses just really enhances the quality of the decision-making and also the legitimacy for the public. When we get to see ourselves represented in our decision-makers, it creates a level of trust that is really quite significant.

Mrs. Karen McCrimmon: All right. Thank you very much. I'm done, Chair. Thank you.

The Chair (Ms. Goldie Ghamari): Thank you very much, and thank you to our presenters.

That concludes our public hearings on Bill 157 for today. The committee is now adjourned until 9 a.m. on Thursday, February 22, 2024, when we will resume public hearings on Bill 157, An Act to amend various Acts in relation to the courts and other justice matters.

Thank you to the committee members. Thank you to all the presenters today, and may the odds be ever in your favour.

The committee adjourned at 1759.

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