

No. 105B



N° 105B

ISSN 1180-2987

Legislative Assembly
of Ontario

First Session, 38th Parliament

Assemblée législative
de l'Ontario

Première session, 38^e législature

**Official Report
of Debates
(Hansard)**

**Journal
des débats
(Hansard)**

Tuesday 15 February 2005

Mardi 15 février 2005

Speaker
Honourable Alvin Curling

Président
L'honorable Alvin Curling

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



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

**LEGISLATIVE ASSEMBLY
OF ONTARIO**

Tuesday 15 February 2005

**ASSEMBLÉE LÉGISLATIVE
DE L'ONTARIO**

Mardi 15 février 2005

The House met at 1845.

ORDERS OF THE DAY

FILM CLASSIFICATION ACT, 2005
LOI DE 2005
SUR LE CLASSEMENT DES FILMS

Mr. Watson moved second reading of the following bill:

Bill 158, An Act to replace the Theatres Act and to amend other Acts in respect of film / Projet de loi 158, Loi remplaçant la Loi sur les cinémas et modifiant d'autres lois en ce qui concerne les films.

The Acting Speaker (Mr. Ted Arnott): I recognize the Minister of Consumer and Business Services. I look to the minister to initiate this debate.

Hon. Jim Watson (Minister of Consumer and Business Services): Thank you, Mr. Speaker. I'd like to share my time with Mr. Brownell, the member from Cornwall, and my parliamentary assistant Mr. McMeekin.

It's my pleasure today to rise in support of Bill 158, the Film Classification Act, 2005, legislation that, if passed, will modernize Ontario's outdated film classification system.

The act responds to the needs of consumers and parents for a safe and informed marketplace. It protects the rights of adults to choose for themselves what types of films they see and use, and it deals with ways to simplify compliance for film distributors by harmonizing standards and services with other provinces.

If passed, this legislation will replace the outdated Theatres Act, an act that has not been updated in over 40 years. Not since the epic *Lawrence of Arabia* won best picture 40 years ago has this particular act been updated. Since then, the Theatres Act has been repeatedly amended in a piecemeal fashion. The result: legislation containing obsolete provisions, archaic language and standards that are generally at odds with modern statutes.

Our government recognizes that reforms are needed to modernize standards to better protect consumers; to respond to emerging media technologies such as digitally distributed film; to improve enforcement and more efficiently use enforcement resources; to streamline licensing requirements, reducing costs for business and improving government efficiency; and to facilitate harmonization of classification standards, enabling the

government to streamline and improve service delivery across Canada.

The new Film Classification Act, 2005, if passed, will give Ontario the legal authority to regulate the film exhibition and distribution industries and to ensure compliance with modern marketplace standards.

Comme auparavant, cette loi autorise le gouvernement, par l'entremise de la Commission de contrôle cinématographique de l'Ontario, à classer les films en fonction d'un âge approprié, et elle offre des normes qui permettent de s'assurer que les enfants ne pourront pas louer ou acheter des films ou des jeux vidéo conçus pour un public adulte.

1850

The usefulness of this classification system is clarified by Mr. Bill Moody, who served this government and the previous government as past chair of the OFRB. He was a public educator. He said, "It has become impossible for parents to be able to be at the cutting edge of every movie or electronic game their child may be exposed to. A classification system that provides a consistent reporting to which parents can refer, that is clear and transparent, has become a ... real necessity."

I want to thank Mr. Moody for his service to this province as chair of the Ontario Film Review Board. He was a member for several years, and he was chair for the last couple of years. He did a wonderful job for the people of Ontario. We thank him, as he just recently retired.

However, recent circumstances have necessitated changes to the act.

In January 2002, Glad Day Bookshop and an individual were convicted of distributing an unapproved film. The film had not been submitted for approval and classification to the film review board. The defendants appealed their convictions to the Ontario Superior Court of Justice.

On April 30, 2004, the court released its decision on the appeal. It declared that the Ontario Film Review Board's approval or censorship powers were too broad and violated freedom of expression, which is guaranteed by the Charter of Rights and Freedoms. The court also ruled that the censorship and classification powers in the Theatres Act must be separated to comply with the charter's guarantees.

To give the government time to implement the necessary legislative reforms and to develop legislation that separates the board's approval and classification

powers, the court suspended its decision for one year, until April 30, 2005.

The government chose not to appeal the court's decision in the Glad Day Bookshop case. Instead, the government moved quickly to repeal the outdated Theatres Act and replace it with a modern and responsive legislative framework, a framework that meets the needs of the Ontario citizenry in the 21st century.

We believe that adults should be able to choose the films they see and the video games they play within the standards consistent with the Criminal Code of Canada. However, in discussions with the federal government, the Ministry of Community Safety and Correctional Services, and the Ontario Women's Directorate, a shared view emerged that the provincial government should continue to exercise some approval powers over adult sex films within the limits of the Criminal Code.

The Ministry of Community Safety and Correctional Services and the Ontario Women's Directorate emphasized the deterrent value of having the government continue to review and approve adult sex films. This sends a strong message to the industry that extreme content that violates the Criminal Code will not be accepted in the province of Ontario. British Columbia, Saskatchewan, Quebec and the Maritimes share this view and continue to review and approve adult sex films.

I applaud my colleague opposite, the member for Leeds-Grenville, who also supports this view. I quote from Canadian Press on December 10, 2004, where he states, "We want to retain in the province some ability to not allow every horrific piece of celluloid to be available to the people of Ontario."

Through interim regulatory changes, we have significantly reduced the Ontario Film Review Board's approval power to deal only with adult sex films that meet the criteria for Criminal Code obscenity. Any film that the board believes is in breach of the Criminal Code will be handed over to the police. At the same time, we've maintained the requirement for all films to be submitted to the review board for classification, ensuring that consumers and parents have the information they need to make informed choices for themselves and their families. This is a balanced approach that we feel will meet the needs of the public while complying with the recent court decision.

Our approach is also supported by the Public Interest Advocacy Centre in Ottawa. I quote Ms. Sue Lott, counsel at the PIAC: "As a consumer organization, the Public Interest Advocacy Centre supports the government's initiative, through the Film Classification Act, to provide helpful information to Ontario consumers. We are also pleased that this legislation respects the Charter of Rights' important protections around freedom of expression."

The proposed regulations to Bill 158 will set out the details regarding the board's classification standards and approval criteria. The approval criteria under the Bill 158 regulations will mirror the narrow criteria we im-

plemented last spring to be consistent with established standards for criminal obscenity.

In addition, this proposed legislation acknowledges changes in the marketplace and changes in technology, and initiates new approaches to government service delivery.

Changing out-of-date legislation takes time, but some issues can't wait. That's why, in April 2004, as part of Bill 70, the Ministry of Consumer and Business Services Statute Law Amendment Act, the McGuinty government introduced measures to address growing public concern about violent video games and their effect on children. These changes are reflected in the new Film Classification Act, 2005, in order to continue the government's commitment to parents.

The fact is that the world has changed in the last 40 years. Video games were not around then. People from my generation grew up with things like Pac-Man, which were not exactly violent. Then you have the next generation, young people like Mark Olsheski, right over there, from Pembroke, Ontario, who has grown up with video games, and some of these video games, as we all know, are extremely violent.

Mr. Dave Levac (Brant): He's not warped.

Hon. Mr. Watson: No, not at all. He's not warped at all. He's a great Canadian.

These measures would let the film review board adopt video game classifications provided by the industry-based Entertainment Software Rating Board and will prohibit retailers from selling or renting adult-oriented video games to children and youth.

Many of you here today are aware that children's exposure to movie and video game violence has become a significant public policy issue worldwide, especially with the development of advanced information technologies. We've reviewed the literature on media violence and learned that the findings are consistent.

Studies like the 2004 Media Violence as a Risk Factor for Children tell us clearly that exposure to media violence results in increased aggressive attitudes and behaviour. In other words, viewing violence in movies, videos and video games leads to changes in children's values to favour the use of aggression to solve conflicts.

While media violence is not the only or most important cause of aggressive behaviour, it is certainly one of the critical factors leading to it. Given the evidence that exposure to media violence increases aggression, this government believes it is important to reduce our youth's exposure to media violence and to raise awareness of this issue.

With the introduction of our legislation, the McGuinty government is taking action on this particular issue. The new legislation ensures that parents are provided with consistent and transparent information on the content and age appropriateness of film and video games. Children will be prohibited from purchasing or renting mature or adult-oriented material.

Our government is aware of how accessible adult or mature movies and video games are to underage

audiences. The results, for instance, of a survey conducted by the US Federal Trade Commission in 2004 revealed a number of interesting facts: 69% of teenaged shoppers were able to buy video games rated for mature audiences, 81% were able to buy R-rated DVDs and 36% were successful in buying tickets for admission to restricted films at movie theatres.

We agree with the US Federal Trade Commission's recommendations that media industries should do more. For example, media industries should provide clear and conspicuous information on ratings and the presence of violent content. They should also enforce compliance with classification policies, and we applaud the industry in Canada for taking a leadership role in sharing responsibility.

That's why I was pleased several months ago to work with the Retail Council of Canada and their Commitment to Parents initiative, which ensures that consumers buy or rent video games suitable to the age of their children. The Ontario government, along with our provincial counterparts, actively supported this campaign.

Let me quote Mr. Doug DeRabbie, director of government relations at the Retail Council of Canada: "This legislation reflects this government's belief that when it comes to protecting our children from access to video game material that is inappropriate for their age, the first and best line of defence is parental education."

Ms. Melanie Cishecki, executive director of MediaWatch, believes that the Commitment to Parents partnership is "a welcome step in the right direction."

Ms. Francine Filion, spokesperson with the Canadian Teachers' Federation, suggests that "too many children are watching films and playing games that aren't suitable for them. This will make parents think twice about it."

This initiative is giving consumers the tools they need to really understand video game ratings and make the right choice. Our partnership with the Retail Council of Canada demonstrates our government's commitment to working with our industry experts to bring about change that consumers and parents want.

Our government, the retail council and everyone in this room, I believe, share a common goal: We want parents and consumers to have the information they need to select or recommend age appropriate titles for children and youth, and we want the information we provide to be as clear and as objective as possible.

1900

Outdated legislation is a barrier to Ontario's efforts to harmonize classification standards and services with other jurisdictions. Standardization of film classification systems will provide more consistent information for the many consumers who are confused by the current overlapping and inconsistency of information.

We also recognize the need to address gaps caused by emerging technologies. New waves of media technology are expanding the media marketplace and challenging previous definitions of film and the capacity of governments to regulate these technologies. The Internet, video-on-demand, video games and wireless technologies

are among the growing forms of new media. The new media are converging with traditional media technologies such as 35 mm film, home videos and television to create a more sophisticated marketplace for visual entertainment.

We believe that the rapid pace of technological change challenges our existing regulatory framework and compels governments throughout the country to develop innovative regulatory strategies. Greater collaboration with the federal government may be required to develop a comprehensive approach to regulating new media.

L'Ontario collabore avec d'autres compétences au Canada pour développer des façons de mettre en oeuvre un système plus commun de classification des films à l'échelle nationale, soit un système fondé sur des normes uniformes et des partenariats pour offrir des services.

Ce gouvernement croit qu'un nouveau cadre de travail plus moderne permettra à l'Ontario d'avoir des partenariats avec d'autres compétences pour offrir des services relatifs à la classification des films.

In conclusion, I want to stress that we are not modernizing this legislation in a vacuum. We have spoken with parents, consumers and the film distribution and video game industries to develop a balanced and effective system. We have listened to the views of the Consumer Council of Canada, the Retail Council of Canada, the Canadian Motion Picture Distributors Association, the Motion Picture Theatres Association of Canada, the Public Interest Advocacy Centre, the Media Awareness Network of Canada and the Interprovincial Film Classification Council of Canada, to name a few, in addition to several individual parents who have contacted me, showing their support that this is not simply big government coming and trying to micromanage individuals' lives; what it is doing is providing education so a parent knows what the child is watching or playing. A game that is clearly inappropriate for a seven- or eight-year-old should not be in the hands of a seven- or eight-year-old if the parent does not want the child to be exposed to that kind of violence.

This legislation, if passed, will modernize Ontario's film classification system. As the Ottawa Citizen's editorial stated on December 13, 2004, "The Ontario government is doing the right thing by getting out of the film censorship business."

I'm proud of the McGuinty government's ability to provide a balanced and effective response to the many stakeholders affected by this much-needed legislation. I urge all members to lend their support to this important legislation. I look forward to hearing debate. I thank my colleague Mr. Brownell for his comments in just a moment, and my parliamentary assistant Mr. McMeekin for his comments that we will be hearing in just a moment or two.

Mr. Jim Brownell (Stormont-Dundas-Charlottenburgh): It is my pleasure to be here this evening to speak about Bill 158, the Film Classification Act, and to tell this House about our government's legislation to modernize Ontario's outdated film classification system.

It is a system that affects virtually everyone in the province and provides many advantages to the film exhibition and distribution industry sectors.

Let me start by giving you some of the history behind Ontario's new Film Classification Act and the role of the Ontario Film Review Board. Then I'll describe some of the changes our government proposes in this new legislation, changes that reflect this government's commitment to improve the way it serves consumers and business. Finally, I'll talk about how this government is forming partnerships with other jurisdictions and with industry to deal with new media challenges and emerging technologies.

The new Film Classification Act, 2005, continues the Ontario Film Review Board's authority to classify films according to age appropriateness. It also separates the film review board's approval and classification powers to respond to the recent ruling by the Ontario Superior Court of Justice. I know that the minister spoke on this, but I would like to review it.

Recent circumstances have made changes to the existing film classification system and the review board necessary. In January 2002, Glad Day Bookshop and an individual were convicted of distributing an unapproved film. The film had not been submitted for approval and classification to the film review board. As we know, the defendants appealed their conviction to the Ontario Superior Court of Justice. On April 30, 2004, the court released its decision on the appeal. It declared that the Ontario Film Review Board's approval powers were too broad and violated freedom of expression, which is guaranteed by the Charter of Rights and Freedoms. The court also ruled that the approval and classification provisions in the Theatres Act must be separated and comply with the charter's guarantees.

The McGuinty government chose not to appeal the court's decision in the Glad Day Bookshop case. Rather, this government felt that repealing the outdated Theatres Act and replacing it with a modern and responsive legislative framework was the responsible action, and I wholeheartedly agree. The government recognized that to deliver real, positive change, it had to take a fresh, modern approach to governing film and video games in Ontario.

The McGuinty government recognized that full-scale reforms were needed: (1) to modernize classification standards to better protect consumers; (2) to respond to emerging media technologies such as digitally distributed film; (3) to improve enforcement and more effectively use enforcement resources; (4) to streamline licensing requirements, reducing costs for businesses and improving government efficiencies; and (5) to make it easier to harmonize classification standards and delivery of services across Canada.

With the new Film Classification Act, the government continues its commitment to classifying film according to age appropriateness and to provide content information that helps the public make informed viewing choices.

As well, the legislation allows the government to develop new standards to respond to emerging marketplace changes and changes in technology. The new Film Classification Act gives Ontario legal authority to regulate the film exhibition and distribution industries and to ensure their compliance with modern marketplace standards.

Changes to the legislation separate the Ontario Film Review Board's classification and approval powers, more fully responding to the Superior Court's decision in the Glad Day Bookshop case. The new act continues the authority of the Ontario Film Review Board to classify films according to age appropriateness, and puts in place a system of standards to ensure that children are not able to rent or buy mature or adult-oriented film or video games.

In addition to changing the mandate of the Ontario Film Review Board, this new legislation ensures that consumers will be better informed about both film and video game classification and better able to make responsible, age-appropriate viewing choices. Classification categories for film detailing the age restrictions and conditions that apply in each category will be set out in regulations to the act.

Interjection.

Mr. Brownell: It is very important.

These categories are identical to the categories used by other provincial film boards across Canada. Standardization will provide more consistent information to the many consumers who are confused by the current overlapping and inconsistencies of classification information.

In reviewing the legislation, we have found that the level of understanding of the various classification systems among consumers is very low. Most consumers do not know which level of government is responsible for classifying films or what role the film industry has in providing classification information, and few consumers or people in the industry understand the meaning of the ratings. This lack of understanding of film classification systems reduces their effectiveness as tools for parents to determine age-appropriate viewing for their children. It also creates confusion and inefficiencies within the film exhibition and distribution industries.

Many of you here today are aware that children's exposure to movie and video-game violence has become a significant public policy issue worldwide, especially with the development of advanced information technologies. We hear constantly, in newspapers and on television, reports about the violence of these movies and video games and the connection to young children. Among new media technologies, high levels of public attention have focused on the influence of video games on children. Constant improvements in graphic technology mean that video game images are becoming increasingly realistic. They are also becoming more violent as they become more popular among adult audiences. These developments mean that children are at risk

and governments are under pressure to better ensure children are protected.

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This issue also creates demands for increased regulation of the industry. The McGuinty government took swift action on this issue in 2004 through Bill 70, which revamped the regulation of video games. These changes are reflected in the new Film Classification Act, 2005, to continue the government's commitment to parents. The new legislation improves regulation of the film and distribution sectors so that parents will get more information on the content and age appropriateness of film and video games, and children also will be unable to purchase or rent age-inappropriate material.

Ontario has been collaborating with other jurisdictions across Canada to develop ways to implement a more common national film classification system, a system that is based on uniform standards and partnerships to deliver services. We have, for example, been collaborating with other jurisdictions through the Interprovincial Film Classification Council of Canada. This council was set up in January 2003 to develop a strategy for creating a common national classification system for film and video games. This initiative has been co-chaired by Ontario and British Columbia. In January 2004, the working group recommended ways to streamline services and harmonize standards to develop a more uniform classification system across Canada. In fact, the direction taken in our new legislation in relation to video and computer games is reflective of the direction provided by the interprovincial council.

This government believes that a new, modern legislative framework will allow Ontario to enter into future partnerships with other jurisdictions for the delivery of film classification services. As well, this government has committed to exploring service delivery partnerships with other jurisdictions to reduce costs to the government and improve services to consumers and businesses.

We must also make sure that there are strong enforcement measures in place, and this new legislation does just that. It creates a framework of penalties for video game retailers who sell age-inappropriate material to children by allowing the government to adopt and enforce the well-known classification ratings of the industry-based Entertainment Software Rating Board.

In addition, new waves of media technology are expanding the media marketplace and challenging previous definitions of film and the capacity of governments to regulate these technologies. The McGuinty government recognizes the need to address gaps caused by emerging technologies. Video on demand, video games and wireless technologies are among the growing forms of new media.

This new media is converging with traditional media technologies such as, as we know from the past, 35mm film, home videos and television, to create a more sophisticated marketplace for visual entertainment. We believe the rapid pace of technological change challenges

our existing regulatory framework and compels government to develop innovative regulatory strategies, and this is just exactly what we are doing. Greater collaboration with the federal government may be required to develop a comprehensive approach to regulating new media, such as addressing some of the content that is available over the Internet.

With modern distribution channels and more global forms of entertainment technology, the film marketplace is no longer just an interest of local government. The new Film Classification Act allows for meeting changes in the marketplace. It reflects changes in technology, and it initiates new approaches to government service delivery.

I want to emphasize that this government is committed to building partnerships with the private sector, partnerships that will work to make Ontario strong, healthy and prosperous. We agree with the US Federal Trade Commission's recommendations that media industries should do more. For example, media industries should provide clearer and conspicuous information on ratings and the presence of violent content.

Yes, they should enforce compliance with classification policies. That's why we fully support the Retail Council of Canada's recent Commitment to Parents initiative, which ensures that consumers buy or rent video games suitable to the age of their children. This program is giving consumers the tools they need to really understand video game ratings and make the right choices.

We also understand that retailers are voluntarily involved in this program. They include the Bay, Zellers, Best Buy, Blockbuster Canada, EB Games, Future Shop, Radio Shack, Rogers Video, Toys "R" Us and Wal-Mart, and we applaud them. These retailers are displaying store signs that promote awareness of the Entertainment Software Rating Board's rating system, and they agree not to sell or rent games rated mature or adult-only to underage children and customers.

I am pleased that with this initiative our government is once again partnering with the private sector to bring about much-needed change as we work to streamline, modernize and harmonize video game classification. The McGuinty government, the retail council and everyone in this room share a common goal—yes, we do. We want parents and consumers to have the information they need to select or recommend age-appropriate titles for children and youth. We want the information we provide to be as clear and objective as possible. Yes, we believe it will be with the support of our partners in the film exhibition and distribution industry that good things will happen.

I want to stress that the McGuinty government is not modernizing this legislation in a vacuum. We are not going alone. We have spoken with parents, consumers and the film distribution and video game industry to develop a balanced and effective system.

With this legislation to modernize Ontario's film classification system, the McGuinty government is once again delivering real, positive change that will make Ontario strong, healthy and prosperous, and will certainly allow parents to respond to the needs of their children in

an appropriate manner when it comes to video games and film. I am proud of our government's ability to provide a balanced and effective response to the many stakeholders affected by this much-needed legislation.

In summary, I am delighted to say that the legislation will achieve the following four objectives: It will align the film classification and approval system with the rulings by the Ontario Superior Court of Justice in the Glad Day Bookshop incident; it will respond to changes to the marketplace and emerging media technologies, such as video games; it will create a more modern and responsive legislative framework that is harmonized with best practices in the government's consumer protection legislation; and it will allow for a more common national film classification system that is based on harmonized standards and shared ways of delivering services.

I'm delighted to have had this opportunity to follow the minister in this presentation this evening. I hope this House will see to it that we move Bill 158 along to conclusion.

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Mr. Ted McMeekin (Ancaster–Dundas–Flamborough–Aldershot): It's my pleasure to be here this evening to tell you about the McGuinty government's legislation to modernize Ontario's outdated film classification system.

It is important to recognize that this system covers not just movies shown in theatres, but also DVDs, videos and computer games. It's a system that affects virtually everyone in this province. Most especially it affects those who are most vulnerable to media influence: our children and adolescents.

As a member of this august provincial assembly who spends a lot of time talking to his constituents in the great riding of Ancaster–Dundas–Flamborough–Aldershot, I can tell you that parents are legitimately concerned and worried about what their kids watch. They're worried about the kinds of values that get shaped as a result of viewing habits, and more and more parents are cluing in to the important need to monitor what's happening.

I say that because this government is seeking to reflect that desire to monitor carefully what our kids and adolescents are exposed to. It's a really important job, and one that we on this side of the House take very seriously. I know it's one that the minister takes seriously. The minister wasn't appointed to his august office because he was wandering around wondering what he was supposed to be doing. He knew very quickly that he had an obligation to work with our partners to bring forward this important initiative, and I'm not at all surprised that he's done that.

Speaker, I'm pleased to tell you that this new legislation takes a very balanced approach that responds to the need of parents and consumers for a safe and informed marketplace. I don't think anybody in this House would say, even on a bad day, that they wouldn't want a safe and informed marketplace for these kinds of products.

Interjection.

Mr. McMeekin: Indeed, as my good colleague says, that's why we're here.

I want to share, if I can, a bit of background on the Theatres Act and some of the reasons it's so important that we update it. Then I'll describe, with your indulgence, Mr. Speaker, some of the changes the McGuinty government proposes in this new legislation: changes that are really important, changes that reflect this government's commitment to improving the way it serves and protects consumers. It's the kind of thing we do every single day in the Ministry of Consumer and Business Services.

As you know, Bill 70 was just an introduction, in a very real sense, to this government's awareness of important consumer issues, and this is a natural follow-up to that. I'll talk about how this government is planning ahead to deal with new media challenges and the new emerging technologies that my colleague mentioned a few moments ago.

We're living in a new age. I'm part of that older generation that's on the computer highway looking for the off-ramp. But my children are very much into this. As a parent, I want to say for the record that I don't ever want to stand in my place on any piece of legislation in this House and deliberately or inadvertently do something that, with a little more thought, I should have realized would not be in the best interests of my kids and of everybody else's children and grandchildren as well. That's not why we're sent to this place, Mr. Speaker, is it? I know that from your own experience you concur in that.

I want to point out that this government has taken time to very closely examine the current Theatres Act. We recognize that the act has not kept pace with other changes in the marketplace. It's legislation that has not been updated for 40 years. Even the member from Niagara Centre, when he made his comments, said we need a whole new Theatres Act. He was right. Mr. Kormos is often right about these important legal issues.

Minister, it's good to know we have that support on the other side of the House, isn't it?

Hon. Mr. Watson: The next brochure will have that in there.

Mr. McMeekin: There you go.

In addition, numerous amendments over the years have resulted in what can only be described as a patchwork quilt of policies that, we need to underscore, contain a number of obsolete provisions, pathetically archaic language and standards that are often at odds with modern standards. As a result, the McGuinty government decided it was necessary to repeal the outdated Theatres Act and replace it with modern legislation that truly meets the needs of the 21st century.

I know my colleague from Hamilton East understands the importance of keeping pace with the changes around us. She has children too, and I know she's concerned about the kind of material they have access to.

This government has recognized that to deliver real, positive change, reforms were needed that would

modernize standards, respond to the emerging media technologies that Mr. Brownell outlined and actually provide opportunities to improve enforcement. We've had a number of stakeholders talk to us about the importance of this particular issue. Mr. Richard Norlock, a retired OPP officer—so profound in his observation—said, “It is in the best interest of our community to have at its disposal a classification system which enables citizens, especially parents, to be informed of key elements in movies, video and other electronic entertainment.” You and I both know, Mr. Speaker, that Mr. Norlock knows of what he speaks. His years of experience as an OPP officer have led him to make that kind of observation, which is very positive and entirely in keeping with the initiative of our government.

Equally important, our government believes that these reforms will help parents guide their children's viewing, both now and in the future. The new Film Classification Act we have developed reflects changes in the marketplace. It also reflects changes in technology and initiates new approaches to government service delivery. We're forever hearing that government needs to keep pace, and I'm pleased to say that virtually every day this government shows all too clearly to the people of Ontario its willingness to keep pace with important changes they're demanding of a progressive, forward-looking government.

The new legislation ensures that consumers will be better informed about film and video game classifications and better able to make responsible age-appropriate viewing choices. That's got to be good news for the people of Ontario.

Mr. Jeff Leal (Peterborough): It's great news, not good news.

Mr. McMeekin: Wonderful news.

The new act gives Ontario legal authority to regulate the film exhibition and distribution industries and to ensure their compliance with the modern marketplace. It puts in place a system for ensuring that children and adolescents are not able to rent or buy mature or adult-oriented films or video games. I know the esteemed member from the Ottawa area—

Hon. Mr. Watson: Lanark.

Mr. McMeekin: —from Lanark, concurs in that. Over the years, I have watched his career blossom in this place, and from time to time he gets up and speaks so eloquently of his concerns about our young people.

This act continues, I should point out, the authority of the Ontario Film Review Board to classify films according to age appropriateness and to provide content information about age-appropriate viewing.

Changing out-of-date legislation takes time, but we recognize that some issues just can't wait. That is why in April 2004, as part of Bill 70, the Minister of Consumer and Business Services, through the statute law amendment act, moved to introduce interim measures to address growing public concern about violent video games and their impact on children.

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These changes will be reflected in the new Film Classification Act to continue the government's very clear commitment to parents. These measures would let the Ontario Film Review Board adopt video game classifications provided by the industry-based Entertainment Software Rating Board. The measures would also prohibit retailers from selling or renting adult-oriented video games to children and youth. Who, I want to ask, in this chamber would be against something like that?

Many of you here today are aware that children's exposure to movie and video game violence has indeed become a significant public policy issue worldwide, especially with the development of even more advanced information technologies. Among new media technologies, high levels of public attention have focused on the influence of video games on children. After all, video games have come a long way, as the minister noted, since the days of Pac-Man and Pong.

Interjection.

Mr. McMeekin: What's wrong with Pong? It was exciting. I used to enjoy playing Pong, and when ping was there, we played ping-pong.

In any event, constant improvements in graphics technology mean that video game images are becoming increasingly realistic and often very, very frightening. I've seen some of these graphics. We've had a virtual tour of some of the material that we're trying to protect people from. They're also becoming more violent as they become more popular among adult audiences. These developments simply mean that children are at greater risk and governments are under pressure to ensure that children are better protected. Who would not want to ensure that we can better protect our kids?

We haven't done this in isolation. We've reviewed the literature on media violence, and do you know what? We've learned some valuable lessons from those findings, and the findings are consistent. One of my colleagues referenced some of them earlier, and I want to reference some additional material. The 2004 Media Violence as a Risk Factor for Children tells us clearly that exposure to media violence results in increased aggressive behaviour amongst kids.

Mr. Leal: Direct linkage.

Mr. McMeekin: Direct linkage, as my colleague says; it's true. There is ample outward and visible evidence of this process, this reality. In other words, viewing violence in movies, videos and video games does in fact lead to changes in children's values that favour the use of aggressive actions and aggression to solve conflicts. We're peaceful people in this place. We don't want to see that happen.

Teens who play violent video games do worse at school and are more likely to get into arguments with their teachers and be the initiators of physical aggression, physical fights.

Interjection: Bullying, probably.

Mr. McMeekin: Bullies too. Bullying is a serious problem in lot of our schools today. One is only left to speculate, based on the anecdotal research that has been done, that there is probably a very good link between violent videos and games and the tendency in some quarters to resort to bullying.

While media violence is not the only or most important cause of aggressive behaviour, it is certainly one of the critical factors leading to it. Given the evidence that exposure to media violence increases aggression, this government believes it's important to reduce our youth's exposure to that very violence. With the introduction of our new legislation, the McGuinty government is once again taking action.

This new legislation ensures that parents are provided with information on the content and age appropriateness of films and video games. Children will be unable to purchase mature or adult-oriented material. Who in this place, Mr. Speaker, would want it any other way?

In addition, this government is fully aware of how accessible adult or mature movies and video games are becoming to underage audiences. The minister made some reference in his opening remarks to the results of a survey that was conducted by the US Federal Trade Commission in 2004, and do you know what that study indicated? It was frightful. Sixty-nine per cent of teenage shoppers were able to buy video games rated for mature audiences—69%. Eighty-one per cent were able to buy R-rated DVDs. Disgusting. Thirty-six per cent were successful in buying tickets for admission to restricted films at movie theatres.

Mr. Peter Kormos (Niagara Centre): How does the bill stop it?

Mr. McMeekin: The bill clearly outlines how it stops it.

With so many new games coming on the market every day, it's more important than ever—and I know the member from Welland understands this—for parents to really understand the video game rating system and make sure that the games their children play are appropriate to their age. That's what the video rating system is all about, I say to members in this House. That's how we plan to stop it.

We agree with the US Federal Trade Commission's recommendations that media industries should do more to self-regulate. For example, media industries should provide clear and conspicuous information on ratings and the presence of violent content, and they should enforce compliance and classification policies. That's not a bad idea, to put an actual classification on the products.

I expect that, working with our partners, we in this great province of ours can enforce that. That's why we fully support the Retail Council of Canada's recent Commitment to Parents initiative, which ensures that consumers buy or rent video games suitable to their age. This program is finally giving consumers the very tools they need to really understand video game ratings and to make the right choices.

My colleague mentioned some of the retailers who are voluntarily involved in assisting this government with this important initiative.

Interjection: An impressive list.

Mr. McMeekin: It is an impressive list. I want to recount it again for a moment, because it is such an impressive list. We have some very significant partners. Minister, I want to congratulate you and your wonderful staff—Oliver Martin, in particular; Derek Nighbor and others; Nicholas Todd—who have done an exceptionally wonderful job.

Mr. John Milloy (Kitchener Centre): He's a first-rate minister.

Mr. McMeekin: Working with a first-rate minister, as my colleague points out; a top-drawer minister who has been able to work with—

Interjection.

Mr. McMeekin: Listen to this list, member: the Bay, Zellers, Best Buy, Blockbuster Canada, EB Games, Future Shop, Radio Shack, Rogers Video. It would make a very good one, I think—Toys "R" Us and Wal-Mart. All these responsible corporate citizens understand the importance of putting in place a system that—how to put it?—is in the best interests of the people of Ontario. We in this government certainly understand that, don't we, Minister?

Hon. Mr. Watson: We do, yes.

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Mr. McMeekin: We do indeed.

These retailers are displaying store signs that promote awareness of the Entertainment Software Rating Board's rating system. Every single one of them has agreed not to sell or rent mature or adult-rated games to underage customers. It's the role of government to move society forward. I think that's a good forward step, don't you? Don't members of the House think that to be the case?

I'm pleased that with this initiative, the McGuinty government is once again partnering with the private sector, a very caring private sector, to bring about much-needed change as we work to better serve the needs of parents and video game consumers. The McGuinty government, the retail council and everyone in this chamber certainly share a common goal: We want parents and consumers to have the information they need to select or recommend age-appropriate titles for children and youth.

Mr. Leal: To make the right decision.

Mr. McMeekin: That's right, to make the right decision. We want that information we provide to be as clear and objective as possible. Regulations to this new act will set out classification categories for film, detailing the age restrictions and conditions that will apply in each category. These categories are identical to the categories used by other provincial film boards across Canada. So we're not only working with our partners here; we're working with our partner governments across this great nation. Standardization will provide more consistent information to the many consumers who are confused by the current overlapping and inconsistency of classification information.

Ontario has been collaborating with other jurisdictions across Canada to better develop ways to implement this common national film classification system, a system based on uniform standards and partnerships to deliver service. We have, for example, been collaborating with other jurisdictions through the Interprovincial Film Classification Council of Canada. This council was set up in January 2003 to help develop a strategy for creating a common national classification system for film and video games. This initiative has been co-chaired by Ontario and British Columbia. In January 2004, the working group recommended ways to streamline services and harmonize standards to develop a more uniform classification system across Canada. In fact, the direction taken in our new legislation in relation to video and computer games is reflective of the direction provided by the interprovincial council.

This government believes that a new, modern legislative framework will allow Ontario to enter into future partnerships with other jurisdictions for the delivery of film classification systems. The government has committed to exploring service delivery partnerships with yet other jurisdictions to reduce cost to the government and improve services provided to consumers and businesses.

We must, at the same time, make sure that there are strong enforcement measures in place, just like Bill 70 made sure there were strong enforcement measures in place. There's no sense having laws unless you have strong enforcement, right? We're just wasting our time if we do that. The new legislation, by the way, does exactly that. It creates a framework of penalties for video game retailers who sell age-inappropriate material to children, by allowing the government to adopt and enforce the classification ratings of the industry-based Entertainment Software Rating Board.

New waves of media technology are expanding the media marketplace and challenging previous definitions of film and the capacity of governments to regulate these technologies. The McGuinty government recognizes the need to address gaps caused by emerging technologies. Video on demand, video games and wireless technologies are among these growing forms of new media. The new media is converging with traditional media technologies, such as 35mm film, home videos and television, to create a more sophisticated marketplace for visual entertainment.

We believe that the rapid pace of technological change challenges our existing regulatory framework and, indeed, compels government to develop innovative, new regulatory strategies. Greater collaboration with the federal government may indeed be required to develop a more comprehensive approach to regulating new media, such as addressing some of the content that is available over the Internet.

With modern distribution channels and more global forms of entertainment technology, the film marketplace is no longer just the interest of one level of government; it's the interest of all of us. So I want to stress that the

McGuinty government is not modernizing this legislation in a vacuum. We've spoken with parents, consumers and the film distribution and video game industries to develop a balanced and effective system, because legislation is always about being balanced and effective.

With this legislation to modernize Ontario's film classification system, the McGuinty government is once again delivering real, positive change that will make Ontario stronger, healthier and more prosperous. I'm indeed privileged and proud to stand in my place, a member of Mr. McGuinty's government, a government which is showing its ability to provide a balanced and effective response to the many stakeholders affected by this much-needed legislation.

Again, I want to celebrate and applaud the efforts of the good Minister of Consumer and Business Services, his wonderful staff, all of the partners who have worked so collaboratively together to make this possible, so that we can expand on the context and provision of this new and very important legislation.

With those few remarks, I take my seat and urge all members of this Legislative Assembly to get on board and support this important initiative to protect the people of Ontario.

Mr. Bob Delaney (Mississauga West): On a point of order, Mr. Speaker: I'd just like to take a moment to introduce two residents of Mississauga West, Mike Parkhill and Dan Shaw from the Microsoft IT Academy, who are making their first visit to the House and to the members' gallery.

The Acting Speaker: That was not a point of order, but we welcome your guests to the chamber.

Questions and comments?

Mr. Garfield Dunlop (Simcoe North): I'm pleased to rise this evening to make a few comments on Bill 158, An Act to replace the Theatres Act and to amend other Acts in respect of film. My initial reaction was that this was a type of housekeeping bill. I felt that that was where the government was going with it, and our caucus members felt the same way. But as I listen around the room tonight, there may be some other points that I'm not really understanding at this point.

I do want to congratulate the minister for bringing the bill forward. I think this minister has been fairly fortunate with his bills. He has had a couple of housekeeping bills, as well as the bring-your-own-wine act that was passed just before Christmas. I wasn't really in favour of that bill, but on the other hand, you have to look at the type of legislation that has been brought forward. I've been trying to get the minister I'm critic for, Mr. Kwinter, to bring some legislation forward; I've had no opportunity to debate anything yet. I'm hoping that we will get some of those opportunities before long.

Anyhow, I look forward to further debate. I know that in a couple of minutes Mr. Martiniuk and Ms. Munro will be doing our leadoff tonight. I don't know if they're going to spend the whole hour on it or not; I was under the impression that it might have been a little bit shorter than it is this evening. However, I look forward to debate.

I also look forward to listening to the member from Niagara Centre and his comments, because I know he's concerned about it as well.

With that, I appreciate this opportunity to stand and make these initial comments.

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Mr. Kormos: Indeed, Speaker, New Democrats look forward to the opportunity to participate in the debate.

Let's make something very clear: This McGuinty government didn't somehow, in an enlightened way, say, "We have to revise the Theatres Act here in the province of Ontario." They were dragged kicking and screaming into the 21st century by virtue of the ruling of Judge Juriansz, a ruling which generously gave them one year to respond to the ruling. Here we are running tight against the deadline, and the government, pulled and dragged kicking and screaming into the 21st century, has rapidly retreated back to the 19th century with what is nothing more, once again, than a censorship regime.

This bill does the very thing that the Superior Court in this province told this government they could not do. This bill does the very thing. This bill retains the censorship role, the censorship power of the government, which the Ontario Superior Court told the government they did not have. They were wrong, dead wrong.

Mind you, the government didn't go willingly. You recall the history of the matter. Did they understand, in the first instance, that the arguments made so capably on behalf of Glad Day Bookshops Inc. should prevail? No. They made Glad Day Bookshops Inc. appeal the matter to the Superior Court, and appeal the matter they did. The government, of course, didn't have to think twice about appealing Judge Juriansz, because Juriansz is right. But once again the government, with this bill, has proven itself wrong.

Mr. Leal: Indeed, I've been very impressed this evening with the leadoff remarks from the Minister of Consumer and Business Services, my colleague from Ancaster-Dundas-Flamborough-Aldershot and my good friend the member for Stormont-Dundas-Charlottenburgh.

When I've had the opportunity to look at this bill and what the intent is, I think of my own family. My son, Braden, is six years old and my daughter, Shanae, is five years old. I think of the kind of access that they have today—the DVDs they can get, the access on the computers—and I believe one of the jobs of Legislatures is to try to bring the future into the present. That's exactly what Bill 158 is all about: taking the future and bringing it into the present to provide some protection for the youngest and most vulnerable citizens in our community.

I would just like to note that the act will apply not only to movies shown in theatres but to videos, video games, digital video discs and film advertising: things we didn't know about 40 years ago. I thought a violent scene was the chariot race in Ben-Hur, but we know we've gone a long way from that particular thing.

Regulation-making authority will allow for the Lieutenant Governor in Council to prescribe classifications for categories of film as well as to designate other bodies for this purpose. A person or body may also be designated to review and classify film, reconsider the classification of a film, determine whether a film should be approved, determine whether a film is exempt and hear appeals to classification decisions.

I see Bill 158 as a very important piece of legislation. We heard very clearly tonight the clarion call that was put out by the minister and my two colleagues about why this piece of legislation is really essential for today's Ontario: again, to protect those most vulnerable people in our society, our children, who are our future.

The Acting Speaker: There is time for one last question or comment.

Mr. Bill Murdoch (Bruce-Grey-Owen Sound): Here we are again at night, the first day here, and we're debating a bill, Bill 158, something to do with the Theatres Act. Our health care is going to rot and you guys over there are worrying about this kind of stuff. I can't believe it. Then the member over there has the gall to clap the minister on the back and say, "Oh, I've got to tell you how great your staff are." Let's talk about his staff if you want to bring them into it. Let's talk about our birth certificates. Heck, we have people who are born who are going to die before they get their birth certificates. They'll be applying for their death certificates. Your staff, wherever they are on these birth certificates—

Mr. John O'Toole (Durham): They're on holidays.

Mr. Murdoch: —must be on holidays, as Mr. O'Toole says.

I noticed that the member is still calling it the McGuinty government. Boy, that's a dangerous thing to call it. I even noticed the other day that Minister Bountrogianni said, "the government." She's forgotten the name McGuinty, *which I understand you want to forget.

So here we are again: Health care is going down the tubes, and you guys over there are talking about this. When are you going to find out what you're doing to our province? You're letting the people down. You got in with all kinds of promises, and then this is all you can come up with. I can't believe it. It's 8 o'clock at night, and we're here talking about this. Why wouldn't you bring in something—and we have the, what do you call the guy over there?

Mr. O'Toole: The Minister of Energy.

Mr. Murdoch: No. You're right that he's the Minister of Energy, but he has another job too. He's the House leader.

It's your job to get things going around here. But if you're going to sit over there and talk about it, then maybe we should be saying to you, "Can you not bring something to this House that means something?"

I know that you have to do this because some judge told you to do it.

Next we'll be doing the pit bulls. The pit bulls are your biggest reason to get back here.

You got your wine that you're all worried about. You can drink your wine now. You got candy bars out of the schools. But you don't want to talk about the real issues here, the health issues.

You guys have got to be out there. People must be telling you, "Hey, get something done about our health care."

The Acting Speaker: One of the government members has two minutes to reply.

Hon. Mr. Watson: After that ramble by the honourable member, I just don't know where to begin.

I know that I've received many compliments from his constituents, who have thanked us for cleaning up the mess in the birth certificates backlog that he left us. If I have to continue to do the work for the honourable member, I'd be more than pleased to do so for the good people of Bruce-Grey-Owen Sound. If they want to come to me because they find their own member incapable of dealing with these weighty issues, I'm more than pleased to continue doing that work.

But we're here to talk about the film review board.

Interjections.

Hon. Mr. Watson: I know that I hit a raw nerve over there. When they cut the Office of the Registrar General by 13%, we didn't hear any squawking back then. So we're cleaning up that mess.

We also are quite pleased to bring forward Bill 158, because we believe that not only is it the right thing to do, but we obviously have a court decision; the honourable member may not have much faith in our court system.

I remember Randy White. Do you all remember Randy White, when during the last election—this guy even looks a little like Randy White—he said, "To heck with the courts," this contemptuous attitude toward our legal system?

We support and respect the legal system and the process. We are obviously obligated to bring in legislation, and we're quite pleased to bring in Bill 158. It's the right thing to do.

The member talks about issues not being important. Well, we had a very important debate earlier today to make Ontario smoke-free. That is a very important piece of our platform that we're bringing forward.

Interjection.

Hon. Mr. Watson: If the honourable member wishes us to move forward, and he doesn't want to spend time on this, I'm quite prepared to ask for unanimous consent to pass the piece of legislation right here. I challenge the member to put his money where his mouth is. I ask for unanimous consent to pass this piece of legislation forthwith.

The Acting Speaker: The Minister of Consumer and Business Services is seeking unanimous consent to pass this bill forthwith, I think he said. Is there consent of the House? I heard a no, surprisingly enough.

The member for Cambridge.

Mr. Gerry Martiniuk (Cambridge): I will be sharing my time with the member for York North and

possibly the member for Durham—he's the cleanup guy—and the former minister.

We're dealing with Bill 158, but I must make comment on my seatmate. I have the honour of being seated with Mr. Murdoch, who gives me many hours of pleasurable comment on this side of the House. Today, in the Sun Times of Owen Sound we have the headline, "Murdoch Meaford's White Knight?" It's good alliteration. In any event, it would seem that Meaford is having difficulty on their finance committee and put out invitations to interested public citizens to come forth and serve on the finance committee, and they had four volunteers.

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First of all, let me tell you, Mr. Murdoch is probably one of the hardest-working MPPs in this House. He works day and night, and we all acknowledge the time he puts in. But he took the initiative as a public-spirited individual to serve on the finance committee for Meaford. I think that speaks highly of his calibre.

Now Mr. Murdoch did admit, "I'm not the mathematician they might want or the accountant by any means, but I do have some experience how you handle certain situations, and maybe I should be lending it to my council." So, as a public-spirited citizen, the chairman of the finance committee stated, "We are going to recommend to council that we accept all four people who applied," which includes my good friend and colleague Mr. Murdoch, "and we'll put them on the finance and administration committee as soon as we can." On the other hand, the clerk administrator, Mr. Rick Holland, said, "The terms of reference for appointing public members to the committee have yet to be worked out." There seems to be something of a conflict there. However, I am sure they'll solve that problem, and Mr. Murdoch, on top of his many other duties, will have a new duty assisting his municipality. He is to be commended.

As I said, we are dealing with Bill 158, An Act to replace the Theatres Act and to amend other Acts in respect of film. Now this bill comes about not as an initiative of the government but as an initiative of a judge, one Russell G. Juriansz, and I'm sorry if I'm mispronouncing his name. However, he was the Ontario Superior Court of Justice judge who heard an appeal in regard to the Queen and Glad Day Bookshops Inc. That was heard on October 31, 2003, and the judgment given some time later on April 30, 2004.

Now, the case just dealt with a film which an inspector for the government purchased. When they say "film," I assume it was a videotape or possibly a DVD; however, they referred to it as a film. I believe under the act it makes no difference as to the technology of the vehicle. The film was purchased by the inspector acting on behalf of the government, and it was determined that in fact it had not been approved or classified by the appropriate classification committee prior to its sale and, therefore, they were charged.

This case took some four years, I believe, and there was an intervener, being the Canadian Civil Liberties

Association—four years. As a matter of fact, I remember listening to, I believe, one of the owners of the bookstore, and I believe they are no longer in business.

Unfortunately, justice in our province and our country is extremely expensive. Lawyers do not come cheap and, in many cases, justice is ill-served by the very cost. In this case, if my memory serves me correctly, they did go out of business basically as a result of this litigation, which took a trial and then, subsequently, an appeal—a very expensive procedure.

In any event, the judge found that certain of the legislation that applied—in particular, the censorship legislation—was not valid or was invalid under the charter of our country and found certain sections to be inapplicable therefore, but he suspended his judgment for 12 months, and that 12-month suspension and time was given to the government. The government was directed to bring the applicable act or law into conformity with the judgment.

I'm sure many watching, being laymen and not trained in the law, would be somewhat surprised that a judge has the power to not only find a particular section invalid or unconstitutional but, in addition to that, also to order an elected body such as the Legislature to do certain things. That order was in fact made. Judges expend substantial amounts of money in this country even though they are, in effect, totally unaccountable to the public in that they are appointed for life.

So the reason we're dealing with this bill is not, as I mentioned, an initiative taken by the government but simply that a judge has ordered that this Legislature change the law in regard to classifications of material that could be considered obscene, and that's that. I can't imagine anyone voting against this bill, though we have yet to hear from the NDP. I can't knock Minister Watson at this stage for dealing with this bill, because he has no choice. A judge has ordered this to be dealt with, and unfortunately we're here.

I would much rather be dealing with birth certificates, which come under Minister Watson's jurisdiction. I have complained in the past, and I know that every member in this House deals with the matter of birth certificates daily. I sat down with my secretary and I said, "I'd like you to give me an example"—the worst-case example, let's be fair—"of what is happening with this ministry."

Interjections.

Mr. Martiniuk: We've got to talk about Bill 158 and the priorities of this government. Is the priority to bring the birth certificate system into the 21st century, or is it not? As I say, I had asked my staff to give me a very short memorandum dealing with the workings of this ministry, because in dealing with this bill, we have to look at this ministry and its efficiency. They gave me an example of a constituent who applied for a birth certificate in my office on 10 December 2004.

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The Acting Speaker: Will the member for Cambridge take his seat? The Minister of Consumer and Business Services has point of order.

Hon. Mr. Watson: Mr. Speaker, this is not on the topic of Bill 158. I remind the honourable member, the last time he asked a question about birth certificates, he brought the House down. So I'd ask that he go back to the relevance of 158.

The Acting Speaker: Thank you. I'm listening intently to the member for Cambridge and I hear him talking about Bill 158. I would once again recognize the member for Cambridge.

Mr. Martiniuk: Thank you, Mr. Speaker.

The minister would like to hide the truth. He just wants to cover things up. He has great difficulty in taking criticism. I've noticed that he gets uptight if you mention something that may be untoward within his ministry. It really is a shame that he takes that attitude, because things can be improved in my office; they can be improved in your office. You shouldn't be trying to cover things up all the time. Let a little sunshine in. Let's see what's really going on. Let's turn over the rock and see the light of day.

In any event, on 10 December 2004, we requested an expedited service, as he was travelling on 14 February.

Hon. Mr. Watson: On a point of order, Mr. Speaker: Clearly this has nothing to do with the film classification system. I'd ask that the Speaker ask the honourable member to adhere to the rules. All members on this side, when we spoke on the issue, spoke about the film classification system. I would encourage the member, if he has a question about another aspect of my ministry, to raise it in question period. Let's stick to the facts. We had another member on the opposite side talking about wasted House time. I would ask—

The Acting Speaker: Thank you very much. I return to the member for Cambridge and I would ask him to continue to debate the bill at hand.

Mr. Martiniuk: As I said, Mr. Speaker—and I've now been interrupted—

Mr. Kormos: And I haven't even spoken yet.

Mr. Martiniuk: You're going to have fun with—Minister Watson is very grouchy today and he really doesn't want to hear any criticism. You know, he spends his life—I've seen him on television so many times gadflying from bar to bar with his bottle. It's delightful. I think he has visited all four bars in Ontario that are taking advantage of the bill dealing with bring-your-own-wine, a bill that cost this province millions of dollars in time and costs to pass. Minister Watson is the one who spent those millions of dollars so that he could gadfly on television from bar to bar while we were waiting and waiting for our birth certificates.

Here we have a man trying to get a birth certificate on 10 December 2004 to travel on 14 February 2005. We followed it up. You know, you can't get through to Mr. Watson's department. They asked me the question, "What do we have to do to talk to someone in the office of the Registrar General when we have an urgent question?" And do you know what the answer is? You wait 48 hours. That's how urgent things are in Mr. Watson's ministry. That's the quick time. If you phone

them under ordinary times and you don't tell them it's an emergency, you may not hear from them for months and months.

Mr. Murdoch: You may never hear from them.

Mr. Martiniuk: You may never. As a matter of fact, I have a death certificate—poor woman; she lost her husband. How long does it take to get a death certificate in this province? They advertise 43 weeks. That's what they say. It takes 43 weeks to determine that somebody has died and to issue a certificate. But you can't get it in 43 weeks. That's just false advertising put out by the ministry. We are still waiting.

You can't travel with young children if you don't have a death certificate.

Mr. Murdoch: Birth certificate.

Mr. Martiniuk: No, a death certificate.

Mr. Murdoch: Oh, you've got to have a death certificate now too?

Mr. Martiniuk: Yes. If you're travelling with children, especially to a place like Mexico, you have to show that you're married and have the spouse's consent to the travel, and if you can't get the consent because that spouse happens to be dead, then of course you have to provide a death certificate. I went through this some little while ago.

The Acting Speaker: I would have to ask the member from Cambridge how this relates to Bill 158.

Mr. Martiniuk: I'm talking about—

Interjection: The incompetence of the ministry.

Mr. Murdoch: It ties into 158, the incompetence of the ministry. The minister's a great guy.

Mr. Martiniuk: Well, we're not talking about incompetence. Mr. Watson is an honourable person and tries hard, but he has physical constraints imposed by other people and unfortunately can't perform as I'm sure he would like to perform. Instead of that, it takes over a year to get a death certificate.

What does this have to do with Bill 158? As I say, when we're dealing with this bill, we have to examine it with the background of the minister who is proposing this bill and the ministry and the staff and their competence in the drafting and presentation of this bill. Unfortunately, I have somewhat of a problem with that. When it takes over one year to get a death certificate—

Interjections.

Mr. Martiniuk: They're laughing over there, and they think it's a joke. Let me tell you guys, it's not a joke. This is the worst-case scenario. I'm being fair with you. This lady could not travel. She could not visit with her relatives. She was in bereavement, she had young children and we couldn't help her because this ministry says it takes 43 weeks before this lady, this widow, can travel. That's happening right across this province, and it's not funny, Minister. It is not funny at all, and something has to be done. I really mean that. It's not right

Here we are dealing with Bill 158. The presentation is delightful. It's not, "A judge ordered us to do this and let's do it," it's, "We came up with this wonderful bill."

Sorry, it's not a wonderful bill. It's a bill we have to do, unfortunately, and at great expense by the way. It's not cheap.

Mr. McMeekin: Do you support it?

Mr. Martiniuk: Yes, we support it.

So there we are, on April 30. The Ontario Superior Court judge, on appeal, ruled that Ontario cannot censor gay videos. Now, most censorship has long disappeared. A little section of the Theatres Act required that all films be rated before they could be viewed in theatres or purchased as videos for the home. While Canadian films are rated without charge, the Ontario Film Review Board imposes a fee of \$4.20 per minute. Because of the classification law and the large amount it costs to have a film rated, some distributors of LGBT films do not sell their products in Ontario.

In 2000, as we related, the police charged the Glad Day Bookshop for selling a video of a gay adult film, *Descent*, that had not gone through the classification process. Glad Day, Canada's first gay bookstore and the second-oldest in the world, faced a fine of up to \$100,000, and its owner could receive an additional \$25,000 fine. So you can see it was a serious matter for these relatively small businessmen. A fine totalling \$125,000 is to many people an enormous sum of money.

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The Superior Court judge ruled that the review board's extremely broad powers violate the rights and freedoms section of the Canadian Constitution. The mandatory submission of films and videos to the board for its approval prior to their distribution and exhibition infringes on the fundamental freedom of expression guaranteed by the charter. The judge also criticized the board's ability to order cuts or edits in films to be distributed in Ontario, which could leave the impression that the final product was what the producers intended or even alter the intent of the film. The judge stayed his ruling for one year to allow the government to amend the law. If it does not, the ruling will go into effect. This legislation is the government's effort to conform with the Superior Court ruling.

What this bill does is repeal the Theatres Act and enacts a new act entitled the Film Classification Act, 2005. The act governs the classification and approval of films and the exhibition and distribution of films. The act provides for offices of director, deputy director, registrar and deputy registrar. The act authorizes the Lieutenant Governor in Council to, by regulation, prescribe categories of film, prescribe classification schemes to be used in classifying film and designate categories of film that may not be distributed unless they have been approved. The Lieutenant Governor in Council is authorized to designate persons or bodies to carry out various enumerated functions, including reviewing film for the purpose of classifying it, reconsidering a classification decision, determining whether a film should be approved, reconsidering an approval decision and determining whether a film is exempt under the regulations from a provision of the act.

The act places various prohibitions on the distribution and exhibition of film, including prohibitions relating to unclassified film, unapproved film that belongs to a category of film for which approval is required and film that does not indicate its classification or approval.

Mr. Murdoch: This is exciting, you know. If the minister hadn't given us such a hard time, we could be talking about something important.

Mr. Martiniuk: Probably.

The act requires persons distributing or exhibiting film to be licensed, and it establishes a licensing application process that affords an applicant the right to request a hearing before the Licence Appeal Tribunal when that person's application may be refused. The right to request a hearing is also available when the license may be suspended, revoked or have conditions attached to it.

The designation of inspectors is provided for. Inspectors have general powers to inspect the business premises of a licensee without a warrant and may order a person to turn over film that the inspector has reasonable grounds to believe is being distributed or exhibited in contravention of the act. If a person does not comply with the order, the inspector may apply for a warrant and seize film that is not turned over. A person who has turned film over or had film seized may apply to the director for the release of the film. The director may release the film if he or she determines that there was no contravention, or may direct that the seized film be forfeited to the crown if there is a contravention and in other specified circumstances.

The appointment of investigators is provided for. Investigators may apply for warrants to search premises when they reasonably believe a contravention of the act or regulations has occurred. Investigators may seize a thing named in the warrant, and anything else in plain view, if the investigator believes it will afford evidence of a contravention.

Where the investigator seizes film that he or she believes was distributed or exhibited in contravention of the act and no proceeding is commenced in respect of the film, a person may apply to the director for the release of the film. The director may release the film or direct that the seized film be forfeited to the crown.

The act deals with various general matters and contains provisions that establish offences and penalties. The minister is authorized to establish various fees under the act, including fees that are payable by a person who submits film for classification or approval. The Lieutenant Governor in Council may make regulations dealing with a range of matters under the act.

That is the end of my presentation. We're going to have to determine which order follows.

The Acting Speaker: I would say to the member for Cambridge that you have to indicate if you're sharing your time.

Mr. Martiniuk: I did at the beginning.

The Acting Speaker: I'm sorry. I missed it.

Interjection.

The Acting Speaker: I apologize, and I appreciate your clarifying that. I recognize the member for Lanark-Carleton.

Mr. Norman W. Sterling (Lanark-Carleton): Thank you very much for the scintillating introduction. The Ontario Film Review Board has provided a very valuable function over the last 30, 40 years. I must say that I approach this matter from a very different angle than my friend Mr. Kormos does, because I believe that the Ontario Film Review Board has, over the last 40 years, provided huge protection for a very vulnerable group in our society, particularly our children, in preventing many of them from seeing violence—vile violence, human sadistic violence—which has been illustrated in films and brought to Ontario from afar in an attempt to show the general public this kind of violence, which I believe is unhealthy. It's wrong for our society to expose our children and the general populace to this kind of smut, muck and rot.

It has been a very, very difficult task for the Ontario Film Review Board to go through this particular process. I can only imagine that as the Ontario Film Review Board looks through films, they try, with the best of intentions, to allow artistic expression to be provided to the public and freedom of expression to dominate their decisions, but I think they have in the past saved a great amount of potential harm to our population in general.

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While my friend Mr. Kormos might argue that he would like to see no censorship, I would argue that the present level of censorship, in my view, has never been so onerous as to exclude true artistic expression in our society. The people who have attempted to skirt, avoid, get around these particular regulations usually are people who are not what I would term as the true artistic community, and as such, I do not have a lot of empathy or sympathy with their particular motives.

The problem with this particular piece of legislation is that it seems to be neither fish nor fowl. I'm not certain, when I read the legislation, whether the government is maintaining, through the Ontario Film Review Board, the right of censorship or is not retaining that right of censorship. The legislation is unclear as to the intent of the legislation. I think it's unfair to this Legislature to have a piece of legislation which is ambiguous in its application. They talk about the requirement of a distributor to come forward and apply for a classification. Then there is, mixed in with the language, what appears to be a right of censorship by the board in the final analysis, but it's unclear what the particular guidelines would be with regard to what would be allowed in and what would be allowed outside of that. It leaves very much of the legislation to the regulatory power.

Because the legislation is so ambiguous in its intent in the way it is written, I'm not certain whether it meets the test that was set down by the court in what they were demanding of this government. So even if this Legislature does pass this legislation, we might end up, I believe on April 30—and the final decision with regard

to this matter did occur during this government's mandate—back in the courts once again trying to interpret what in fact this legislation means and whether or not it meets the test that the court set forward.

Quite frankly, I do have some concern when the court gets into matters which I believe would be better handled in this Legislature in terms of deciding where the guidelines should be and how we, as legislators, feel that any right of freedom of expression should be limited, as essentially we have in the past. I believe this legislation might mean that.

My concern with this legislation is that because it is unclear and ambiguous in the way it has been drafted, the right of censorship will be lost in total. If we had a recurrence of smut films coming forward where people in other countries were allowing themselves to be killed on film for money purposes and those kinds of films were attempted to be shown in Ontario, I would like to give the right to a film review board to say, "This cannot be distributed or shown in Ontario." I know I would get arguments from civil libertarians who might say it is up to the population to make that decision, but I would say that in these very extreme cases, censorship should apply and we should give to a group of citizens who are appointed from across the society of Ontario the right to say, "No, that's the way it is."

I might add that over the long period of time I have sat as a legislator here, I have never had anyone come to me and say that they felt a particular movie that had been censored should be shown to the public. I don't think the trust with regard to the Ontario Film Review Board has been in any way misused in terms of their classification system and the way they have run their system in the past.

You know, on two occasions, I served as the minister in this particular portfolio, and it continues to be a sore point or a problem with various parts of society. The minister is always faced with whether he should modify or change this act. I've heard in this Legislature today in the debate that this is a 40-year-old piece of legislation and that we should modernize it, we should bring it up to date, etc. Well, quite frankly, the old system worked pretty well, until we ran into this particular court decision.

My only concern with this particular piece of legislation is that I do not think it's clear enough. On the one hand, I don't think it's clear enough whether the government wants to retain the right of censorship. If they want to get rid of the right of censorship, I don't think that's clear enough. Therefore, I think it's incumbent on the government to make certain that the bill is drafted and that the intent is clear in the bill as to what they're striving for.

I, for one, would favour the retention of some kind of censorship power to the Ontario Film Review Board, as long as that film review board represents all segments of society, including the artistic community, as they have tried to do that in the past. I know this is not a popular position to take with the media, with the press, etc.,

because, of course, they are very, very ardent supporters of total freedom of expression in every way and in every regard. I understand their point of view, but I do believe that we have saved harmless many, many individuals in this province from seeing what I would call very degrading, physically abusive, disgusting pieces of film, and that the past has served us well in this regard. We should not disregard all of that history and all of that safety in the name of being progressive and moving forward.

The Acting Speaker: I'm pleased to recognize the member for York North.

Mrs. Julia Munro (York North): I'm pleased to be able to take a few minutes and join the debate on Bill 158. I think that I'd like to begin by following in the vein that was established by the member from Lanark-Carleton. Clearly, the issue around censorship has been a debate that has raged for, frankly, many, many decades: the notion, then, that society does have a role to play in protecting more vulnerable members of society from the kinds of depiction that are particularly abhorrent to it.

You know, if you look at cases, as we will in a moment, in this province, but also cases throughout the western world, there has always been a debate about the power of the whole, the state, in relation to its responsibility with regard to censorship. Really, I think some of the criticisms of the bill that we're looking at this evening point to the abdication of this issue in somewhat fuzzy legal language. Certainly, there are individuals who have spoken and continue to speak out, who recognize this kind of fuzzy language and the opportunity it provides to the whole issue around the philosophical debate about the role of society and what its true role is in this particular area.

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I think it's important to note that the government has always taken the notion that it was really important to have a film review board, something that has been with us for a very long time and whose mandate has been clarified, more or less—and obviously by this court case questioned—on the issue of classification. For those people who found the notion of censorship as too restrictive or open to debate, the question of film classification seemed to be a middle road that gave people a sense of who the intended audience was. Certainly when we look to jurisdictions such as the US, they also have a film classification process, and it's an extremely important part of the mainstream filmmaker to make sure that their film is fitting into the classification they want. Obviously there's a great deal of money at stake. If it is too selective in its audience, it may have some definite box office drawbacks.

The board has been in existence for many decades. People were chosen as order-in-council appointments—people who represented a cross-section of the community of Ontario, people who had an interest in film and in the arts, people who had varied backgrounds—in order to provide a slice of Ontario life and a broad spectrum of opinion. Their job was to view all films that came into

Ontario, to be able to classify them according to parental guidance and things like that.

The question of private videos for private use has always been a very difficult issue for people to look at in terms of where government's role really belonged. It's really in that context that we're looking at the case that came before the Ontario Superior Court. In that decision, it's important to recognize that it put the government in the position where they had to revisit the Theatres Act and look at how they might respond to this Superior Court decision. So the purpose of the bill is to amend the film-rating process as it is outlined in the current Theatres Act in order to conform with this Superior Court ruling.

I think it's important to note that this ruling was issued in April of last year, and it simply states that the existing requirements for all films to be classified prior to distribution infringes on the charter rights of freedom of expression. But when you look at the bill, as the member from Lanark-Carleton has said, there seem to be some issues there of interpretation. We certainly have members of the community who have looked at this bill and are prepared to say that it is not going to fulfill the Superior Court ruling, that it is in fact going to perpetuate the issue of censorship. At the same time, there's an opportunity to interpret this bill as the review board only having a role in censoring adult sex films that depict explicit sexual activity, degrading or violent material or children in sexual acts, and these materials then are also prohibited under the Criminal Code. So while it might at first seem that this bill is in response to that Superior Court case, it seems that at the same time it may have failed to do what it is intended to do. It may create more confusion in the area of classification.

I think what this government needs to also recognize is that in the scheme of things, this is really a diversion. Today, we are faced, as a society, with issues of far greater extent and influence through Internet pornography. I think it would be in the best interests of all of us to be looking at what steps a government can take. It seems to me, as you look at the proliferation of those porn sites and the work that is being done by our police forces across the province, that perhaps we should be talking about providing them with greater resources to be able to continue the fight on that issue. So while we look at this particular historic development of classification and the issue before the court and the response to it, we should also be looking at how we might position ourselves as supporters of greater resources to give our police forces the ability to look at this enormous proliferation that takes place through the Internet.

If we look at this bill, it isn't a question of a highly charged bill, but I do think there are some indicators here that the government needs to look at perhaps a little more carefully than they have in providing us with Bill 158. I think we need greater clarity around this bill.

With that, Mr. Speaker, I will pass my time over—

Interjection.

Mrs. Munro: He's not here. Sorry.

The Acting Speaker: Questions and comments?

Mr. Kormos: Once again, the government has made assumptions about, in this case, this particular bill, that somehow the Legislature is going to treat it as something innocuous and give it automatic approval, just let it get a free ride out of here. You've heard already in some very important contributions to this discussion that there is far more here than the government would want us to believe meets the eye.

I'm going to be speaking to this bill in but a few short minutes. There is no issue anymore. The province does not have the power to censor—end of story. The law in Ontario now is clear.

Mr. Jim Flaherty (Whitby-Ajax): Why? Because one judge says so?

Mr. Kormos: The government acquiesced, Mr. Flaherty. The government had a choice to appeal it and you know what it means when a party like the government, which has unlimited resources to conduct its appeal, doesn't appeal the ruling. The government acquiesced. The government adopted the ruling of the Superior Court judge, who ruled very clearly that the province of Ontario does not have the power, the jurisdiction, the right, to censor—end of story. Whether you like it or not, that's the law in the province of Ontario.

Furthermore, the court made it very clear that this government had but one year—one year is more than sufficient time—to clean up the entanglement of classification and censorship provisions in the existing law. I say to you that the government has failed to do that.

Some will take pleasure in the fact that the government is persisting in exercising the role of censor. I understand that. But I'm saying that all the government is doing is inviting more litigation, and litigation which inevitably they will lose, just as they lost this round in the Glad Day Bookshop trial.

I'm looking forward to joining this debate in but a few short moments.

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Mr. Lou Rinaldi (Northumberland): It's a pleasure to speak on behalf of Bill 158. It's sad to say that we as a government sometimes tend to neglect doing the right things at the right time. When we look at the legislation that hasn't been dealt with in some 40 years, I guess all of us should take responsibility that we really are not doing what we are supposed to do in this House, making sure that we pass legislation and don't forget about it but update it as we move forward to protect the interests of our citizens.

For someone like me who is new in this House, just over a year and a half, to see things that haven't been touched for 40 years—yes, it has been tinkered with—and when we look at the technology of today, especially in the IT sector when it comes to video games, CDs and all those things that I'm probably not a quarter up to speed on what all the stuff is, this is really important. We need to move forward to make sure that the people of this province are protected from things like pornography and

that we protect all those values that we as Ontarians really appreciate.

I need to give the minister credit for looking into things that have been stagnant and bringing them forward. Until we really practise something, it's very easy to forget. If we wait until something happens through not having legislation, and abuse happens, then we'll say, "We should have done something." So it's almost a no-brainer that we move forward with this legislation and get it passed just as soon as we can.

Mr. Flaherty: There is a discomforting trend in political life, in parliamentary life in Canada today, and we see it in Ontario tonight, and you heard the minister say it tonight: "The courts say so; therefore, we must do this." My goodness, one judge on a bench that has about 250 judges in the province of Ontario, one trial judge, makes a decision and the minister says, "We have to obey the law. We have to obey the courts."

Goodness gracious, this is the provincial Parliament. This is the government of the province of Ontario represented by the minister opposite. Surely it is incumbent on the government to assess its own situation, to come forward with legislation and say, "This is what we believe in. These are the standards that we wish to have in terms of pornography and violence being depicted in the province of Ontario," and not hide behind a decision of a single judge of a group of Superior Court judges who I think now number about 250 in the trial division. This isn't a decision of the Ontario Court of Appeal or the Supreme Court of Canada. And even if it were, the duty in a parliamentary democracy is for Parliament to make these decisions, not for the courts to make these decisions.

The Chief Justice of this country has said in her decisions that it's a dialogue between the courts and the Legislature. It's not a dictatorial relationship between the courts and the Legislature, including determinations under the Charter of Rights and Freedoms. And yes, the notwithstanding clause is in the charter, and yes, it's there for a reason. And yes, the judiciary in this country expects Parliament and expects this Legislature from time to time to use that clause in appropriate circumstances in a restrained way. It's part of the dialogue. It's part of judges interpreting the law and Parliament responding.

The Acting Speaker: There is time for one last question or comment.

Ms. Andrea Horwath (Hamilton East): It's my pleasure to rise and enter into this debate a small amount this evening. I look forward to the much more detailed comments that will be coming a little later on—very quickly, actually—from my colleague Peter Kormos from Niagara Centre.

But I have to say, one of the things that I noticed in the government's bringing forward of their debate on this legislation tonight was the fact that they tended to really concentrate on this issue of children and how this bill is going to protect children and make sure children aren't seeing or viewing or playing video games that are going

to be harmful in their development, I think one of the members said.

I think that if this government was very, very serious about children in the way they claim when they're talking about Bill 158, we would have seen a child care plan, a child care plan not only put together but implemented in this province by now. We would have seen real commitment to the things that children need in our province to be able to thrive and do well. Whether that's child care or, quite frankly, whether that's a change in the way that education is funded and dealt with in this province, or whether that's dealing with growing numbers of children who are living in poverty in this province, I think there are lots of opportunities that this government has to deal with concerns about children. I don't see it happening. I certainly don't see it happening in all those other areas, and I really wish the government would get down to really dealing with some of the issues that will matter to children in a major way in this province.

Unfortunately, we haven't seen that, and I don't believe we're going to see it any time soon, because the way this government is operating, it's a lot of talk, a lot of rhetoric, a lot of big-picture planning but nothing being implemented on the ground. Unfortunately, it's the children of the province who are going to suffer from a lack of attention by their government to the very burning issues that are affecting them day in and day out, community over community over community, across this province.

The Acting Speaker: That concludes the time available for questions and comments. One of the Conservative members has two minutes to reply.

Mr. Martiniuk: I'd like to thank the member for York North, my colleague and friend, and the member for Lanark-Carleton for their presentations, and I'd like to thank the members from Niagara Centre, Northumberland, Whitby-Ajax and Hamilton East for their comments.

The Acting Speaker: Further debate on Bill 158? I'm pleased to recognize the member for Niagara Centre.

Mr. Kormos: The debate is finally starting to get some form to it. People are taking positions. It was a pleasure to see Mr. Flaherty come forward on behalf of the Conservatives and stake out some unique turf, like the pit bull that he is, marking his territory in this debate. But there is more here about which this Legislature should concern itself than the somewhat glib introduction by the government would have us believe.

Let's understand what happened. You can't look at the legislation without looking at the Superior Court ruling that gave rise to it. This government didn't of its own accord say, "Oh well, it's been 40 years since the Theatres Act has been looked at. Let's look at it." No, it didn't do that. The government was drawn into litigation around charges that it laid under the historic Theatres Act. The conviction was obtained at the first instance in a provincial court. The defendant, the accused Glad Day, appealed. The first level of appeal is to a Superior Court

judge, a federally appointed judge, and the appeal was upheld. The government had a choice at that point.

The appeal was upheld in a ruling that is lengthy and a thorough canvass. There may well be people, I suspect during the course of this debate—if Mr. Flaherty, for instance, gets a speaking slot, he may well disagree. He may or may not—I don't know—but there may well be other people who disagree with the ruling. But the government, undoubtedly relying upon the high-priced help in the Attorney General's office—scores upon scores upon scores of lawyers with a great deal of experience in the courts and experience with the law—undoubtedly had its lawyers poring over the ruling of Judge Juriansz and reaching the conclusion that Judge Juriansz was unappealable in the ruling. The ruling says that the exercise of censorship powers by the government in the manner in which they were exercised in the Theatres Act was in contravention of section 2(b) of the charter. It was unconstitutional. The court was very clear.

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The court said there are two things going on here. There's classification, and the court said, "Look, classification is clearly not only within the jurisdiction and power of the province, but it's also quite legal." It doesn't contravene or offend, never mind charter rights, any other provision. So the court said there are two things going on here: There's classification and then there's censorship. The court said that censorship is a contravention of the charter, that it can't be done by the province. Classification is perfectly acceptable, and the province can choose to classify or not classify as it wishes. The judge further pointed out that he was striking down those sections of the Theatres Act which offended the charter but giving the province one year to effectively disentangle the classification sections from the censorship sections.

That was April 30, 2004. It's getting pretty darn close to a year ago now. The government waited a good, what, six or seven months before it put the bill to the Legislature on first reading, knowing full well that it only had a year. And now the government is feeling hard pressed for time because the deadline is rapidly nearing.

The problem is that the bill before us now has contained within it very clear censorship powers for the government. This bill continues to contravene 2(b) and contravene and violate the letter and spirit of the ruling of the Judge Juriansz. In fact, Alan Borovoy, of the Canadian Civil Liberties Association, which was an intervener in this litigation, who is one of the great legal minds of our time and a great Canadian, wrote to this government in December cautioning them, admonishing them, that they had missed the mark, missed the mark by a long shot. In part, that letter to the Attorney General from Alan Borovoy, on behalf of the Canadian Civil Liberties Association, in making reference to the 12-month time frame that the government was given by the court to clean up the problems with the Theatres Act—the problems that offended 2(b) of the charter—wrote, among other things, that "The grace period was not

intended to authorize fresh exercises of prior restraint censorship." "Prior restraint" is the language that's used throughout the ruling and throughout the arguments. "Prior restraint" is the censorship provisions.

Now, before we go any further, let's get right down to the offensive section in the bill that flaws this bill so thoroughly, such that if this bill were to pass, it only invites yet another round of litigation, à la Glad Day, to be struck down again. We talked about two powers here. One was classification and the other was censorship or prior restraint. Language is used in the existing regime, the one that was struck down by the court, about classification versus approval. The classification process is exactly what it appears to be. It's classifying a film, putting a label on it, tantamount to the nutritional label on your can of soup telling you how much fat, how many calories, how much vitamin B or C or how much cholesterol. The classification is a consumer guide. The approval is the censorship. The film is either approved or it's not. That's what censorship was. It was under the legislative regime that was struck down by the court and, regrettably, in terms of what the government was told to do by the court, it exists in the existing legislation.

Take a look very carefully at the new bill. In particular, take a look at—I want to indicate that, once again, here is a bill that is very much a shell, because the body, the guts, the viscera, are by regulation. All of us know how incredibly dangerous that is, because we're debating and are exposed to only a piece of the puzzle. The rest of that puzzle, contained in regulation, is going to be decided and determined not after debate here in the Legislature but in the secrecy of a one-man show, the Premier-dominated Premier's office/cabinet room. That's one of the problems when you relegate—look, we all understand regulatory power in a bill to provide, basically, at the end of the day, ways of putting together loose ends or ways of being flexible in responding to changing conditions out there. But the very guts of this bill is in the regulations. We have no idea what the substance will be in terms of classification. We have no idea what the criteria will be for classification, what the standards will be. For all we know, the classification could be, "This film has very good lighting; this film has very bad lighting. This film has very good focus; this film has very bad focus." For all we know, that's what the classification could be, because it's not in the bill.

I do want you to take a look first at section 6. Section 6 is with respect to classification. That's what the court said the province clearly had the power and the prerogative to do without being in violation of any charter provisions etc. Section 6 says, "The Lieutenant Governor in Council may, by regulation, prescribe a classification scheme" etc., etc., etc. The subheading of that is "Classification using prescribed scheme."

But go to section 7. This is the problem. You've got a very serious problem with this bill, because you're doing exactly what the court told you you couldn't do:

"The Lieutenant Governor in Council may, by regulation,

“(a) designate one or more categories of film for the purposes of this section;

“(b) designate a person or body to review and approve or refuse to approve films in a category designated under clause (a).”

The approval of a film is precisely how prior restraint, censorship in the existing regime is achieved.

So you have in Bill 158 powers to enact regulations that permit classification, and we don't know what the heck those will be. Those are all fuzzy and vague and could be anything weird or wonderful. But you also have, under section 7, power to create regulations for the approval or non-approval of films, and the approval or non-approval of films is exactly what's happened to date in terms of the board exercising its statutory censorship powers. It either approves or doesn't approve a film. That's censorship. That's how it's achieved the censorship goal to date, and that's how, under this new legislation, it will purport to achieve it then.

It's equally interesting that this very same minister but weeks ago paraded legislation in this chamber, surely the highlight of the government's legislative year: bring-your-own-wine. With reference to bring-your-own-wine, this minister had much to say about the maturity of Ontarians, their ability as sophisticated people to make decisions for themselves, their sophistication, their discrimination. The minister had nothing but the highest of regard for Ontarians. He said, “They're capable people. They don't need a nanny state telling them whose wine they can drink in a restaurant. This is the 21st century. Surely, we have enough regard for Ontarians to let them bring their own bottle of wine.”

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So on the one hand, the minister is saying that surely Ontarians have got the maturity to determine for themselves whose wine they're going to drink in a restaurant, but he's saying, “Oh, no,” in the Dalton McGuinty nanny state, this paternalistic, this ban your sushi, ban your pit bull, ban your nurses regime—

Interjection: No smoking.

Mr. Kormos: —and no smoking on patios—will tell you also what you can and can't see. I hear the critics revving up their engines right now.

Let's make another observation, because Judge Juriansz interestingly pointed out—he made this as an aside. What do lawyers call this? Obiter, I think they call it, don't they, Mr. Flaherty? Mr. Flaherty can tell us. I think he would tell us that this is obiter. But he made this reference, nonetheless. Judge Juriansz pointed out that other expressive media in Ontario do not have to be approved by a government authority before they're circulated to the public. The Ontario government hasn't created boards that have to approve books, plays, art exhibitions, concerts or other forms of performance before the public may have access to them. Subsequent prosecution under the Criminal Code—not prior restraint, but subsequent prosecution. Prior restraint is not classification, to make it very clear; prior restraint is censorship. Subsequent prosecution under the Criminal

Code deals with objectionable and harmful content in other media.

Judge Juriansz also took judicial notice—and other commentators have made reference to this new 2005, 21st century, high-tech world—and that was notice of the ability of Ontario residents to download video from the Internet, to view and record films and videos broadcast on cable, pay and digital television channels. Such videos and films are not subject to the Ontario Film Review Board's review. In fact, reference was made to this at the very introduction of this bill when it was observed that, amongst other things, not only can people download anything under the sun, with no scrutiny and no capacity to scrutinize on the part of the government, via their Internet access and their PC or their Apple, similarly, video, film and video games contained on DVD discs are so inexpensive to manufacture, so light and compact in size—that's why they are called compact discs, I suppose—so cheap to mail, to distribute, that there is no control whatsoever over the access that any Ontarian has to literally anything under the sun. It's just a reality.

But rather than going to the most extreme and absurd example, let's take the obvious observation by Judge Juriansz that, interestingly, in Ontario, books, theatrical productions, art exhibitions, concerts or other forms of performance are not subject to approval or review by a government authority before the public may have access to them.

Let me make something very clear: There is nothing in this legislation which would prevent a five-year-old from buying the most adult of adult videos. I made a phone call during the supper break. I had to talk to some of my consultants, because we were going to be embarking on this debate. So I talked to a nephew and a niece, Spencer and Nicole Brown, and then I talked to another pair of nephews, Nicholas and Joshua Losier-Brown. I said, “Look, you've got to help me,” because I want to know what kinds of movies Nicholas and Joshua—they're in preschool. Bob the Builder—I have seen Bob the Builder movies. SpongeBob SquarePants—and no, it's not a matter of, “Is that a sponge in your pocket or are you just happy to see me?” This is SpongeBob SquarePants. I have never seen a SpongeBob SquarePants movie, but I've seen the promotions.

In the year 2005, are we telling the manufacturers—well, this bill does—and distributors of Bob the Builder and SpongeBob SquarePants videos that they've got to submit their film? They do. This law says that they've still got to submit Bob the Builder and pay \$4.20 a minute so an Ontario Film Review Board can view—how long is a Bob the Builder film, Mr. Duncan?

Hon. Dwight Duncan (Minister of Energy, Government House Leader): It's 15 minutes.

Mr. Kormos: OK—to view it so that they can give it its seal of approval? There's something a little silly about that, isn't there?

I took a look at Manitoba. Manitoba, interestingly, has a number of exemptions around film that obviously—Bob the Builder or SpongeBob SquarePants or Dora the

Explorer, I don't know. But I'm assured by my consultants, Spencer Brown and his sister, Nicole Brown, and then the youngsters Nicholas Losier-Brown and Joshua Losier-Brown, that Dora the Explorer is not Debbie Does Dallas by a long shot, OK? We understand that Dora the Explorer is a kids' film and that the distributor of Dora the Explorer, according to this government, should have to buy a licence—that's what the legislation says—and should then have to submit Dora the Explorer to the film review board so they can pay \$4.20 a minute to run Dora the Explorer, I guess after they watch Bob the Builder. We need an Ontario Film Review Board to tell people—if you've ever seen Bob the Builder, you know it's a kids' movie. This is not Johnny Holmes; this is Bob the Builder. I just find it a little silly that this government, which talks about bringing government and legislation into the 21st century, talks about submitting obvious children's films, cartoons and movies to even a review process, when it's just plain outright obvious, plain outright patent that the film is children's content and designed for kids.

Having said that, Nicholas and Joshua Losier-Brown are a little too young to be on the Internet. They will be in short order, because they're bright kids. Their cousin Spencer Brown, who's a little older but still very much a minor, would have no difficulty whatsoever, I tell you, downloading, never mind the Bob the Builder, but yes, very much, Debbie Does Dallas.

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That's the observation made by Judge Juriansz. That's the observation that has to be made about this bill. This bill does nothing, absolutely nothing to inhibit, control—never mind prohibit—little kids' access to adult material. It is not an offence in this legislation or anywhere else for a retailer to sell—I don't know; what are some of the titles of adult stuff, Mr. Duncan? Thank you—stuff like Mr. Duncan just referred to, to Spencer on the Internet.

Mrs. Liz Sandals (Guelph-Wellington): He didn't say anything.

Mr. Kormos: Spencer can download without any state supervision—in fact, the state is incapable of supervising—some of the most outrageous adult content that you've ever seen. Spencer Brown can mail order to himself from jurisdictions outside of Ontario adult content that would rot your socks, that would cause you to blush, Speaker, without any government capacity to supervise it.

We're being very clear. Yes, I think it's important that consumers be able to access information about the product that they're buying. I think it's incredibly important. To the extent that the province can do that, well, the province should do that, and the province can do that with a classification scheme. But I'd encourage this province to take a look at what Manitoba has done. In fact, there's been more than a little bit of regard paid to Manitoba's classification scheme, because they abandoned the censorship role a long time ago. The last I read and the last I visited Winnipeg, it hasn't become Sodom and Gomorrah. Winnipeg and Steinbach are far from the

Sodom and Gomorrah of Canada, and they haven't had a censorship regime for a good chunk of time. In fact, as I've said, they exclude or exempt a significant number of videos from even a requirement that the distributor or person displaying that video has to undergo the expense of the \$4.20-a-minute charge.

For instance, general how-to and exercise films don't have to be submitted, so Bob Vila Does Drywall doesn't even have to be submitted for classification. The classification regime there is one which is contemporary and mature and designed not to perform, contrary to the charter, an act of censorship but to perform the important consumer support role of advice. In other words, films about which there is—here is an example: “violence towards human or animal characters; physical or physiological abuse or humiliation; blood or gore; depictions of death or injury to humans or animal characters; derogatory ethnic, racial, religious or nationalistic stereotypes or symbols; coarse language; the use of drugs, or encouraging the use of alcohol or tobacco; offensive gestures” etc. It's not exhaustive. If a film contains any of those things, it has to be submitted for classification so that the potential viewer or purchaser can be warned.

There is nothing in this government's bill that restricts a five-year-old's access to adult material—nothing. This government, when it talks about using this bill, Bill 158, to somehow protect children against horrifically violent film or video games simply isn't being straight, not with us in the Legislature and not with the people of Ontario, not with the public watching.

Look, we've got a Criminal Code. Folks should take a look at section 163, which is the operative section when it comes to obscene material. I, for one, would be pleased to see the federal government, one Mr. Martin, stepping up to the plate and fulfilling some of his obligations. Some reference has been made to the resource handicap that our police forces work under when it comes to tracking down child porn, when it comes to tracking down some horrific pornography on the Internet, when it comes to the victimization of kids in the course of producing child porn. But take a look at what section 163 says and what constitutes, at first blush, if I can say, “obscene”: “Any publication a dominant characteristic of which is the undue exploitation of sex, or of sex and any one or more of the following subjects, namely, crime, horror, cruelty and violence....”

So one of the things that our federal legislators have done is conceded that a video or a video game can be horrifically, exhaustively, exclusively preoccupied with cruelty and violence, yet it won't be obscene, because if there's no sex it can't be obscene. Do you understand what I'm saying? Our federal government has decreed that a video game or a video can be preoccupied solely with the depiction and exploitation and glorification of crime, horror, cruelty and violence and nothing else—it holds no artistic merit whatsoever—yet without the sex, it's not obscene.

Now the government here says it wants to protect young people against video games that we are told are

preoccupied with violence and glorified violence and engage the player, the participant, in violence. There is nothing in this legislation that will achieve that particular end, nothing whatsoever: nothing that will restrict an adult from giving it to a kid and nothing that will restrict a kid from buying it for himself or downloading it for himself or herself on the Internet, using any one of those high-tech notorious means that have changed the way commerce even works.

I note that in the United States, and I suspect it will soon be happening in Canada, Blockbuster, the video distributor, doesn't even require you to come to the store. You register, you pay a monthly fee, and Blockbuster sends you your videos by mail and then you put them back in the mail. It's like the old record of the month club or Book of the Month Club schemes that you may recall from when you were younger. That's just an illustration. The DVD, as we know it, has an expiration date. By the end of this year, there will be competing technologies, with high-definition DVD and the prospect, if you take a look—do you know what the iPod is? You can learn about it on the computer. The iPod, a little unit the size of—heck, I don't know—a deck of cards has huge megabyte capacity and not only contains songs now but contains images. You've seen those new iPods that you put your thousands and thousands of photographs on.

So if we're talking about the transmission, distribution and sale of images and sounds, we ain't seen nothin' yet. And this bill does nothing—nothing—to address or control or in any way regulate children's access to some

very, very, very, I agree, inappropriate stuff. The government somehow thinks it has discovered the link between depictions of violence and behaviour. Heck, the LaMarsh inquiry, which the province of Ontario commissioned back in the late 1960s or very early 1970s by Judy LaMarsh, was very much a pioneer in that regard. She canvassed popular media at the time and canvassed experts, had a province-wide roaming inquiry and drew some conclusions about the appropriateness of children's exposure to these things. But I say to you, a video label that says, "violence, gore, blood and guts, gratuitous to the nth degree"—I don't know about the kids you know, but the kids I know will be drawn to that like a moth to the back porch light bulb.

At the end of the day, what we're really talking about is the need to give parents the tools necessary so that they can fulfill their responsibilities to their children. Isn't that what we need? Isn't it really about the nutritional label on the soup can, rather than the government trying to, in this instance, illegally re-enter the realm of censorship and causing more grief for itself and the litigants who will undoubtedly litigate with the government at great expense to themselves and once again, just as they did in Glad Day Bookshop, defeat the government in the courts?

The Acting Speaker: Thank you very much. It being 9:30 of the clock, this House stands adjourned until tomorrow afternoon at 1:30.

The House adjourned at 2130.

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