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Jeudi 20 juin 2002

**Standing committee on
the Legislative Assembly**

Parliamentary reforms

**Comité permanent de
l'Assemblée législative**

Réformes parlementaires

Chair: Margaret Marland
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLY**

**COMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE**

Thursday 20 June 2002

Jeudi 20 juin 2002

The committee met at 1536 in committee room 1.

PARLIAMENTARY REFORMS

The Chair (Mrs Margaret Marland): Good afternoon. I'd like to call this meeting of the standing committee on the Legislative Assembly to order on Thursday, June 20.

It's a great pleasure to welcome Professor David Docherty to join us this afternoon. We've been anticipating your visit, Professor Docherty, and we know it's going to be an interesting opportunity for the committee members. Perhaps we can start with your presentation. You'll find that the members will have lots of interesting questions, I'm sure. Welcome.

Dr David Docherty: Thank you very much. I'm very pleased to be here. I guess it began when I e-mailed Mr Arnott—MPP not the clerk—when he was leaving for the UK and was part of this committee. I indicated that I was really pleased to see that this committee was looking at this issue and we then had a phone conversation that led to this, which I am very glad about.

As someone who's interested in the political process myself—I was an Ontario legislative intern here in 1984. I was told in September 1984 that Ontario politics was relatively dull and not much was going to happen. I came when Bill Davis was Premier and left when David Peterson was being sworn in on the front lawn, so it certainly was an interesting year and sparked a lot more of my interest in matters of legislative studies. If someone who is interested in this—I'd almost prefer to listen to you, but I will take advantage of a few minutes to make some comments.

My understanding when I was asked or in my discussion about what we were talking about was relatively restricted to questions of making private members or backbenchers more integral to the system or giving them a greater role within the system, and that we're not really talking about larger questions of legislative reform that may or may not include electoral reform or those types of issues. So I'll try to confine my comments particularly to those kinds of internal matters, although I'm happy to talk about the impact some of those changes, say, to PR or alternative vote systems or other systems might make on the role of the private members. If there's a discussion about that I'm certainly happy to talk about that, but I'll start by talking about the other issues.

To begin, when I was thinking about what to talk about, I kind of went back to what I would talk about in a first-year class, recognizing that you know an awful lot more than I do about this system. I remember, as a PhD student, spending a day on the campaign trail as part of a participant observation with a sitting member of Parliament. I was spending it with a number of candidates and sitting members as part of my doctoral work, and I convinced this person that their seat was safe, that there was no way they could lose and I had these models to prove it. This person, who was a Conservative in Ontario in 1993, told me early on in the campaign I was full of hooy, that I just didn't know people. This was still when they were riding very high in the polls. So when I say things, presumably from an academic point of view, I'm the first to admit we know so little. So please take what I'm saying within that spirit.

When we think about some of the functions of Legislatures, and we can think about the kind of classical Bagehot functions, or Ned Franks of Canada, or Phil Norton, they talk about how Legislatures have to allow a government to work, they have to provide government with funds etc, and then there are other duties. I think we often forget about those two important things, that Legislatures have to allow a government to function. I think we do have to recognize that's an important part of the process. I'm not necessarily going to talk too much about that because I think too often we just assume that's the case, but I think it's important to keep in the back of our minds.

Then I think, OK, private members do that. That happens after an election, so a lot of that is just by rote or that happens anyway, so we think of the larger functions of members of Legislatures per se. We think of the legislation function—to examine, support, oppose, amend legislation—and allow the public to offer comment on legislation as well. We can think of the scrutiny or accountability function, that is, to ensure that there is an effective check on what the government is doing, or the government's authority, not necessarily to block it but rather to question it and, in many cases, allow the public to understand it.

Also, the representation function is very large, and that is representation not only to constituents but often to others who may not live in the physical riding. Through the critic role, part of the representation function is not just to represent people in a particular geographic area

but to speak for larger voices as well. My comments are going to intermingle between these representation, legislation, scrutiny and accountability functions.

First, though, it's very important to recognize, if we're talking about how to change things, some things that I think the Ontario Legislature and the men and women who serve in it do very well, and one of those things is representing constituents. By and large, Ontario voters are very well served by their members of provincial Parliament. Maybe this is the beauty of tenure, but I may be one of the few people who's not afraid to say publicly that I think MPPs are worth every penny they're paid.

Mr John O'Toole (Durham): How about more?

Dr Docherty: I'll get to that in a bit.

When I've been asked by the media or others to comment on lazy politicians, I ask them to show me one. I then ask them how many of them would like to give up their job, give up their house, live in two different places and travel back and forth. You're all familiar with that.

Mr O'Toole: That sounds like me.

Dr Docherty: Yes. In an interview with one MPP some years ago, they told me at the beginning that the three most important things to them were church, then their family and then politics. After a 40-minute discussion, I said, "After asking about how you spend your days, you're never in church, you rarely see your family and you spend all your time doing politics."

Ms Caroline Di Cocco (Sarnia-Lambton): That's reality.

Dr Docherty: Yes, that's reality.

In representing constituents, by and large, I think Ontarians are well served and I want to make that clear. I'll be talking a little bit about the size of the Legislature, and I think the diminished size has created some problems. My concern is that it's not just here in Ontario but in the past 10 years five Legislatures in Canada have reduced their size. My concern has doubled by not just the fact that they've reduced their size, but that cabinets have not been reduced accordingly. If part of the job is for private members to keep government to account, I find it very disturbing that cabinets are not shrinking the same as Legislatures are. I'll get back to that in a little bit as well.

Second, I think at least compared to other provincial Legislatures in Canada, most of them, committee hearings are another one of those areas where Ontario is well served and where you, as MPPs, can be justifiably proud. It's very important that committee members hear from the public when bills are being debated and sent to committee. There's certainly room for debate about the extent of public hearings we've had in the past in Ontario. Were they long enough? Did the committees travel the province as widely as they should? Did they go to as many different parts of the province as they should? There's certainly room for debate about those kinds of issues, and it perhaps depends on where you stand what your answers would be to those.

My own view is that on too many issues in the past few governments—Conservatives, New Democrats—

committees did not demonstrate enough independence from the government to say, "This is where we're going and this is how long we're going to take." But that is a matter—I understand the problems inherent in a committee saying to the government, "This is where we're going and this is how long we're going to take," but I do think there's something to be said there.

However, when you look comparatively—something I'm doing for a project now; I was in touch with different Legislatures trying to find out about their committee process and how easy it is for groups to appear before committees—Ontario is not poorly served by our legislative committees. I think we're well served. British Columbia, if you want to look at a model that might be very nice, has a great system in place where they essentially walk interest groups or individuals through how to prepare for a hearing at a committee or a presentation to a committee. It's a really nice set of guidelines that helps expedite the process.

However, having said that, you go to Alberta, where they just simply don't hear from anybody. If they bother having a committee hearing at all, it's always a special committee. Saskatchewan just recently began the process of travelling, and who did they turn to for advice? They turned to the Ontario Legislature to find out how a committee should travel to hear input. I just again want to get that on the record.

Where is there room for improvement? It's one thing to travel and hear from witnesses before committees, but I think committees must be seen to be open. Major legislation has in the past generally been seen by the public as being given only perfunctory consideration by committees. Whether that's true or false is not necessarily for me to say, but I do think there was a sense that committee hearings were used more as a legitimization function than an attempt to solicit input from the public. That's something committees have to think about. There are two problems here: first of all, not hearing from enough people. This is a tough one because there's no correct number of people to hear from. At some point in time, a committee does have to get on with its business and you just can't hear the same arguments over and over again, and I understand that.

But, secondly, and more importantly, the decisions have already been made by the time legislation gets to committees. This is the more serious one, but it's also the one where there's room to manoeuvre and room to work on. This is not a slight on the Ontario Legislature. It's true in Ontario, but it's true in all Westminster Legislatures. They wrestle with this problem. We send a bill to committee after second reading, after it's already been agreed to in principle, and how much are we really willing to change after we hear from the public? How do Legislatures provide the opportunity for input prior to introducing legislation that a government—not a Legislature but a government—wants to stake its reputation on? I think that's a good question.

The changes that were made to provide committees with what the Brits would call the "power of pre-

legislative scrutiny” or what we might call “early legislative scrutiny after first reading” is a very good step in the right direction. Of course if it’s not used, then it can appear as little more than window dressing. Once you have tools and you don’t use them, it’s almost as dangerous as not having them in the first place because then a sense of frustration develops. I think of most recently—and I won’t comment on the issue per se because that’s not my interest or role—Hydro One as a perfect example of something that could have been sent to a pre-legislative committee for discussion, debate and witnesses. Why wasn’t it?

That leads to my next point, which is sitting days. It’s a big concern and I think it’s the fact that the Legislature is sitting less and less. I understand this year was a bit of an anomaly with the leadership, but the Ontario Legislature is not sitting as often as it was five years ago, 10 years ago, 15 years ago. I think this is based on this false US notion that—Texas has a constitutional amendment that prevents the Texas Legislature from meeting for more than 13 weeks because there’s a fear they might actually do something if they meet, or they’re going to spend money. I think it’s based on this false notion that when a Legislature meets, it spends. We as academics, and you as legislators, have a responsibility to convince the public that the Legislature doesn’t spend money; it watches how the government spends money. That’s an important type of accountability or scrutiny role and I do think we have to convince Ontarians that when the House is sitting, the government is being kept to account, not spending money.

Hydro One was not sent to a legislative committee because I presume (a) the government did not want to do it, but (b) the House didn’t meet until five months after the government announced its intentions to sell Hydro One. I think a larger discussion on that through the committee stage would have been very fruitful before a decision was made.

Obviously there’s got to be some recognition that a government controls what goes out to pre-legislative committees and what doesn’t, but it seems to me that a good rule to follow would be (a) anything that has all-party consent can go to a pre-legislative committee or (b) any major piece of legislation—and you can debate what’s major—that was not part of a government’s explicit election campaign in the previous election, or what the Brits might call their “election manifesto,” any large piece of legislation that was not a major piece of their election campaign. I’m not convinced the public and the Legislature are ill-served by having a kind of early legislative study.

Further, I think a good follow-up rule would be to allow committees, if they’re doing something before the legislation is actually introduced or even after first reading, to draft their own legislation during those hearings and present it. Particularly helpful would be if there was an all-party consensus. I realize that’s probably next to impossible, particularly on major issues, but if there was an early legislative study by a committee, allow them to draft their own legislation and table it.

While I’m on this subject, I’d like to talk just very briefly about standing order 124, which allows the committees to choose and study an issue. You’re aware of it better than I. This was tried in the House of Commons with the McGrath reforms with mixed success. Essentially what happened was that the committees looked at matters they thought were important, and they spent a great deal of time and effort on those issues, often with cross-party support, and they made very thoughtful reports that they tabled. The problem was they were promptly ignored by the minister responsible and the net result was very discouraging. Then they decided, “Let’s get rid of this and we’ll only look at things that the ministries want us to look at because then they might actually be interested in the report.”

I think there’s an alternative and, with no pun intended, sometimes negative connotations can have positive benefits. We didn’t like negative option billing with cable rates where they gave us services unless we said no, but I think negative options on committee reports are not a bad thing. I think that when a committee is charged with investigating a matter or does investigate a matter and reports back to the Legislature, if the report is unanimous, there should be some binding obligation on the part of ministers to respond, and not simply recognize that he or she has received the report, but why they don’t have to implement it. I think you can treat an all-party-supported report as almost first-draft legislation on an issue.

1550

The issue there is just asking the government to openly say why they do or do not like that, particularly if it has all-party support. In the next few years we may have minority governments. We may or may not—I’m not making any election predictions, please—but I think that’s something worth thinking about.

Moving on, I think the notion of a large number of MPPs required for official party status is wrong and too high. It was 12; I know it was reduced to nine. I was pleased to see it moved down after the last election. But I don’t think this does anything to further debate within committees or within the chamber.

Further to this, I know Graham White was before this committee. He and I have talked about this before. I saw his outline. I didn’t see his comments so I don’t know what he talked about, but he and I have talked about this before. There is a concern of heavy reliance on parties as the organizing principle within Legislatures. After all, this is how men and women get elected but, once you’re in the Legislature, if we can diminish the heavy reliance on parties within the legislative setting that’s not a bad thing. I think one of the ways you can do it is to reduce the number of members needed for official party status.

The whole history of this comes out of the federal House of Commons, when they decided to give increased salaries to members. The federal Board of Internal Economy said, “Let’s make the number 12 for party status,” and then it kind of whittled down. That’s how it came about in Ontario as well, without any debate about, “Why

12?" At the time it was just assumed that no party would go below 12. Well, we've seen both federally and provincially that that is the case.

Why do we have opposition days instead of private member days, beyond private members' bills, I think is a good question. Why is the rotation of questions under the standing orders based on party, I think is a good question. That's something the committee could think about.

On the large matter of confidence: what constitutes confidence and is there any room to increase the role of members of provincial Parliament, the private member, and how is that tied in to confidence? I hope the committee learned a great deal during their trip to the UK about what the UK considers matters of confidence and what are the different degrees of whips. There is a one-line whip, a two-line whip and a three-line whip who are used in the UK. I think those are very important types of things. I would encourage this committee to think long and hard about changing there and, more importantly, the government of the day—whatever government it is; this government or successive governments—about what constitutes confidence. I think governments in Canada use confidence too freely and try to convince members to vote for things that they might not otherwise be inclined to do, using confidence as the lever.

I mentioned Graham White. He and I did a paper some years back, which needs updating now, that looked at provincial elections over a 20-year period. One of the things we were looking at was based on a conversation we had about, "When this government fell, it was interesting that all the cabinet members were re-elected." So we went back and started looking at it. It turns out that across Canada—it needs updating, but the paper was quite neat—when governments fell, by and large the cabinet was OK. It was the private members in the party who lost their seats. So you're no longer Minister of Education, but at least you've still got your seat, or you're no longer Minister of Finance but you still have your seat.

Essentially what we were left with was the notion that the people who pay the price for unpopular policies are not the people who initiated the policies. They are the men and women who voted against them, sometimes probably against their better judgment. It's something worth thinking about, that private members pay the price for policies that are unpopular but they had no hand in framing.

I think we can recognize that some things are simply matters of confidence: election platforms or what the Brits would call election manifestoes; budget items; speeches from the throne. But I don't know what damage is done in simply saying to a government, "We have to vote against this. Our constituents won't go for it. We think it's wrong. But if you"—read "our party"—"lose the vote, we'll immediately turn around and have a vote of confidence in the government and you'll have our vote of confidence." Then we can separate out a piece of legislation from a question of confidence, recognizing there are some things that must be treated as confidence.

I think one of the best governments we've had in Ontario, from a political scientist's perspective, was the 1985 to 1987 government, and not out of any ideological view of my own, but it was just a sense that you knew that for two years some exciting things were going to happen and the government was going to put something forth that it may well lose on. That was kind of neat. It was fun to think that there might actually be some debate about these issues. It might not go anywhere, but at least there has been a public debate about it. Again, my view of the two-year period is not a view that there was great government *per se* in what the outcomes were, but I think the process was a very healthy process.

This takes time. I don't think it is something that happens easily. I think it's part of the culture in Canadian Legislatures, including the Ontario Legislature. This matter of confidence, some might argue, has almost gained the status of constitutional convention. I don't think that's the case but, quite frankly, I think there is nothing wrong, from the government losing a non-budget vote tomorrow, instead of going to visit our new Lieutenant Governor, in just having a vote of confidence and saying, "Let's get on with matters." That's something this committee could look at, because I think it really would free up members and give them a greater role in that public policy legislation type of job they do.

I have a couple of other very quick comments.

Regulations: I'm not sure whether the way we use regulations falls under what I've described as scrutiny or accountability of legislation. The regulations committee has done a good job, but the tendency over the past decade or so has been to put more and more meat and potatoes into regs and outside of the actual legislation. I really think this is a destructive process. I think the regulations committee should be able to reject regulations outright and, if it does, force the government to bring a vote on the floor.

We could digress briefly here and say the same for private members' bills. I think once private members' bills get out of second reading, we should think about some innovative ways that we can get them back to the House and have a vote on them. Quite frankly, if the government wants to vote against a private member's bill, let it vote against a private member's bill, but there are too many things dying on the order paper that I think deserve a little more openness.

I would encourage this committee to think of some innovative ways to both allow a government to get its agenda through, because I think it's important that it does get its agenda through, but also to allow members to have a full role and say. One such avenue might simply be to force the government to allow its members to vote yes or no on matters in the chamber more often. If the regs committee simply overturns regulations, let the government defend its case in the chamber. I think that's probably not a bad thing.

I'll make a couple of very brief comments on the size of the Ontario Legislature and the drawing of constituencies. Here, in terms of the drawing of constituen-

cies, I do have one particularly strong recommendation. I think the Legislature is too small. Again, I've got tenure, so I can go out and say that we need more politicians and it's not tantamount to political suicide. But I do think the Legislature is too small.

I'm a Madisonian. What concerns me is that we're vesting too much authority in too few people. Even for those who distrust power, I think the good solution is to give a whole bunch of people a little bit of power and let them fight it out. They will be spending so much time fighting over who has power that they won't get anything done. That's not a bad thing if you don't like government. I think that notion works.

As I said before, the problem with making a smaller Legislature in Canada, not just Ontario, is that the cabinets are not decreasing in size. So we've got smaller Legislatures, fewer members keeping a bigger cabinet to account and I think that's very destructive. It takes its toll on workload of members. It makes cabinet even more important and powerful. It's harder for private members to keep the government to account, both in government and in opposition. It's harder to work in committees and to be up to date on all the issues of the day because there are fewer people.

The workload issue in constituencies: when the House was shrunk—it was a shrewd political move, I grant that—from 130 to 103, there was a notion that somehow there would be fewer phone calls to MPPs' offices. No, there are just fewer MPPs' offices. The phone calls are the same, they are just being rerouted. So the workload of members, both in the constituency and in Queen's Park, is higher and I think that's destructive.

Beyond that, even if you can't convince the government to dramatically increase the size of the House—and it will go up with the next redistribution—I do think that if you could spend \$2 million wisely, it would be to have your own boundary commissioners. The only people who like the overlapping boundaries that I know of are my colleagues who study elections and now can look at voting trends provincially and federally. The only logic that I can understand is from an academic point of view.

I've talked to federal boundary commissioners about this, the ones who are setting up now. The last thing they are concerned about when they're drawing federal boundaries in Ontario is how many school boards are in a riding. It doesn't make any difference to them. It doesn't make any difference how many district health councils there are, how many regions there are within a riding.

1600

Mr Gilles Bisson (Timmins-James Bay): Now it's how many ridings in a school board.

Dr Docherty: Yes.

It makes a huge difference provincially. When we talk about communities of interest, we have to understand that federal communities of interest are very different from provincial communities of interest. The other thing that is disconcerting is that more and more of the federal boundary commissioners are looking at equating population. They're more concerned about the plus or minus 5%, as

opposed to plus or minus 25%, than they are broader communities of interest.

If I could use the riding which I happen to live in, which is Mr Arnott's riding, it's an awfully funny riding. It's a bit of a doughnut with Kitchener-Waterloo in the middle. But I must say, even though I live in the north end of the riding, I've got a lot more in common with constituents way south—I live in a smaller town, Elmira. I've got a lot more in common with people who live in a small community in the south end of the riding than I do with people who live five minutes away in a suburb of Waterloo.

My fear is that when the federal government has its boundary commissions, they're going to be less concerned about those types of issues and they're going to be more inclined to have pie-shaped ridings that include 25% of an urban population that then scoots out and takes in a rural population. Those are the types of things that this House may not think about in improving the role of the private member, but I do think it's important in terms of being able to do the job of representing constituents adequately.

One of the best things you could do, even if we can't convince the government to have a larger House and more MPPs, is to think very long and hard about how those ridings are configured, because I think there are important public policy representation and legislation questions that go along with that.

Those are the end of my formal remarks. I'm more than happy to discuss any and all of those matters with anybody.

The Chair: I have two people on the list. Could I just ask you to clarify that final area? When you were talking about there being too few politicians provincially because of now the same ridings as the federal members, are you commenting that the workload of provincial members and the same boundaries is perhaps one thing that needs clarifying? The other thing is, are you saying there are enough federal members for their jurisdictional matters in the existing boundaries?

Dr Docherty: Those are two different questions. I'll try to answer the first one.

One of the problems when the chamber was reduced from 130 to 103 was there wasn't a lot of thought going into how this would impact on the day-to-day workload of MPPs. It was more of, "Here's a cheap way to get it done. We've got federal ridings. We can just map these on to it and it's an easy way." In terms of workload of MPPs, that shouldn't be the consideration necessarily on drawing ridings, but I think it should be one of them, because it is a non-partisan issue. I'm not talking about configuring ridings in such a way that makes it easier for some people to get elected, but in terms of the matters that are dealt with in the areas within a provincial jurisdiction I think there's some overlap between that and how ridings are drawn, and that should be a consideration. It wasn't the last time around.

It goes back to the early question about whether MPPs should be paid more. I think part of the problem was it

was a fallout of the fact that you were working a lot harder because you had more people in your ridings. Quite frankly, I'm more than happy to say that MPPs are closer to the people in the sense that the areas under your jurisdiction are more likely to get phone calls from constituents over health, schools, those types of issues, than federal members, with some exceptions. In urban areas immigration is a huge problem that you don't deal with and federal MPs do, but by and large on those kinds of social policy issues you're on the ground a lot more, so thinking about those issues in how ridings are configured is an important workload consideration.

Do I think the federal House of Commons is too small? Yes, it probably should be closer to 500, but I'm allowed to say that. I don't have to go and convince the public of that. My rationale for that, quite frankly—and in Ontario as well with a much larger House—is twofold. There are a couple of considerations. First of all, it would help MPs federally—and if it were a larger House, it would have to be significantly larger in Ontario; I'm not too sure we want to go that route. I think it would encourage people—at the moment, particularly in the smaller House in Ontario, cabinet is a huge brass ring. In the UK, for example, with a much larger House, and if the House of Commons had a much larger House, or even here, MPPs or elected officials would quickly think that they might not have a realistic chance of getting in cabinet and might start to see themselves as parliamentarians. There's nothing wrong with that. I think we've lost the sense that being a parliamentarian is a noble goal. I think it's a very noble thing to do.

So my rationale for a larger House of Commons in Canada is not workload, federally—you asked a question about the federal House. I think that's part of it: allow them to be parliamentarians. Also, I think smaller ridings would allow MPPs and federal MPs to allow themselves to get a personal vote that's independent of their party a little more. The larger the riding, the tougher it is for MPs and MPPs to get known locally. I think they are known locally by a lot of folks, but if they can build up—smaller ridings allow them to distinguish themselves from the party a little bit more. I think that would be helpful.

Finally, a larger Legislature means you can vote against your party a few more times without worrying about losing a vote. One of the beauties of the British House of Commons is that 50 Labour MPs can say, "Sorry, Tony. We can't go with you on this one," but they know they're not going to lose. They don't even have to have a motion of confidence. They can do that, and the bill's still going to pass. We're still a long way from that in Ontario, but I do think that's one of the benefits of thinking about increased size.

The Chair: Very interesting. I have Mr Bisson, Mr Tascona and Ms Di Cocco.

Mr Bisson: I have a couple of questions. I thought it was an interesting presentation. Your notion of increasing the size of the Legislature was an interesting one, the way you've just now explained it. But I'm still left with the problem that at the end of the day it's not so much the

worry about the loss of confidence that prevents the member from voting against, it's not being able to be the friend of the Premier. Because at the end of the day, that's where all the power is.

How do you get at that one? I think you've answered it. Your answer is to have a larger Legislature, and then I have less of a chance to get in cabinet and I make a decision. That's your whole argument.

Dr Docherty: Yes.

Mr Bisson: Is there any way, in your mind, to check the power of the Premier—that's where I'm going—because that has a huge influence; and do we want to do that?

Dr Docherty: If I had a quick answer for that, either I'm the most brilliant person around—which I don't think I am—or it would have been done before, because someone else would have thought about it, and it would have been implemented somewhere else. I think in some ways it's hard—and I've never been in a caucus, so I don't know what goes on in a caucus. But I do think there's nothing wrong with saying to a Premier, "We just have to vote against you on this one, and if you want to call an election, fine"—and you have to say that within your own party—"but we're more than happy just to go against you and then have a vote of confidence in the government, because we just think this has gotten out of hand."

Mr Bisson: I understand that.

Dr Docherty: But that's a simple solution. I'm not too sure.

Mr Bisson: That notion's not a bad one. It's basically a two-step process: before you lose confidence, there's a loss of confidence against the government. But what I'm asking is that even if you had that in the perfect world, you would still have members not vote against the government because, "Jeez, if I want to get the nod into cabinet, I've got to be on the side of my Premier." So the question is, how do you deal with that?

Dr Docherty: I'm not sure, I think is the answer. In Ottawa, what we're finding with the federal Liberals is there are people who are finally speaking out against Chrétien or against the leader, who are putting a check on the leader's power, because they think they're not going to get in cabinet. Unfortunately, it has nothing to do with numbers and has more to do with the fact of whose side they're on. But they probably should have realized two elections ago or an election ago that this was going to be the case.

Mr Bisson: They probably realize that because they figure they have just as good a chance, if not better, of winning with the other guy.

Dr Docherty: That's right.

Mr Bisson: The other question it gets into is that I think part of it is the rules. I have been around this place, both on the government and the opposition sides, and to me it's not a question of just free votes. What happens is, this place is dysfunctional. The rules we have in this Legislature, quite frankly, are not a good—

Interjection.

Mr Bisson: Well, from somebody who has only sat on the government side, I'll take your groaning as a statement; let me just put it that way.

The reality is we don't have that balance between the power of the opposition to slow the government down and the ability of the government to pass its legislation.

The only way I know to change the rules in the Legislature and make them effective is through a minority Parliament, because then there would be some to-ing and fro-ing on the part of all the players. Is there any suggestion you would make to us on that end if there was not a minority Parliament, on the rules side?

Dr Docherty: Sure. Obviously, you'd have to convince the government to do it.

Mr Bisson: No, but in an ideal world.

1610

Dr Docherty: Yes. In an ideal world, I think limiting the number of times you can use closure would be a huge step in the right direction. Sticking assiduously to the number of sitting days—the House is sitting less and less, and I think that's a direct result of governments not wanting to face the Legislature. I think that sticking to a certain number of sitting days and increasing the number of sitting days—people say, "Well, we don't have an agenda." But the argument I think we could find is that committees can always find an agenda of interesting things to do. So then you increase the number of sitting days, you let committees meet a bit more if there's not a huge legislative agenda, do their own work, but knowing that when they put a report back, if it's a good consensus report, the government has to act on it. Those would be some of the things I would look at.

I think also, and successive governments have done this, that every time the opposition comes up with a unique way to stall legislation, the standing orders are changed the next time around. Every party that is sitting here now has done it, and I think that's been wrong.

Mr Bisson: That's why I said that debate in Parliament is the only way I know. I have other questions, but I'm sure there are others who want to ask questions.

The Chair: Yes. Can we come back to you, Gilles?

Mr Tascona.

Mr Joseph N. Tascona (Barrie-Simcoe-Bradford): Thank you, Madam Chair. I just have a couple of questions. You indicated about private members having more power in the House, and one way I think you were suggesting is then being able to require votes. As you know, we have private members' business and we have our time. We have a lottery system in terms of when we can get our bill on. Generally what will happen is that you'll have it referred to committee if it's a bill rather than a resolution, but after that there really isn't any power other than the power of persuasion between the House leaders. I guess one way of doing this, unless you think there are other ways, is requiring votes on private members' bills. Any thoughts on that?

Dr Docherty: Yes. I agree. It's a tough one, because if you say a bill goes out to a committee and then it has to be reported back and voted on by the end of the session,

the fear then is that bills will just be voted against on second reading. But I do think, once a bill gets to a committee, that it should be reported back to the House, and if a committee makes a report, there should be a vote. Private members' business should not be allowed to die on the order paper after a committee has dealt with it. I think it's a sign that a committee thinks this is an important thing to go back to the House. I think we can treat it differently from the government's legislation because with the government's legislation they can decide if they want to proceed.

Mr Tascona: What kind of vote would you consider would be—any kind of threshold vote, or what would you see?

Dr Docherty: There are different ways you could look at that. You could look at two thirds, but it might depend. You could say whether it's two parties, but I don't like the notion of having two parties, because I think there's too much emphasis on parties now. If a committee reports on a bill and it passes through the committee, even if it's a bare majority, then it should get reported back to the House. Let the Legislature decide whether it deserves consensus, or defeat it or pass it on a bare majority. Just treat it the same way you would treat a vote on the floor of the chamber, which is, if you've got 50% plus one, then you're fine.

Mr Tascona: OK. The next area I want to cover: you seem to suggest that the solution to the increased workload with respect to MPPs' legislative work and also their constituency work is to increase the number of MPPs. Have you got any other solutions besides just increasing the number of MPPs, considering what we're dealing with as the current situation?

Dr Docherty: Sure. One possible way is to increase the size of MPPs' staff who would help with constituency matters. I'm not too sure that's the best way, though, because I think there are other benefits to having a larger chamber or more MPPs. I think workload is just one of those issues. You can always deal with workload simply by hiring more staff or hiring more researchers.

Mr Tascona: We do have limitations in the budget, now that we have global budgets.

Dr Docherty: Yes. The Board of Internal Economy could raise those to meet the increased demands if—

Mr Tascona: If they ever met; that's right. But there's one other solution they've had in England, and it is because of the importance they want to put on constituency work: overtime pay. They have an overtime pay allotment for MPPs. Are you aware of that?

Dr Docherty: Yes. I've talked to some British members about it. I'm not convinced that's the route to go. Britain has a lot of useful models. There are a lot of good things to be said about their system. First of all, British members aren't paid—

Mr Tascona: They just recently did that, about a year ago.

Dr Docherty: They're not paid the same as legislators in Canada in terms of corresponding salaries, so a lot of

British members have part-time jobs already, outside their own legislative responsibilities.

Mr Ted Arnott (Waterloo-Wellington): They're well paid; it's just that it's very expensive to live there.

Dr Docherty: Yes. So I think it's a slightly different kind of beast that way. I'm not convinced overtime pay—listen, I'm aware of your workload, having been an intern and spent some time around here. If you got paid time and a half, I think it would just be cheaper to double your salary right now. For a 40-hour work week, I think it would just be easier to give you a huge—

Mr Tascona: For the record, I'm not advocating that. I'm just putting that out there. When you talk about constituency workload—and I think it's a frank statement—that is a heavy workload because of the decreased number of members and just basically the volume and the types of issues you deal with because you're closer to the people in terms of the issues. You suggested increasing the number of MPPs; you've also suggested getting more staff. That would obviously mean affecting your global budget.

Dr Docherty: That's right.

Mr Tascona: If you have any other thoughts on that, feel free.

Dr Docherty: No.

Mr Tascona: OK, thanks.

Ms Di Cocco: I was interested in your comments about the function of the private member. You talked about the legislative function and you talked about representation and scrutiny and accountability. Your comment on representation was that it's very good and you feel that that role is done really well, and also that the Legislature allowing the government to function also works. In a majority government it works because the government is going to do what it needs to do in spite of the Legislature, so to speak.

The scrutiny and accountability function: what is your perspective when it comes to actual ability in that vein? That's one point, and I'll stop there. I have a couple of other questions. What's your view about the scrutiny and accountability function in the provincial Legislature in Ontario?

Dr Docherty: I think that's an area—and I've tried to cover this, but I can talk a bit more about it—where there could be improvement. I think part of the problem is it's hard to keep a government accountable when you're not here asking them questions in question period. It's hard to keep a government accountable when bills aren't getting sent out to committee or are not spending as much time in committee. I think it's hard to keep scrutiny on the government when ministers aren't around or when members are split between different committees and subbing in etc and moving back and forth because there simply aren't enough members in the Legislature. Those are the areas where accountability and scrutiny could increase. I sound like a broken record, but when the cabinet is staying the same size in Ontario—it only decreased by a couple of people, but the MPPs are decreasing more; the ratio went from, I think 1.4—

Ms Di Cocco: Yes, I've got the numbers.

Dr Docherty: Yes, I've got a paper. Anyway, four MPPs for every one cabinet minister—now it's three or something. It becomes very difficult. And that's not a problem unique to Ontario. I think that scrutiny and accountability function is very tough. One thing Ontario does well, that I don't want to see changed, is that our question period provides a good sense of accountability and a good sense of scrutiny—and it's long. It's longer than most question periods in the country and it gets a lot of things done. I think quicker questions and more questions would be better, but we're moving in the right direction.

One thing is—this is not something this committee can deal with—when I was an intern in 1984, the press gallery had a columnist and a reporter from the Windsor Star; the K-W Record had somebody here; the London Free Press had somebody here. I think MPPs should be calling their local papers saying, "Why aren't you sending people down here more often to cover important matters?" Chris Waddell is at Carleton University and I know he's doing a study right now. He's trying to tie in the decreased voter turnout in different elections to the decreased number of reporters. I'm not too sure that answers everything, but I think it does have an impact.

1620

Using the media as part of the scrutiny and accountability function is a proper function of our democratic process and has always been. This is not something new, but it's becoming tougher when there is one story coming out, going to different papers across the province. I think that's a really sad thing. It decreases public discourse in politics. It also doesn't allow private members to develop a relationship with people who are here but also to understand the problems back home for the papers they report for. I think that decreases the amount of dialogue back home, and I think that is very detrimental to the scrutiny and accountability function.

Ms Di Cocco: I can't agree with you more on that one. That's actually an interesting point you raise, especially for the members from the hinterland, I call it, Sarnia-Lambton and other areas, because the focus here seems—

Mr Bisson: I call that urban.

Ms Di Cocco: That's true. It focuses on the national papers etc. Thank you for that response.

There's one other area that constantly concerns me here. I feel the spectrum has gone to an extreme. Even in the discussions we're having in this committee, it's slowly going to evolve, I think, a little bit more to a different culture about this fear of critiquing, of criticizing legislation as a private member because it infers disloyalty to something. That, to me, is a perception. It's not really real, but it's a culture that's evolved with new members or as things change and also with the public becoming so disenchanted. I have a sense that members themselves are starting to say, "Wait a minute. Our voices have to be stronger." It's the cultural change.

Do you see from your perch any real—how do I say it?—will in the jurisdictions in Canada—I won't go into

the federal level but in the provincial Legislatures—that there is an actual movement that may change this culture of, if you want to call it, fear of critiquing your own party without getting reprimanded or whatever the word is, “disciplined” as they say?

Dr Docherty: I said at the start I’d keep my comments restricted to legislative things. I think Mr Bisson said it. Without a minority government, this can be very difficult because in a minority government you can criticize your leader and what are they going to do? They not only need your vote, they need other people’s votes too.

Then the question becomes, how do you encourage minority governments? That’s very difficult. PR would obviously do that. I’m not necessarily an advocate of PR, but I do think it would help, among other things, promote minority governments. If there’s a problem with PR, it’s a people thing. It’ll solve all kinds of issues. I don’t think it necessarily will, but I do think it will help create minority governments, and that would be a good thing. The alternative to that, if people don’t want to move in that direction, is perhaps the alternative vote system in the Australian model. Although Australia does have a high degree of party discipline, in Australia you rank your candidates—

Ms Di Cocco: Proportion—

Dr Docherty: It’s not proportion. It’s not PR, but you rank the candidates 1, 2, 3, 4, 5, and you have to have 50% of the vote to win. So the last-place candidate’s knocked out. This all happens on the same ballot so that results are just as instantaneous. Then you rank your ballot, so the last person gets knocked out, and where does our second-choice vote go? It creates some strategic voting, but someone gets elected when they have 50% plus one other vote. Again, it’s a cultural issue, as you identified. You’re absolutely correct. It would take a while, but I suspect some members might think they’ve got a bit more strength saying, “I represent 50% plus of my constituents, not 35%, 36% or 40% of my constituents, and I’m not afraid to say” what they feel on a particular issue. That’s not a bad thing to look at as well.

In terms of other jurisdictions in Canada, the only one that’s really going in that direction at the moment I suspect is Saskatchewan. It’s partially a product of a minority government, a coalition government, the need to be more responsive because they need the votes.

Ms Di Cocco: If I could have your indulgence, Chair, for one more question.

The Chair: We’ve got two other people on the list.

Ms Di Cocco: Just one quick question on regulations.

The Chair: OK.

Ms Di Cocco: One of the things I’ve noticed—and I also asked this of Graham White—is what I looked up as Henry VIII clauses that you put into regulations and you really dramatically change the intent of the legislation. Do you have any comments on that?

Dr Docherty: No, I don’t. I’m aware of it, but I’m not an expert in that area and I’d be very nervous that I would say something that might be misleading or incorrect.

Ms Di Cocco: OK. Thank you.

Mr Arnott: Thank you very much, Professor Docherty, for coming. I’ve really been interested in what you’ve had to say. It was good to talk to you on the telephone and I’m very pleased that you’ve had the opportunity to come down and make some time for us.

You indicated that five provinces have downsized their Legislatures. I wasn’t aware of that, and you may not be aware of this. I spoke to Warren Bailie, who was the chief elections officer at the time we were considering downsizing the Legislature, and he told me that we were due for a redistribution anyway in Ontario because sufficient time had lapsed. The census and all that had happened. Under the old way of doing things, we would have gone up to 151 seats, and instead we went down to 103. In that context, it’s an even more significant downsizing than most people realize.

Dr Docherty: Presumably you could have changed the legislation to keep it at 130 or grow to 140 or 135.

Mr Arnott: Oh, sure.

Dr Docherty: I wasn’t aware of that, but if I think about it in terms of the 1981 census versus the 1991 census, that probably would make sense.

Mr Arnott: It is certainly an issue for us as members trying to represent our constituents, but then again going back to a historical example, my first riding had about 60,000 people in Wellington in 1990. The riding of my immediate predecessor, Jack Johnson, was 90,000 people in 1975. His riding was called Wellington-Dufferin-Peel. My new riding of Waterloo-Wellington has something in excess of 100,000 people.

Dr Docherty: Part of that is a problem in that area, Wellington-Dufferin-Peel. It was just the huge growth in Peel that sparked that increase. That’s part of the problem with using a census every 10 years.

Mr Arnott: But it does impact on constituency office caseload. I would suggest to you that there are two other factors perhaps that you’re overlooking in terms of the volume of problems that come into a constituency office, and one is incumbency. If you’ve been there for a while, people tend to know you. If they know you, you’re first in their minds when they have a problem and they’re more inclined to call, I would suggest. That’s been my experience.

The other factor is perhaps less well known, but I think to some degree it’s the popular perception of the extent to which you care and the extent to which you can solve their problem, because if the popular perception in a member’s riding is they don’t care and they’re not inclined to even return the call, I would suggest that member’s constituency office probably isn’t as busy as a member who has a reputation for going to bat for their constituents. The more you go to bat for your constituents, the more they come and call. That has an impact on the workload. I believe that’s the case anyway, based on what we’ve seen in Wellington.

Dr Docherty: If I could add to that, with all due respect to all the members here, I would say that your constituency staff, if they’re very good, also quadruples

your workload because I suspect there are a lot of people who say, "I'm not going to bother to call Ted Arnott, but I know when I phone the office, I'm going to get the result. He may never see my problem, but I'm going to get it solved anyway." If that reputation gets around, then that also increases the workload.

Mr Arnott: You were talking about career aspirations of MPPs. Gilles was saying something about a member in their thought process, whether they're going to defy their party and what impact that's going to have in terms of their career aspirations perhaps. Not all MPPs aspire to be in cabinet.

Mr Bisson: But most do.

Mr Arnott: Most do, but not all. That's something, again, that people don't realize. I think the popular perception is we're all down here trying to climb the greasy pole to get to the top, but all members don't aspire to get into cabinet.

Dr Docherty: I would argue not enough don't aspire to cabinet. That's why I think we should have a bigger House, so that more would see themselves as parliamentarians. Some people have said in the past that one of the things you could do is get rid of the additional salary for cabinet ministers because that would reduce the inducement to do it.

Mr Arnott: I just did a quick list here of some members, one from each party: Donald MacDonald served here for how many years?—30 years or thereabouts—never served on the executive council but had a very distinguished parliamentary career. I think of Harry Worton, who was here for 30 years, I know for a fact, from 1955 to 1985. He was a Liberal member and served in opposition for 30 years. Of course, the irony is, when he didn't run again, the Liberals ended up in government shortly after the election. My predecessor, as I said, Jack Johnson, served here with distinction for 15 years and never served on the executive council. So I often think of those people.

1630

I think you're absolutely right. There is an opportunity for members to see themselves as privileged parliamentarians, and that's the most important thing in terms of how they approach their work and what they try to achieve down here.

The other thing you talked about was the issue of confidence. I've been telling a few of my colleagues a story over the last number of years. I was in Great Britain on a holiday in the summer of 1993. During that time, John Major's government was faced with an important issue. I forget exactly the technical details but it involved a motion on the place of Britain in Europe in terms of the European Union. Major's government was trying to move toward greater integration, but he had a big block of reluctant Tory MPs who couldn't accept it. So in an attempt to win the vote on the motion, he declared that the issue was going to be a confidence motion, hoping that would force these guys to vote in favour of the motion. They didn't and he lost the motion, having declared publicly that it was a confidence motion. So the

government was in crisis for 24 hours. The press, of course, went hyper, into overdrive: would there be an election or would there not be? He solved it very simply by bringing in a simple motion the very next day saying that the House had confidence in the government. The same people who had voted against the motion the day before voted in favour of it, because they didn't want an election. What I'm suggesting is there already is that mechanism. It's a very recent parliamentary precedent.

Dr Docherty: I agree. I don't disagree at all. I just think it should be used here and could be used here.

Mr Arnott: It could be used here.

Dr Docherty: Yes. But members of the governing party have to vote against their government before that's used.

Mr Arnott: They have to understand that that mechanism exists before they would even contemplate it, but it certainly does.

Last, I agree completely that more issues need to be sent to committee before the government takes a position at second reading. The new mechanism that the standing orders have that has been used on a couple of issues, I think, has been used to very positive effect for the people of the province. The committee hearings have been more meaningful. I think it's fair to say the opposition members have felt they've had a greater degree of say, which I think is important too, because they're elected and we need to recognize their legitimacy as elected representatives more. Having served in opposition, I know what it's like, and I would submit to you that we need to involve the opposition more on significant issues. I think that mechanism we have within the standing orders to allow bills to go to committee after first reading is a good one and should be employed more.

Thank you for your comments.

The Chair: I have Mr Dwight Duncan, Julia Munro and Gilles. None of these people have spoken before.

Mr Dwight Duncan (Windsor-St Clair): Thank you, professor. I apologize for being late for your presentation.

I think it's probably fair to say the pendulum in terms of the role of private members has swung one way. But as you know, in the history of parliaments, parties evolved because, otherwise, things just didn't get done.

I do take one exception. I was here in 1985-87, and I was part of the negotiations. That was the most dictated-to Parliament we've ever had. It was done by an accord. The votes were very carefully whipped and the negotiations on the accord were all done in private.

There are also academic studies that have shown very clearly that minority parliaments actually produce a lot less in terms of legislative output than do majority parliaments, for obvious reasons.

Mr Bisson: Probably not a bad thing.

Mr Duncan: Well, it can and can't be. The popular perception is you get a lot more done with a minority government, but the reality is that much less gets done and a lot more goes on behind closed doors in terms of negotiations.

Margaret, I think you were here in that period. Members felt much more isolated than one would expect, because so much of that negotiation happened behind closed doors. In the case of that particular minority Parliament, it wasn't unusual for ministers to meet privately with the leaders of the other parties. In this case, it was the leader of the New Democratic Party. It happened quite frequently, without the knowledge of the government's members and, frankly, a number of the opposition's members. So I think we have to be careful.

I wanted to explore a couple of issues with you around committees. Britain's looking at actually—we've now got the clause, and we agreed to this, by the way, in 1999. That year, 1999, was the first time, by the way, the three parties had agreed to rule changes in some time and we, through a process of negotiation, came up with it. Nobody got everything and everybody got something. We brought forward the concept of bills to committee after first reading and it has been used appropriately by this government. As you know, the federal government has that power and hasn't used it appropriately. They've used it as a form of time allocation.

British Secretary Cook, I believe it is, has proposed that government send ideas out to committee even before introduction of first reading, ie notionally to consider an idea. Is that what you were talking about when you talked about how to do it?

Dr Docherty: When I talked about pre-legislative scrutiny, that was exactly it. Here it's one stage first. The bill is introduced in first reading and then sent out. There you can send it out beforehand. When I was talking about perhaps committees drafting their legislation, it would be done in that light, in kind of a pre-legislative scrutiny light.

Mr Duncan: I'd like to relate an anecdote to the professor and other members of the committee. You were talking about a shortened question period. That was part of the negotiations in 1999 and I think all three caucuses looked at it. One of the things I did in those discussions was to call Dalton Camp, who of course had authored the Camp commission, which led to what is essentially our legislative day to this day, and it was done in a minority Parliament. In any event, we reviewed a number of the proposed changes and I went to him and spoke to him and asked, "Why would you think a government would want to shorten question period?" The idea was that with shortened question periods, shorter questions would allow more questions, not unlike the federal House. There was a very long pause and he broke the pause by saying, "No doubt, to save money." That idea was rejected.

The other observation I have—and I don't know how other members feel, particularly those who travelled to Britain. We actually have, in my view—I was quite surprised at how advanced this Legislature is, despite its problems, despite the 77 standing order changes since 1997, at just how much more opportunity members really do have here to participate, to question and to scrutinize. I was quite astounded in Britain at the lack of opportu-

ity. I haven't had a chance to look at Australia or other jurisdictions closely, but I was quite astounded by that and quite pleasantly surprised.

Mr Bisson: Do they have a question period in Great Britain?

Mr Duncan: Yes, they have it, but the questions are given in advance, they only get the Prime Minister for, I think it's half an hour a week right now, and members don't even have seats in the House.

The Chair: You submit your questions two weeks in advance to the Prime Minister.

Mr Duncan: Yes. It's really not nearly, in my view, as functional as ours. Observations? You've had a chance to look at other Legislatures.

Dr Docherty: When I began, I said I thought there were some things we do very well here in Ontario, and committees were one of the things I pointed to. Not just compared to, say, the UK, but I think compared to other Legislatures in Canada, our committee system here does a very good job.

Mr Duncan: Have you looked at it recently? I don't share that view. I think we do things well in the House. I don't know how other members feel. I was very struck by the British committee system and the opportunity members have there, first of all, to gain expertise—and that's one of the more compelling arguments, in my view, for more members, by the way.

Dr Docherty: No, I agree with that. I'm thinking in terms of other jurisdictions in Canada. Alberta doesn't have a committee system, to begin with, and the idea of travelling and hearing from people just doesn't make any sense to them.

The other thing Alberta does a little bit, which I haven't touched on here but we might as well, is this notion that somehow they can have cabinet committees that include government private members. I don't think that's a good thing. I think that if private members are supposed to scrutinize and hold the government to account, we should separate committees and there should be distinct cabinet committees and legislative committees.

Mr Bisson: We do that here, don't we?

Dr Docherty: We do, yes. I'm not hugely in favour of Alberta's way because I think it serves to circumvent the role of private members per se as a group or as a cohort. I think they do it to a much greater degree in Alberta and I'm not convinced it actually works. In Alberta, of course, you have huge one-party dominance. British Columbia is looking at doing much the same thing right now, partially as a function of the size of the government caucus there.

1640

Mrs Julia Munro (York North): I want to apologize for the fact that I had to keep running in and out. I want to respond to a couple of points you made and frankly see what sort of response you have to some of the concerns I have.

We hear a great deal about the question of independent votes. On the surface I agree, because as an in-

dividual member I understand that obviously I have an opinion, and therefore there's merit to this. But I wonder, in the context of government bills that generally reflect a great deal of expertise and legislative groundwork and things like that, how real is that opportunity, in your view, to have "independent votes"?

When I look at some of the time that has gone into certain pieces of legislation—that's not the only gauge of its merit, but obviously a great many people have been involved in the creation of a particular piece of legislation. Does an individual member really have the expertise and the time and all those kinds of things? You can be fundamentally opposed to it in principle, that's different, but I'm thinking in terms of the practical nature of much that we would be asked to vote on.

Dr Docherty: We can't assume that just because a member of a governing party votes in favour of legislation, they're doing it against their best wishes. Sometimes they actually agree with it. We have to recognize that's probably the case, particularly on things that have been talked about during an election so that it's part of an election platform.

In terms of expertise, that's a tough call. I think that in the past we've been too willing in Canada to restrict what becomes a free vote to those so-called matters of conscience, and then it becomes easy to relegate only matters of conscience to independent votes. I think that's problematic. I think we should have a bit freer understanding.

In terms of technical expertise, yes, I think it's fair enough to say that oftentimes—this is a problem for members—you might be against something, but once it's explained it to you and you're given all the information, then you understand why. You might not be able to explain it to your constituents because you can't sit down with them in a room for an hour. I think that's a difficult issue. Certainly in my interviews with federal members of Parliament that has come up on a number of issues. That's fair enough; I understand that. But I do think there seems to be, true or false, too much of a sense that if you vote against your party, even for the best of reasons, you're going to pay the price. I think that's worse than the other alternative.

Mrs Munro: I appreciate your comments because I certainly understand that element of perception. I see an opportunity. Reference was made a moment ago to the whole notion of committees meeting and having hearings prior to second reading. It seems to me that when you look at the committee system, there is an opportunity there where issues around amendments and things like that might be the kinds of areas where you would be able to put forward, or vote against or whatever, because of the fact that that's a very specific thing and not the bill in principle and so forth.

The other thing I heard you commenting on was the problem we face with the reduction in the media. While not suggesting that it's not my fault and therefore it's the media's fault, at the same time, do you have any comments or suggestions? Personally, I feel our role is not well served by the media because they tend to have a

provincial focus, a leader focus, whether you're talking about issues of a federal nature or a provincial nature. Any comments about what, as individual members, we can do or should do, or pressure to be put? I think it's a very serious one. They're not interested unless it's the one voice.

Dr Docherty: The problem is exacerbated when you have fewer media, because they can only cover one story and that story is going to be of provincial importance and not of regional importance, so I think the fact that we're losing our regional reporters from Queen's Park exacerbates that problem. I'm not too sure what you can do. You certainly can't force newspapers to—

Mrs Munro: No.

Dr Docherty: I don't know. Other than encouraging your local papers to send a reporter down for a week or something like that to see what actually goes on and report on issues, I'm not too sure what else can be served. They're obviously going to be reluctant, thinking, "This is just going to be a fluff piece. They just want us to write these wonderful things about Julia Munro." But I think that encouraging local reporters to understand what goes on here can only be of long-term benefit to understanding.

For example, I suspect a lot of local reporters don't understand how members from different parties get along in committee; they don't in the chamber. I think the Legislature generally would be well served by that message getting out by so-called independent people and not just by MPPs going back and saying, "You know, a lot of work gets done in committee outside the glare of the lights and we do constructive things." If reporters could see that more often—I think it's sad that there are no reporters here, not that they're not hearing me, but I think committee work should be covered more and it's not going to be covered when there are few reporters in the press gallery already. When I was here as an intern years ago—

Interjection.

Dr Docherty: Yes, Eric Dowd used to just hang out. You'd see him pop into different committees.

Interjection.

Dr Docherty: That was a very helpful thing. Encouraging local papers to somehow find ways to bring people down for these issues to get a sense of how this place operates would go a long way, not necessarily to restoring the role of the private member, but certainly to helping restore the confidence people have in a Legislature as being something more than a wrestling ring. I think that would be a good thing.

Mr Bisson: Let me disagree with you and shock some of the members. I quite frankly don't buy this free vote concept. I'm just thinking back. You've been here, Margaret, longer than all of us. You've sat in government and in opposition. Ted has been here on both sides of the House. Of all the times I've stood up to vote on something, how often have I really got up and said, "I really don't want to vote this way. It's my party making me do it?"

The reality is we all come here with a certain ideology. When I was in government, and I was in government for five years, sure, we passed controversial legislation. Your government in seven years has passed controversial legislation. But I'd be willing to guess most of your members agreed with it, as our members agreed with it. So this concept that free votes are the answer I don't see as the issue.

I'm thinking, what were the tough ones for me? I had some tough votes—the social contract. Would I vote for it again? Yes, I would in a heartbeat because I believed at the time it was the best thing to do. You guys had the amalgamation of the municipalities. Your ideology told you that's what you wanted to do.

Mr Arnott: Practical reality.

Mr Bisson: No, but I'm saying, from your perspective—we're all honourable members, right? Most of us actually do get along, contrary to what most people believe, not only in committee but in the House. There's hardly anybody in your caucus that I don't believe would go into the House—I can't think of too many people other than what's-his-name who resigned.

Mrs Munro: Toni.

Mr Bisson: Toni was really opposed to the amalgamation bill. I'm just saying, it's not a free vote thing. What's more interesting in your concept is how many members are here, which is an interesting concept. But the other issue is that of minority Parliaments. The only way you're going to get a diversity of views, I think, and that to-ing and fro-ing you talk about, is to have a system where you don't have a lot of majorities, either through a PR system or through a fluke of elections, in having a whole bunch of political parties in our current system that would possibly prevent majority governments from being formed. Because this is an old boys' club, right? It's basically three-party based, which is really only two-party based at any one time, and you always end up with majority governments. So when we're up, one of you guys is down, and when you're up, we're down. The reality is there's not a multitude of parties out there to arrange the seats in such a way as to make a minority.

1650

So I kind of reject the free vote thing. I'm trying to think of one time I got up in this House where I said, "Oh, God, my whip and my leader are telling me to vote this way." Do you know what it was? Bloody pensions. And I was in opposition. The only time I got up in this House and voted against my conscience and my own good sense was when we did away with our supposed gold-plated pensions. That's the only vote that I can remember—

The Chair: You voted—

Mr Bisson: I voted with you guys. And I bet a bunch of you felt as I did. That's probably the only one I can think of.

The Chair: Well, we've sure thought about it since.

Mr Bisson: No, but I make my point with members who have been around, because the reality is that we all come to this Legislature as honourable members to repre-

sent our ridings to the best of our ability, but each of us with an ideology. Why you are a Conservative is because you are a conservative, and I'm a New Democrat, a social democrat, because I'm from the left. I'm a social democrat; this is what I believe in. So that's why the PR thing has always had an appeal to me.

I heard your comment earlier, saying it's not a be-all and end-all. I think it probably is, more than we're willing to admit, because as I talk to parliamentarians around the world through l'APF and different things that I've done, those systems—and I think the best one I've seen is what they've got in—I always get it mixed up—Switzerland. I always want to call Sweden Switzerland. They really have a system over there that has evolved over a period of time that actually works. Quite frankly, they don't end up with huge majority governments in that system. So I think PR is more the thing.

On the issue of committee, I'm intrigued by the idea of sending stuff to committee prior to it ever hitting the House. The reason for that is that it doesn't entrench us all in our positions as we go into the bill. We've somewhat done that with nutrient management and a few others by allowing them to come out after first. But I like better the idea of sending them in before so that, for example, if we say there's a social policy issue we need to deal with, and the social policy issue is—I don't know—health, whatever; then basically you refer the issue to a committee and allow the committee to look at it and come up with some ideas. But in that process, there can't be a majority. The problem is that if it's my majority, it will be my view, and if it's your majority, it's going to be your view. You have to have some mechanism where you don't always have majorities deciding these public policy issues, because the reality is, you guys got 44%, we got 38% or 36% of the vote, and you got a majority of seats. So it's your majority view that rules, even though you don't have a clear majority from the population itself. That's basically the point I wanted to make. I'd like to hear what you have to say to that.

Dr Docherty: Not too much, although I have a colleague who says he doesn't trust anybody complimenting him until they've insulted him first because then he knows the compliment is real. I think the same holds true: until you vote against your party, nobody believes you agree with them when you're voting for them. So it's harder to tell people, "Yes, I really believe this," until they've seen some proof that you voted against it. Not to say that you should just pick an issue to vote against your party, but just to say I understand your dilemma that, yes, you do agree more often than not, a majority of times. But there certainly is, I think, a well-grounded view in the public that members don't stress their independence inside the chamber when it comes to voting.

Mr Bisson: Because sometimes, as members of the public, you have a very simple view of how this place really works. I'm not saying they're stupid; they're probably more intelligent than we are, in some ways. But there is a reality to this place, and you come to this place with your ideology. That's what my point is.

Ms Di Cocco: Just quickly on these last points with regard to talking about ideology, if you want, or the critical thought or independent thought when one is debating legislation: I come to this place, I guess, not with an ideology but with a philosophy of what I believe is a prudent or thoughtful approach to representing my constituents. That means there are going to be times when the interests and the needs that I perceive or that I feel my constituents are asking me to adhere to do not necessarily fit into that ideology, because I don't believe that's good democracy. It's like a religion, and I don't believe that. I think there are fundamental principles you believe in. I guess I'm going to agree to disagree on that thought.

Mr Bisson: And my line is, that's why you're a Liberal.

Ms Di Cocco: Maybe that's right. Maybe that's why I'm at the centre, because I believe I can actually think independently or critically.

One of the things that intrigues me with this whole process we're talking about is a better democracy. It's the flexibility that's not there. Whether or not we choose to vote 99% with what's been presented as, "This is the path," the flexibility doesn't exist, in my opinion. It doesn't exist because there's that sense that if one stands up independently, then there is division, and thou shalt not show division, because division means weakness. I can go on and on. In my opinion, that's all a façade to create the sense of strength.

That's just my comment on that perspective. I don't know if you want to add anything to that.

Mr Bisson: I think the healthiest thing we've seen in Ottawa is the division we're now seeing in the Liberal caucus. I don't mean that partisan-wise. It's actually nice to see them disagreeing with each other for a change.

Ms Di Cocco: They're disagreeing—

The Chair: I think Carolyn did ask Professor Docherty—

Dr Docherty: I've got no comment on that. That's fine. It's an interesting point.

The Chair: But you don't have a comment on it.

Mr Bisson: I need to get to the House for 5 o'clock. I don't mean to run away.

The Chair: OK.

Mr Bisson: I understand you're doing the report, of which I was no part; you're doing a section of the report.

The Chair: Yes, but I certainly wasn't going to interrupt this interesting exchange.

Mr Bisson: No, that's fine. It's very interesting.

The Chair: Is that everyone?

Mr Bisson: It's nice to have your brain cells stimulated.

The Chair: Simply in closing, Professor Docherty, it must have become very apparent to you how much our members enjoyed your being here today, because you certainly generated some of the best discussions that we've had, and interesting viewpoints. It's been one of those sessions for me, because I do have the history since 1985, where it has been extremely difficult for me to sit here as Chair and try to behave like a Chair when I really want to be out there being part of the discussion and questions. Again, thank you very much for coming. It's been very stimulating to listen to. I would like to say a whole lot of things, but I'm going to behave as a Chair should and just thank you.

Dr Docherty: Thank you very much. I certainly enjoyed coming here and I appreciate your comments and thoughts as well.

Mr Tascona: Madam Chair, are we going to proceed to part 2?

The Chair: We will move to the closed session of the committee now and proceed with our discussion of the draft report.

The committee continued in closed session at 1659.

CONTENTS

Thursday 20 June 2002

Parliamentary reforms	M-11
Dr David Docherty.....	M-11

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

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