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Official Report of Debates (Hansard)

Monday 22 November 2010

Journal des débats (Hansard)

Lundi 22 novembre 2010

**Standing Committee on
General Government**

Good Government Act, 2010

**Comité permanent des
affaires gouvernementales**

Loi de 2010 sur la saine
gestion publique

Chair: David Oraziotti
Clerk: William Short

Président : David Oraziotti
Greffier : William Short

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
GENERAL GOVERNMENT**

**COMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES**

Monday 22 November 2010

Lundi 22 novembre 2010

The committee met at 1402 in room 151.

The Clerk of the Committee (Mr. William Short): Good afternoon, honourable members. It's my duty to call upon you to elect an Acting Chair. Are there any nominations?

Mr. Lou Rinaldi: I would like to nominate Donna Cansfield as Acting Chair.

The Clerk of the Committee (Mr. William Short): Ms. Cansfield, do you accept the nominations?

Mrs. Donna H. Cansfield: I do.

The Clerk of the Committee (Mr. William Short): Any further nominations? Hearing no further nominations, I declare the nominations closed and Ms. Cansfield duly elected as Acting Chair.

(8) That the research officer provides a summary of the presentations on Friday, November 26, 2010, at 10 a.m.

(9) That, for administrative purposes, amendments to the bill be filed with the clerk of the committee by 12 noon on Friday, November 26, 2010.

(10) That the committee meet on Monday, November 29, 2010, for clause-by-clause consideration of the bill.

(11) That the committee clerk, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

The Acting Chair (Mrs. Donna H. Cansfield): Thank you, Mr. Zimmer. Any comment, debate? Seeing none, all those in favour? Shall it carry? Carried.

SUBCOMMITTEE REPORT

The Acting Chair (Mrs. Donna H. Cansfield): The first item on the agenda is the subcommittee report.

Mr. David Zimmer: Your subcommittee met on Monday, November 15, 2010, to consider the method of proceeding on Bill 110, An Act to promote good government by amending or repealing certain Acts, and recommends the following:

(1) That the committee intends to hold public hearings in Toronto on Monday, November 22, 2010, and Wednesday, November 24, 2010.

(2) That the committee clerk, in consultation with the Chair, post information regarding public hearings on the Ontario parliamentary channel and the committee's website.

(3) That interested parties who wish to be considered to make an oral presentation contact the committee clerk by 12 noon on Thursday, November 18, 2010.

(4) That the committee clerk distribute to each of the subcommittee members a list of all the potential witnesses who have requested to appear before the committee by 1 p.m. on Thursday, November 18, 2010.

(5) That, if all witnesses can be accommodated, the clerk be authorized to commence scheduling of witnesses.

(6) That all witnesses be offered 10 minutes for their presentation, and that witnesses be scheduled in 15-minute intervals to allow for questions from committee members, if necessary.

(7) That the deadline for written submissions be 5 p.m. on Wednesday, November 24, 2010.

GOOD GOVERNMENT ACT, 2010

**LOI DE 2010 SUR LA SAINE
GESTION PUBLIQUE**

Consideration of Bill 110, An Act to promote good government by amending or repealing certain Acts /
Projet de loi 110, Loi visant à promouvoir une saine gestion publique en modifiant ou en abrogeant certaines lois.

MS. RINA ANGELSTAND

MR. ADAM BARNARD

MS. GYNEYA DICKS

MR. BILL SEIGFRIED

The Acting Chair (Mrs. Donna H. Cansfield): If I could call the first presenters to the table, please: Rina Angelstand, Adam Barnard, Gyneya Dicks and Bill Seigfried.

Thank you very much for attending the committee. If you could please state your names for Hansard. You have 10 minutes for your presentation and then we have five minutes for questions from the committee.

Mr. Bill Seigfried: Bill Seigfried, representing the hotel employees in Kitchener-Waterloo and Cambridge.

Ms. Gyneya Dicks: Gyneya Dicks, representing the employees in Ottawa.

Mr. Adam Barnard: Adam Barnard, representing the employees in Kitchener-Waterloo-Cambridge.

Ms. Rina Angelstand: Rina Angelstand, representing employees from London, Ontario.

The Acting Chair (Mrs. Donna H. Cansfield): Thank you. Please go ahead.

Ms. Gyneya Dicks: Good afternoon, members of the Legislature, and thank you for the opportunity to appear before you today. We've travelled a long distance to be here, and are from the ridings of Yasir Naqvi, Minister Madeleine Meilleur, Minister Deb Matthews, Minister John Milloy and MPP Elizabeth Witmer, amongst others.

We wish to address our concerns with Bill 110 as they relate to the Alcohol and Gaming Commission of Ontario.

My name is Gyneya Dicks and I am part of the employee "get out the vote" campaign for the upcoming provincial elections in the Ottawa area, as well as an employee in the hospitality sector.

Commencing with the recent municipal elections in Ontario, we jointly organized over 600 employees in one ward to raise awareness of our issues and to effect change whilst bringing focus to our needs, and also as a measure to protect our own livelihoods.

As employees, we represent the most vulnerable group that has faced the consequences of the actions of the AGCO in the past, and we will continue to do so in the future. That is why we urge you as our representatives to take our concerns seriously. Specifically, our concerns stem from the fact that both currently and in this bill there are no provisions that prevent the registrar/CEO from seeking closures of licensee establishments. These closures result in innocent employees, such as us, facing the prospect of scrambling to pay bills and put food on the table. This is the fear that we live with on a day-to-day basis, and the consequences of the actions of a government agency funded by us as hard-working taxpayers, many of whom make minimum wage and work long hours on weekends and late nights when the bureaucrats at the AGCO are enjoying the luxurious benefits afforded under the Ontario public service.

I am not being frivolous. If you look at the salary disclosure list before you, there are over 40 service personnel earning over \$100,000 at the AGCO, whilst the top three personnel—the CEO/registrar, deputy registrar and the director legal—who seek closures jointly earn over \$1 million before indexed pensions kick in. Additionally, they are virtually guaranteed job security. They, it would seem, also make more than the members of your panel who sacrifice your evenings and weekends away from family to represent the hard-working people of Ontario.

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We have asked the owners of our establishments why we have to face this, and it seems that despite having to pay over \$20,000 in legal fees just to defend themselves at a hearing, they are then faced with the limitless taxpayer-funded legal coffers of the AGCO to drag the owners through all levels of court to secure a conviction. The reality is that they are unable to defend themselves as they would go bankrupt doing so. Is it any wonder

why we are made to understand that this commission has had a budget deficit of \$5 million? In this day and age, can any agency leadership be allowed to carry on this way? We question who is watching this agency and our welfare.

Respected members of the panel, moving the appeal process to the licence appeal tribunal will not solve the fundamental problems that plague this agency. The enormous power and ability of the registrar/CEO to seek closure of establishments, throwing mothers, students and employees such as the dishwashers out of work, should be prescribed by the Legislature under the Liquor Licence Act. It cannot and should not be overridden by an opaque and bureaucratic process with no discernable criteria and no temporal limitations. Further, under this bill the government proposes to allow the tribunal the ability to determine all questions of fact or law that arise in matters before it. Is that not compounding the problem even further? Why not allow a review by the courts?

I will ask my colleague Rina to address you now.

Ms. Rina Angelstand: Speaking on behalf of employees, I would like to draw consideration to the types of events that occur in our lives if a licensee was to lose a licence, even just for a small period. I myself have been employed in the hospitality industry for 21 years, and I support my family this way. If I was to lose work due to a licence being pulled for an infraction that may not have occurred under my influence, I would not be able to put food on the table. During the time I would be off of work, I would not be able to afford to secure a position for my children in daycare. The way that daycare works in Ontario, generally, if you cannot secure a position, they do not save a space for you to return. If I was to be off work even as little as two weeks, this could affect my ability to return to work as I'd have to pull my child from the daycare, as I'm not making money and I can't pay for daycare. Then when my position becomes available at work again, there's nowhere for my daughter to go. I'm now a welfare-receiving, stay-at-home mom totally against action of my own and against my will. I also represent other employees who aren't just parents but employees who don't even work next to the alcohol itself; people who work in the kitchen, the dishwashers, students. There are many, many different levels of people who will be and who are strongly affected by these types of decisions.

Mr. Adam Barnard: I'm Adam Barnard. I'm speaking about very similar-type stuff. Just in reference to students, I'm currently a University of Waterloo student working on my undergrad there. As Rina said, pretty much any amount of time off caused by suspension, even if it was no cause of my own, would pretty much make it impossible for me to pay tuition for next term. I earn just enough now to afford what I have allotted for living expenses and my car, living and tuition, so that when my tuition bills came in, I wouldn't be able to pay them, and universities aren't very forgiving as to late payments. You get it in or you get removed from your classes, which is kind of being penalized for something that

has—although I wasn't involved in it, I'm taking the blunt of the blame. I'm a bartender, so although if we were closed—even taking away a liquor licence kind of eliminates my job. I can pour pop but that's about it. Like I said, it's going to pretty much stop me from being able to attend school because of no action of my own.

Mr. Bill Seigfried: I'm Bill Seigfried. I asked that the committee look at the current legislation that gives the AGCO very little choice when dealing with sanctions against licensees other than to suspend the licence. We're here to plead with you to consider monetary penalties versus the licence suspension. Monetary penalties serve the same purpose and send a strong message of deterrence to the licensee while allowing the establishment to continue operating without unjustly punishing the innocent staff members of the establishment, it being extremely difficult at any time, let alone in the current economic conditions, for a licensee to cease operations in a highly competitive market and to again regain momentum upon serving out that suspension. Guests just find another place to go, and we are very unlikely to return to the same revenue levels immediately following a suspension.

It is unjust that other sectors of business in this province do not live under the threat of having their ability to operate suspended when they find themselves accused of being in reproach of regulations within their industry. How many sectors of business under the governance of the province see their ability to operate taken away as frequently as those in our industry?

The Acting Chair (Mrs. Donna H. Cansfield): Excuse me. I just want to let you know that there are a couple of minutes left.

Mr. Bill Seigfried: A 2006 study by the Canadian Tourism Human Resource Council found the following statistics: Food and beverage services employed the youngest labour force, with 48.1% of all employees being between the ages of 15 and 24. Over 60% of those workers were part-time, and a full 28.4% of those workers were pursuing higher education while working part-time in the industry.

By interrupting these businesses and in many cases irreparably damaging their ability to succeed, the sanctions being imposed by the AGCO are causing unjust financial harm to the youngest workers, who, in a vast majority of the cases, were not directly or perhaps even indirectly responsible for the contravention of the act. These workers are working to save for education, rent and the basic necessities of life.

By sanctioning the business and, as an extension, the licensee with monetary penalties, the board can still provide a clear deterrent to those licensees, perhaps even more so than by suspending their licence, without jeopardizing the viability of the business and the welfare of its employees.

Thank you very much.

The Acting Chair (Mrs. Donna H. Cansfield): Thank you very much for your presentation. I will now turn to the opposition for questions or comments. Mr. Clark.

Mr. Steve Clark: I want to thank you very much for your presentation. Certainly, in my first job when I was a student going to the University of Waterloo—although I had another job; I had two jobs at the time. I was a dishwasher-busboy. If I dropped the tray, I'd go back to being a dishwasher; if I was okay, I'd stay as a busboy. So I appreciate the constraints in the business.

I'm interested, Mr. Seigfried, in your comments about monetary penalties. I just wondered if the group here had any idea of a suggested model, whether there was a penalty that you would suggest the committee consider specifically.

Mr. Bill Seigfried: I believe that currently—and Mike Lerner could correct me—there are a certain number of infractions under the Liquor Licence Act where the board may impose monetary fines. However, there are the big five—over-serving, overcrowding—there are a number of infractions where that ability of the board to impose monetary sanctions is not available. The only thing available to them is suspension.

Mr. Steve Clark: Aren't you worried a bit that if there were monetary penalties, they would be done on the backs of the staff; that hours would just get cut back and you'd be in the same boat?

Mr. Bill Seigfried: I think that currently, just to fight an allegation is very costly for the licensees. They can spend upwards of \$20,000, \$50,000 or \$100,000 going through the appeal process, and at the end of the day the AGCO currently has a near 100% conviction rate.

The Acting Chair (Mrs. Donna H. Cansfield): Thank you, Mr. Clark. Mr. Kormos.

Mr. Peter Kormos: Thank you kindly. It's an interesting proposition, and it's not been put to us in a—I appreciate your using this opportunity to make the point but, regrettably, there's nothing in this bill that we can amend. There are no amendments that we could put forward to give effect to any of the concerns you raise. I think you're basically asking for more discretion in terms of the penalties imposed, right?

Mr. Bill Seigfried: Correct.

Mr. Peter Kormos: That's not a difficult proposition.

You should have all applied separately. That way, each one of you would have had 15 minutes. Maybe you wouldn't have been stiffed for time.

Thank you very much for coming. It's an interesting proposition. It will come up during the course of other discussions about legislation that's more on point. Thank you.

The Acting Chair (Mrs. Donna H. Cansfield): Are there any further questions, comments?

Seeing none, thank you very much for your presentation, and thank you for taking the time to come and present to the committee.

Mr. Peter Kormos: Who came from where?

Ms. Rina Angelstand: London, Ontario.

Mr. Adam Barnard: Kitchener.

Ms. Gyneva Dicks: Ottawa.

Mr. Peter Kormos: Even though the subcommittee doesn't discuss it, we arrange for reimbursement for

people who travel from out of town, the same mileage you or I would get if we were travelling in the province of Ontario.

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The Acting Chair (Mrs. Donna H. Cansfield): Thank you very much, Mr. Kormos. That has to be discussed at a subcommittee, so we'll put that on the agenda for the next meeting of the subcommittee.

Mr. Peter Kormos: If you people, before you go, would just leave contact information and your mileage, we'll try to get you reimbursed for at least the mileage.

The Acting Chair (Mrs. Donna H. Cansfield): We'll put that on the agenda for the next committee.

Again, thank you very much for your presentation.

MR. MICHAEL LERNER

The Acting Chair (Mrs. Donna H. Cansfield): Our next presenter is Mr. Michael Lerner. Thank you very much for coming to present in front of the committee. You have 10 minutes. Please read your name into Hansard and say where you're from.

Mr. Michael Lerner: Thank you very much. My name is Michael Lerner. I'm from London, Ontario. I just hope that I can express my position as eloquently as the people who preceded me, who are really the troops at ground level and who are most dramatically affected by the legislation as it now stands.

First of all, the legislation that is being considered is a significant improvement from what it was before. The very fact that the adjudicative authority is being taken away from the Alcohol and Gaming Commission and transferred to the Licence Appeal Tribunal addresses one issue that I have been actively involved in over the past several months.

I have a motion pending before the Alcohol and Gaming Commission alleging that there is a reasonable apprehension of bias because of the proximity of the relationship between the adjudicative, the administrative and the enforcement branches. They're all in the same office. They all communicate and socialize together. You can just imagine the chagrin of a licensee who comes before this tribunal and in fact has seen hearings adjourned in mid-afternoon so the adjudicator and the prosecutor can go out fishing, as they did in Thunder Bay a couple of years ago. So we laud this very, very important transfer of the authority to the Licence Appeal Tribunal.

I'm not here on behalf of my client licensees to ask you to water down the legislation. My clients strongly believe in enforcement and believe that the liquor laws in this province ought to be enforced. What we're asking you is not to allow establishments that break the law to get away with it. We're not asking you to weaken the laws as they presently exist. What I'm asking you to do is, as the group before us did, put another bullet in the chamber of the adjudicative tribunal so that it can fine, as well as revoke and suspend licences.

Under the Occupational Health and Safety Act, if an employee is killed on the job site, you don't close down

the construction company. You don't send all the construction workers home and say, "Come on back in 30 or 60 days and we'll let you go back to work." You impose a fine commensurate with the offence that's been committed. In this particular case with the Licence Appeal Tribunal, if it had the ability to fine, it wouldn't be a death sentence for some of these licensees who come before it.

We all know and believe in the principle of progressive discipline. You don't take privileges away from your children right off the bat. You speak to them. You may have them stand in the corner. You may have them write things out one or two times before you get to the ultimate penalty. But in this case, the ultimate penalty is the only penalty available to the tribunal when it hears offences of this nature.

The fact that it puts employees out of work, in my humble opinion, puts the people who can least afford it out of work. These are people who actually work for less than minimum wage because they factor in the fact that they are going to get tips and gratuities. You have students, as the student who sat in this very chair before me. You have single parents. You have people who have established a family business, who have no record.

In fact, if you added up the number of years that the business of one of my clients has been licensed, it's 153 years without a blemish on the record. But for the first offence, he now runs the risk, if the registrar gets his way, of being closed down for 45 days. I suggest to you that it is totally inappropriate, and this has been allowed to exist far too long.

I hope that this committee and subcommittee and the government can pull together from all sides to make sure that the concerns of people such as those who appeared before you, before me, are taken into consideration.

One of the members asked about fines. I believe that a range of fines is what is preferable, so that the tribunal—depending upon the nature of the offence, depending upon the record of the licensee, depending upon all the circumstances—can impose a small fine, a medium fine, or in some cases a heavy fine.

I, for one, believe that you have to keep the suspension and revocation provisions in the legislation, because I believe that there are some cases where you have habitual offenders who ought to lose their licence or ought to be suspended for a period of time—but not somebody who has conducted business and supported the community through charity and community events for a number of years who finds that his licence is suspended and that ultimately could put him out of business. That very situation recently occurred in Leamington, Ontario, where a licensee who had no previous record had his licence suspended for 60 days and he never opened up again. A number of people who worked there were all put out of work.

If we're going to punish, let's punish the offender, not the innocent people who may not even be at work when the offence is committed. That's another point that I wish to bring to your attention.

I don't want to take up all of your time—I know there were others before me—but I believe that this legislation can be significantly improved by giving an authority to the Licence Appeal Tribunal that does not presently rest with the Alcohol and Gaming Commission, and that's the authority to impose a range of fines depending upon all the factors I've suggested that don't presently exist. That will make this better legislation for the licensees and for the employees, and I believe it will make it better for the public too, because you will still recognize the importance of liquor licence regulation and enforcement in the province.

The Acting Chair (Mrs. Donna H. Cansfield): Thank you very much for your excellent presentation. I'll turn to Mr. Kormos now for questions.

Mr. Peter Kormos: How long?

The Acting Chair (Mrs. Donna H. Cansfield): You have about a minute and a half.

Mr. Peter Kormos: Thank you, Mr. Lerner. We don't have the Liquor Licence Act before us, in terms of that statute. Are these minimum sentences—pulling the licence—in the statute or in regulations?

Mr. Michael Lerner: There are provisions in the regulations that I'd love to address with you, but I know that you do not have that authority.

Mr. Peter Kormos: But where is the provision for these minimum sentences of suspension?

Mr. Michael Lerner: It's in the act.

Mr. Peter Kormos: Okay. So what you'd basically be looking for is somebody to come forward—even a private member's bill—addressing that and deciding the range of sentences.

Mr. Michael Lerner: Absolutely.

Mr. Peter Kormos: Of course, the other problem that servers have is bosses who take part or all of their tips, which Michael Prue's bill from the NDP is addressing: trying to outlaw the practice of owners of establishments, restaurants and taverns taking part or all of servers' tips. That has nothing to do with this—

Mr. Michael Lerner: Mr. Kormos, what you've just said is foreign to me. None of my clients are involved in that practice.

Mr. Peter Kormos: I'm sure they're not. I was a lawyer, too; I only had innocent clients, as well.

Thank you very much. That was totally irrelevant, but I just wanted to throw that out there and tout Michael Prue's bill.

Mr. Michael Lerner: I have left with the clerk 20 copies of my submission in writing for you to consider.

Mr. Peter Kormos: We've got it. Thank you kindly, sir.

The Acting Chair (Mrs. Donna H. Cansfield): Mr. Ramal?

Mr. Khalil Ramal: Thank you very much for coming and appearing before our committee and explaining to us the details, from experience, of course. You have a lot of clients, I guess, in London and across the province of Ontario. You've dealt with so many issues, especially people losing their licences.

I heard you talking about the licence that goes to the appeal tribunal. Is that—

Mr. Michael Lerner: Well, the practice usually is, licence inspectors—who are really supervised by the OPP—will go into a licensed establishment and see an infraction. Depending upon the severity of the infraction, they will either issue a notice that is subject to a fine or they could send a report on to the registrar and the registrar then issues what is known as a notice of proposal and the proposal is either one of suspension or revocation. On those issues, when they come before the tribunal, the tribunal has no discretion except to impose the death penalty—a suspension or a revocation—or do nothing. That's the process that you follow as you go up. The proposal initially comes from the registrar, and then it's up to the licensee to determine the manner in which the licensee will oppose the recommendation of the registrar to suspend or revoke.

Mr. Khalil Ramal: Who designed the threshold and designed the criteria for you to pull the licence or keep it? The inspector, in conjunction with—

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Mr. Michael Lerner: No. Actually, the decision made as to the nature of the penalty to be imposed and whether a notice of proposal is to be issued is made by the registrar or deputy registrar on the recommendation of the director of legal services, who is also within the branch of the Alcohol and Gaming Commission.

Mr. Khalil Ramal: Thank you very much.

The Acting Chair (Mrs. Donna H. Cansfield): Are there any further questions? Mr. Chudleigh.

Mr. Ted Chudleigh: It sounds as though the Alcohol and Gaming Commission has a rather cozy relationship with the prosecutors, where all this takes place. Do you have any recommendations as to where those responsibilities might better lie?

Mr. Michael Lerner: Well, one of the things that I would recommend—in the past, the chair of the Alcohol and Gaming Commission has also been the CEO of the commission. For reasons that escape me at this time, the registrar is also now the CEO. So the registrar literally reports to himself and then the CEO reports to the chair. If you could do one thing that would really address this issue, it would be to separate the registrar's position from that of the CEO. One suggestion would be to give it back to the chair of the Alcohol and Gaming Commission, because it seems more compatible than to have that authority rest in the person who is directly involved and, in fact, quarterbacking the enforcement branch of the legislation.

The Acting Chair (Mrs. Donna H. Cansfield): Thank you very much, Mr. Lerner, for your presentation and for taking the time to come and present to the committee.

CANADIAN PARENTS
FOR FRENCH (ONTARIO)

The Acting Chair (Mrs. Donna H. Cansfield): Our next presentation is the Canadian Parents for French

(Ontario): Heather Stauble and Betty Gormley. Thank you very much for taking the time to come and present to the committee. Could you please state your name and where you're from for Hansard?

Ms. Heather Stauble: My name is Heather Stauble. I am the president of Canadian Parents for French (Ontario), and I'm from Peterborough.

Ms. Betty Gormley: My name is Betty Gormley. I'm the executive director of Canadian Parents for French (Ontario), and I'm from Mississauga.

Ms. Mary Cruden: And I'm Mary Cruden. I'm vice-president of the Canadian Parents for French (Ontario), and I'm from Toronto.

The Acting Chair (Mrs. Donna H. Cansfield): Thank you very much. You have 10 minutes for your presentation.

Ms. Heather Stauble: First of all, thank you very much for allowing us to present. I'm here today to address the proposed amendments to the Education Act that are contained in Bill 110.

Canadian Parents for French is a national network of volunteers. Our organization was formed in 1977 with the support of Canada's first official languages commissioner, Keith Spicer. Our national partners include the Commissioner of Official Languages, the Canadian Association of Immersion Teachers, the Canadian Association of Second Language Teachers, La Commission nationale des parents francophones, French for the Future, and the University of Ottawa. Our provincial partners include the Ontario Modern Languages Teachers' Association, TVO and TFO, Glendon College, and le Centre Francophone de Toronto. We are funded through the Department of Canadian Heritage, donations and memberships.

CPF has a branch and active members in every province and territory. In Ontario, we have 34 local chapters and affiliates and 5,300 active engaged members. At the local level, we distribute information about French second-language programs; work to support the programs and implement them; and sponsor and organize extra-curricular activities in French for students, including information nights, camps and annual French public-speaking contests. At our Ontario branch office, we field thousands of emails and calls from parents, teachers and administrators seeking assistance and information about French programs in Ontario. We provide information about all four boards: French and English, Catholic and public. We sit on the working group of the Ministers of Education and Training, Colleges and Universities on the continuum of French-language learning, or le Groupe de travail permanent EDU-FCU sur le continuum de l'apprentissage en langue française, and have just joined the Minister of Education's early learning implementation advisory committee.

The most recent provincial enrolment figures in education in round numbers for JK to 12 show a total of 1.9 million in the English boards and a total of 91,000 in the French boards. In the English boards, we have 803,000 in core French, 31,000 in extended French, and

137,000 in immersion. Some 27% of our immersion students and 5% of our core French students graduate. These numbers would be much higher if there were more secondary courses and opportunities available. Provincial participation rates put Ontario ninth among the provinces in Canada.

Parents consider this to be a very important skill. Support for bilingualism has risen over the last number of years, and despite declining enrolment, we see an increase in French immersion enrolment annually.

According to Decima, CROP, Ipsos-Reid and Canadian Heritage reports, support for official bilingualism and the opportunity to learn French as a second language ranges between 66% and 80% across the country. Our Canada-Ontario agreement reflects this, but our actions don't. The goals for transparency and accountability are equally impressive, but we still have no reporting requirements for school boards and expenditures for their FSL grants.

In terms of instructional time in French, we have boards such as Bluewater, Trillium Lakelands, Ottawa-Carleton and Toronto Catholic and public that have adopted best practices in immersion that far surpass the ministry guidelines of 50% instruction in French in elementary, and that front-end load the program, a proven design with volumes of research to show that it produces excellent outcomes.

The excellence that we see in these boards has come from parent advocacy and supportive teachers, administrators and trustees. Provincial policies and regulations have allowed excellence, but they have not fostered it.

We're here today to share our concerns about the proposed amendments to the Education Act contained in Bill 110. The current Education Act gives permission for English school boards to provide instruction in French. The amendments state that the minister may put terms and conditions on that permission. The genesis of these amendments has been characterized as good house-keeping and as an opportunity to address concerns raised by the French first-language boards. However, this amendment does nothing to improve access, participation and outcomes in FSL programs—the stated goals of the Ontario-Canada agreement, and may in fact make our current situation worse. It restates the minister's existing power to set curriculum and language of instruction in JK, all grades and the extended day, while it singles out FSL programs with the very negative and worrisome phrase "terms and conditions."

Learning French as a second language to become bilingual is a very big challenge in our predominantly English province. Canadian Parents for French continually advocates for program improvements and to save programs across this province. Just last week, we were dealing an effort by the Lambton Kent District School Board to close four French immersion programs without consulting parents, and with very questionable data. Any move on the provincial government's part, be it a regulation, direction or a single word change in a policy or legislation, is parsed by the many decision makers we talk to who support bilingualism in theory, but who in

practice erect barriers for parents who want quality, accessible FSL programming.

FSL programs are under constant threat of review, which we know is code for fewer programs and more local restrictions on access. In our collective years of experience, we have learned that one major factor is holding us back from producing more bilingual graduates, and that is messaging from the province that is tepid in its support for growth and quality of FSL programs. Adding the phrase “terms and conditions” for FSL and only FSL sends another message that the province tolerates but does not really embrace or support the concept of immersion or bilingualism.

Presque tous les conseils et les écoles de la province sont confrontés aux décisions difficiles causées par les déclinés d’inscription. Nous appuyons les efforts des conseils scolaires francophones qui visent à protéger non seulement la langue française mais aussi la culture francophone. Néanmoins, il est important de noter que la grande majorité des étudiants qui fréquentent les programmes de français langue seconde n’ont pas le droit de s’inscrire dans les écoles françaises langue première et que l’immersion française est conçue pour les étudiants et leurs parents qui ne savent pas le français.

Almost every board and school in the province is facing the hard decisions around declining enrolment, and we wholeheartedly support the French-language boards that are guarding not only language opportunities but also their culture. However, we must bear in mind that the vast majority of students who access FSL programs are not eligible to attend French first-language schools and that French immersion is designed for students and parents who do not know French.

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If the province and the members of provincial Parliament were to take up the challenge and make FSL policy that removes barriers and raises the bar by identifying and replicating existing best practices in immersion, then the parents and students of Ontario would be well served. But our experience, after 40 years of French immersion, is that in Ontario, any negative message from the province will trigger more reviews and restrictions on access.

We know that while some boards will have the good sense to expose as many children as possible to the benefits of learning French in the extended day, we also know that producing bilingual graduates, in the words of the Canada-Ontario agreement signed by this government, is to “acknowledge the importance of learning Canada’s second official language ... to promote this learning as part of second official language programs ... and to provide opportunities....” We need to keep the messaging positive.

Accordingly, we ask that the proposed amendments to section 8, paragraphs 25 and 25.1, of the Education Act reading “may impose terms and conditions on the permission” be removed from Bill 110.

The Acting Chair (Mrs. Donna H. Cansfield): Thank you very much for your presentation. I turn to the official opposition. Mr. Chudleigh.

Mr. Steve Clark: I’ll go ahead.

The Acting Chair (Mrs. Donna H. Cansfield): Mr. Clark.

Mr. Steve Clark: Thanks, Madam Chair. Je m’excuse, mais je parle français comme une vache espagnole. For those who don’t know, it means that I speak French like a Spanish cow.

You talk about the fact that terms and conditions are sort of a negative code word, I guess, in your group’s mind and that it will result in boards reviewing and restricting the program. I’d be interested to hear—because as you mentioned earlier on, the government talked about this being good housekeeping, rather than good government, or maybe I’m just embellishing it a bit. I’d be interested to hear what the ministry has told you in terms of what they feel the restrictions or the terms and conditions would result in.

Ms. Heather Stauble: They presented it to us as good housekeeping. We also noted, through the Hansard, that it was a concern of the French first-language boards.

After many years of experience in advocating for these programs, and ongoing reviews at the local level, we have seen how the messaging has a ripple effect down through the boards. We have constant reviews coming up. Some of the more well-known ones would be the Lambton-Kent one that happened over the last couple of weeks, and the Halton board last year. Guelph just went through a review. It’s an ongoing thing. Any negative messaging ends up being used as a back door to place restrictions.

Mr. Steve Clark: Thank you.

The Acting Chair (Mrs. Donna H. Cansfield): Thank you very much. Mr. Kormos.

Mr. Peter Kormos: Give us an example of a term or a condition that you might anticipate that causes you this apprehension.

Ms. Heather Stauble: Just the phrase “may impose terms or conditions”—

Mr. Peter Kormos: Okay.

Ms. Heather Stauble: An example of one little word that causes us a constant nightmare is the word “may” in the Education Act when it refers to transportation, that they “may” provide transportation. That’s more often used as “may not.”

Mr. Peter Kormos: I’m familiar with “may,” but give us an example of a term or condition that would be detrimental that you would reasonably anticipate.

Ms. Heather Stauble: There are a number of volunteers who work on programs such as French clubs and summer camps. One of the examples that was presented to us in these discussions was that there might be some limits on programs that were not held in French immersion schools—a camp or a French after-school club—and we see those as opportunities to encourage kids to stay in French programs.

Mr. Peter Kormos: And the term or condition would undermine—

Ms. Heather Stauble: It would undermine, yes.

Mr. Peter Kormos:—the French language. Okay, that's fair. That's what I wanted to hear, this sort of example. Okay, good. Thank you.

The Acting Chair (Mrs. Donna H. Cansfield): Thank you very much, Mr. Kormos. Mr. Ramal.

M. Khalil Ramal: Thank you. Merci beaucoup pour votre présentation.

Je pense que passer ce projet de loi ne va pas changer la méthode et les relations avec les francophones ontariens. Vous savez que notre gouvernement et notre ministre de l'Éducation travaillent ensemble avec la communauté francophone de l'Ontario pour établir des mécanismes spéciaux pour supporter tous les francophones de l'Ontario. Pensez-vous que passer cette loi va changer la méthode et les relations?

Ms. Heather Stauble: Well, we understand that there are concerns within the French first-language community. Betty, do you want to respond to that more directly?

Ms. Betty Gormley: Go ahead.

Ms. Heather Stauble: Actually we sympathize with those concerns, but we also feel it's important, if we're talking about working together, that we use language and policies and legislation that create opportunities and improve access and don't in any way restrict the growth of any of these programs.

It wasn't very long ago—I think it was 50 years ago—that we weren't allowing French to be taught in schools. Here we are advocating for more opportunities, which is a nice turnaround. We don't want to see any kind of restrictions in any way, shape or form placed on the desire of students, teachers or administrators to offer those programs. The reality is that when there are some negative words in there, that's what ends up happening.

M. Khalil Ramal: Donc, vous pensez que passer ce projet de loi va changer les relations entre vous et les francophones?

Ms. Heather Stauble: I think that there is concern amongst the francophone community that they're losing students to the English boards and that the all-day, every day kindergarten or the full-day kindergarten model will increase the number of students they lose to the English boards, particularly in immersion programs, but the reality is there are not that many students who are in immersion or going to go into immersion who would otherwise go into the French first-language programs. There are a variety of reasons, but at this point we don't see that there are that many students that really applies to. I do think it will put a wedge between the communities, and that's not a good thing.

Long term, the plan for the French first-language community is to have a model where there are a lot of opportunities available at the post-secondary level, and it's important, in order for that to be fulfilled, that there be very strong enrolment in the elementary level in both the French second-language programs—particularly immersion—and the French first-language programs, because otherwise you don't have enough graduates at the end to support those post-secondary opportunities.

Mr. Khalil Ramal: So you think—

The Acting Chair (Mrs. Donna H. Cansfield): Thank you, Mr. Ramal. I'm sorry; we've run out of time. I appreciate you taking the time to come and present to the committee. Thank you very much.

ONTARIO RESTAURANT HOTEL AND MOTEL ASSOCIATION

The Acting Chair (Mrs. Donna H. Cansfield): Our next presenter is Tony Elenis from the Ontario Restaurant Hotel and Motel Association and Michelle Saunders. Thank you very much for coming to the committee. Would you please state your name and where you're from for Hansard, and you have 10 minutes for your presentation.

Mr. Tony Elenis: Tony Elenis from the Mississauga area. Good afternoon. I'm the president and CEO of the Ontario Restaurant Hotel and Motel Association, the ORHMA. I'm joined today by my colleague Michelle Saunders.

The Ontario Restaurant Hotel and Motel Association is a not-for-profit industry association that represents the foodservice and accommodation industries in Ontario. The ORHMA is the largest provincial hospitality industry association in Canada, representing more than 11,000 business units throughout the hotel and restaurant industry. Our membership is representative of Ontario's hospitality and tourism industry, which is comprised of more than 3,000 accommodation properties and 22,000 food-service establishments, over 17,000 of which are licensed to serve alcohol.

It is my pleasure to have the opportunity to speak to you this afternoon regarding Bill 110, the Good Government Act. Specifically, I would like to address schedule 1 of the bill and even more specifically the proposed changes to the Liquor Licence Act and the Licence Appeal Tribunal Act.

These provisions collectively remove the adjudicative function of the Alcohol and Gaming Commission of Ontario's board of directors and transfers the responsibility for hearings related to Liquor Licence Act infractions and appeals of monetary penalties to the Licence Appeal Tribunal.

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First, let me say that the ORHMA has long called for this move, and we applaud it. The separation of roles is a starting point to creating confidence in the accountability and fairness of hearings for Ontario's bar and restaurant owners and removing an inherent bias and conflict in the AGCO board.

For as long as the AGCO has existed, Ontario's liquor licensees have raised alarm bells about the current multi-function structure of the Alcohol and Gaming Commission of Ontario, which ultimately plays judge, jury and executioner from a licensee perspective. Not only does the AGCO have a say in what public policy should be, but they interpret it, enforce it and then rule on it. On one hand, a board ruling in favour of a licensee ultimately can be seen as a decision against the board's

own staff and the registrar. On the other hand, most licensees would tell you a ruling in their favour is at best a rarity.

A governance review of the AGCO undertaken in 2009 for the Ministry of Consumer Services stated, “In its adjudication role, the board often makes decisions that are in conflict with the registrar, but in its governance role the board is also responsible for the impartial oversight of the CEO.” The transfer of hearings from the AGCO to the Licence Appeal Tribunal is a positive step to address this conflict and bias. However, the government must not overestimate this measure as one that will resolve licensee concerns.

While the issue of board governance bias and partiality is addressed by the measures proposed in Bill 110, we must work together to ensure that this is a step forward and not merely a step sideways. Licensees have real concerns about the powers of the AGCO registrar, such as to determine monetary penalties or to determine conditions on a licence without a hearing. While the Liquor Licence Act sets out the powers of the registrar, the AGCO itself often has the authority to develop the policies. From a licensee perspective, this is troubling.

Underlying concerns such as these, although certainly not limited to these examples, must also be addressed by the government in order to ensure fairness and transparency in the system. Bill 110 proposes transferring hearings to the Licence Appeal Tribunal, but does not address the underlying concerns with the hearing process, such as burden of proof and entry of evidence.

Furthermore, licensees are deeply concerned with the transparency and accountability of AGCO inspections on two levels, one being the very nature and consistency of inspections. The ORHMA recommends these be addressed through the development of a code of conduct, with a focus on recruitment, a standardized training program for all AGCO inspectors, and ensuring that all interpretive or inspection guidance documents produced to assist inspectors in their work be made public. Importantly, regular follow-up meetings must be established between the hospitality industry and the inspections department to iron out concerns and enhance communication. This ensures all sides are playing on an equal field.

The other concern is related to the very rules that are being upheld. As a prime example, ORHMA members are deeply distressed with a provision of the Liquor Licence Act that prohibits a licensee from permitting drunkenness. There is, however, no definition of drunkenness, and the government and courts have all struggled with this point. Although we have a firm blood alcohol content—BAC—level that determines when one can operate a vehicle, we do not have a BAC that determines when one is drunk. Even with training to assist employees in identifying signs of intoxication, bar and restaurant owners have no control over the actions of patrons prior to entering their establishment, and even if one can determine a point of drunkenness, it cannot be identified prior to its occurrence. This is a very complex

discussion, one that the courts have struggled to address. It is outside the mandate of this committee to consider or to address, but it’s an example of the struggles and challenges the industry faces and should assist you in understanding why the changes proposed are but a starting point.

As for the composition of the Licence Appeal Tribunal, the ORHMA would call on the government to ensure that there are persons appointed to the tribunal who have had management and/or ownership experience in the bar and restaurant industry. Operators need assurance that there is expertise on the tribunal that understands the realities of their operations. We have long called for this measure at the AGCO board and will extend this ask to the LAT.

The transfer of licensing hearings from the AGCO to the LAT is a positive step, but only one step to improving accountability throughout the entire beverage, alcohol and liquor licensing system.

Lastly, the ORHMA calls on the government to recognize Ontario’s hard-working bar and restaurant owners as valued partners in the system, and to ensure that the industry is consulted throughout this entire transition process.

Thank you for your time.

The Acting Chair (Mrs. Donna H. Cansfield):

Thank you very much for your presentation. I’ll turn to Mr. Zimmer.

Mr. David Zimmer: Thank you very much for your presentation. I think we have written copies—yes. We’ll reflect further on the submissions that you’ve made.

The Acting Chair (Mrs. Donna H. Cansfield): Mr. Chudleigh.

Mr. Ted Chudleigh: I would just like to thank you for coming. In your experience with the other provinces in Canada, are you familiar with any other provinces that have a system that, in your opinion, would be more fair and would perhaps work better than the system we currently have in Ontario?

Mr. Tony Elenis: In consulting with my colleagues in the other provinces, we seem to be having much more conflict in Ontario than the other provinces. And that’s also talking to operators who own multi-units throughout the provinces.

Mr. Ted Chudleigh: So Ontario is dead last of the 10 provinces?

Mr. Tony Elenis: More or less, yes. More on the bottom of the list, I guess.

Mr. Ted Chudleigh: Which province seems to have a system that protects the licensee but also protects the public, in other words, has a balance between the two groups of people?

Mr. Tony Elenis: That’s probably a question that needs a little bit more technical research, but Alberta stands out in conversations, I’ve found.

Mr. Ted Chudleigh: Good. Thank you very much.

The Acting Chair (Mrs. Donna H. Cansfield): Thank you very much for your presentation. We ap-

preciate you taking the time to come and speak to the committee.

ONTARIO RESTAURANT
AND BAR ASSOCIATION

The Acting Chair (Mrs. Donna H. Cansfield): Our next presenter is the Ontario Restaurant and Bar Association: Mike Smith, chair; Alex Munro, director; John Couse, member; Dale Hill, member; and Binny Kuriakose, member.

Thank you very much for taking the time to come and present to the committee. If I could ask you to please identify yourself and where you're from for Hansard, and then you have 10 minutes for your presentation.

Mr. John Couse: Good afternoon, ladies and gentlemen. There's one small correction. My name is John Couse and I am in fact the chair of the Ontario Restaurant and Bar Association.

I'd just let you know that we are a newly formed hospitality industry association dedicated to synchronizing the objectives of our industry-regulating bodies, the business interests of the members, and most importantly, to improve the working conditions of the employees who we very highly value.

I would like to say at the outset that, on the subject of the AGCO, we are not advocating deregulation of the hospitality industry. Rather, we are advocating the re-regulation of the industry. We are seeking regulations that are more sensitive to the industry than we currently experience. We believe that the AGCO's mission statement and objectives are valid, and we support them. However, we believe that significant improvements can be made in the policies and practices of the AGCO in meeting their goals, and we would like to help.

For example, all of our members subscribe to a designated driver program whereby we offer free non-alcoholic beverages to those who are designated drivers. We are aiming to help reduce the incidents of drinking and driving. We believe that this should be turned into a province-wide initiative led by the AGCO.

Specifically with regard to Bill 110, we are here to ask you three things: First, that the proposed separation of the adjudication function of the AGCO to the licensing tribunal be carried through; second, that the licensing tribunal be given the authority to levy fines in place of suspensions; and third, that the roles of the CEO and registrar be held by two people instead of the current one person.

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My colleagues and I will be speaking to you today to give you the background picture as to why we are seeking these changes. I'll turn this over to Alex.

Mr. Alex Munro: Hi there, members of the committee. My name is Alex Munro. I'm the vice-president of business operations and development for an Irish pub company in Ottawa. We have five locations, 440 staff, and that contributes to \$5.4 million in the local economy

in salaries and wages. As well, we pay approximately \$120,000 a month in PST.

We have looked at the contents of the bill regarding the separation of the adjudication powers and the governance role and commend the government for initiating change. However, we are convinced that it is deficient in significant areas. We're specifically requesting the enhancement of the bill to include separation of the roles of the registrar and the CEO of the commission in line with greater accountability, monitoring of the Alcohol and Gaming Commission of Ontario and governance of the commission.

Here's the current situation, its potential impacts on the industry and fallout on employees. As it currently stands, the board overseeing governance of the AGCO and hearing adjudications of licensees are one and the same. To ensure separation of functions in line with principles of natural justice, they're proposing to move adjudication over to the Licence Appeal Tribunal in this bill. However, under the current structure, the CEO of the commission is also the registrar, the person who issues our licences, hires inspectors, decides how enforcement is carried out, determines if a licensee has committed a violation, and then decides how many days an establishment can be shut and its workers unemployed.

It is akin to the situation of a judge at the Divisional Court level deciding if you can have a business licence, hiring the police officers, directing enforcement, determining once a report comes in if there was an offence, then imposing a penalty and then appearing before the appeal court to seek that penalty if it is challenged, all the while acting in a dual role as police chief responsible for the operations of the entire court system.

Herein lies the problem that our industry has felt and tried to address for over a year and a half. This type of absolute control imparts a real fear in the licensees, and there have been widespread reports of extreme dissatisfaction and reports of abuse of authority in the—

The Acting Chair (Mrs. Donna H. Cansfield): Excuse me, sir. If I could ask if you could just step back a little bit back from the microphone. There's a little bit of feedback coming through. I appreciate that.

Mr. Alex Munro: Sure. Is that better?

The Acting Chair (Mrs. Donna H. Cansfield): Thank you.

Mr. Alex Munro: All right.

This type of absolute control imparts a real fear in the licensees, and there have been widespread reports of extreme dissatisfaction and reports of abuse of authority in the conduct of inspectors operating under the supervision of the registrar and CEO.

Tabled before you are letters from the mayor of Markham and federal member of Parliament Bryon Wilfert that give you a glimpse into our concerns. The government has already recognized that there should be a separation of powers at the commissioners' level, but because of the apprehension of bias and lack of effective governance, it should go further and eliminate the root cause of it.

We ask how you can allow such a situation to prevail in Ontario when a separation of powers is fundamental to maintaining trust and integrity of the judicial or adjudicative system you oversee as legislators.

Mr. Dale Hill: Hi. My name's Dale Hill, and I'm a partner at Gowling Lafleur Henderson law firm.

About five years ago, I naively thought I was going to open up a well-run establishment in Ontario. I'm originally from Halifax, Nova Scotia, and was brought to an opportunity to open up a Maritime-type establishment. To my chagrin, I learned how the AGCO has worked over the last four years.

I've been given a statement to talk about here, and it talks about the government's review of what's actually happened with the AGCO. But I'd like to take a second out of this presentation just to put a real-life situation on the table so that you'll understand the gravity of the situation that owners face today and why this is a priority.

Just to give you a flavour, within the first six months of me opening up this Maritime bar, I was charged with permitting an intoxicated individual into the premises. I was charged for allowing illegal alcohol into the premises. Six months later, after these supposed incidents occurred, I was notified of it. So after the investigation—and these facts are not in dispute; they're agreed by both the AGCO and myself. The permitting an intoxicated person on to the premises, keep in mind, was by a doorman who is fully trained, Smart Serve—all my staff have followed every legislative guideline for a person working in the industry. My doorman at the front door saw an individual in the snowbank, not well dressed, who had had too much to drink, and not even from my establishment. The doorman went outside his job, brought this individual in from the street, sat her in the front lobby, got her a glass of water and had her boyfriend come pick her up. The liquor inspector—no dispute of the facts—charged us for allowing an intoxicated person on the premises. I'm not sure if that makes any sense at this current stage. These charges come across as very hard.

The second charge was allowing illegal alcohol on the premises. On the way to a Senators hockey game, four kids snuck in four cans of beer in their backpack and hid it in a corner. Our manager, as soon as they were notified, found those individuals and asked them to leave the premises. The liquor inspector noticed that and charged us for allowing illegal alcohol on the premises.

As naive as I was at the time, I said, "Well, there's an independent review. I'm going to go to this panel, where they're actually going to hear these facts. It makes sense. That's the right and moral thing to do." So I present to the committee, and the committee says, "You still violated the law. You allowed an intoxicated person on the premises." I said, "However, the individual wasn't even drinking in my establishment. It was freezing cold outside and she wasn't dressed properly. All we did was assist." They asked for a 21-day suspension. So I said, "Well, that's just crazy." I mean, it makes sense that I—well, then I went to the court. I went before Mr. Cunningham. Chief Justice Cunningham looked at the prosecutor

and basically, short form, said, "Are you kidding me? You want to shut down an establishment for 21 days for doing what any normal human being would do?" The prosecutor said, "Your Honour, that's the law."

The Acting Chair (Mrs. Donna H. Cansfield): You have two minutes left.

Mr. Dale Hill: Okay.

Go forward: Judge Cunningham threw out the charges. The AGCO spent taxpayers' money and appealed the decision, went to the next level, and that's where I stopped spending the money. I stopped spending it at that point in time—I said I'm \$30,000 in debt and all I'm doing is trying to protect those individuals you heard from an hour ago to keep their jobs. So I didn't send anybody to the appeal courts, and they granted a 14-day suspension, and those people were out of work for 14 days.

Why is this a priority today? The priority today is to try to put some common sense into the system, to have an independent person review these situations, because any normal human being would look at it as that's the right thing to do, understanding how the law is read.

Without further ado, just to give you an idea, this has all been reviewed by a governance review. They've come out with a statement. This is a statement on the governance review of the AGCO:

"Our work has shown that the board is unable to fully discharge its responsibilities in strategy, operational oversight, CEO evaluation and succession, reviewing and approving policy, and in many cases feels it has no authority to undertake these roles. There is a significant diversity of opinion, for example, as to what role directors play with respect to the CEO succession process. Similarly, the board feels that it is not involved at all in the strategic direction of the AGCO. The adjudication bias combined with the conflict between the adjudication and oversight roles help to explain this gap."

What I've put forward today is that we need to separate those individuals, so somewhere during the process we say, "This is crazy, to waste taxpayers' money. It is crazy for Dale Hill to continue to fight for 50 employees to stay working for 21 days." Forget—

The Acting Chair (Mrs. Donna H. Cansfield): Thank you very much, Mr. Hill. I appreciate your presentation.

I turn to Mr. Chudleigh or Mr. Clark. Any questions?

Mr. Steve Clark: First of all, I want to take this opportunity to thank you for coming to the committee with your stories, your—

Interjection.

The Acting Chair (Mrs. Donna H. Cansfield): I'm sorry, sir; the 10 minutes were used.

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Mr. Steve Clark: I just want to take this opportunity to thank the four of you—

The Acting Chair (Mrs. Donna H. Cansfield): Excuse me. If you'd like to forgo your question, then the gentleman could have a few minutes to speak.

Mr. Steve Clark: Absolutely. Go ahead.

The Acting Chair (Mrs. Donna H. Cansfield): Go ahead, sir.

Mr. Mike Smith: Thank you very much. My name is Mike Smith. I currently own and operate five licensed restaurants in London and one in Michigan. These establishments have operated for a collective amount of 102 years. It has generally been an enjoyable experience, except for the last few years. During those years, I, along with hundreds of operators, have felt an incredible amount of anxiety-laden pressure from the AGCO.

For my first 25 years in business, we had an excellent working relationship with Alcohol and Gaming. However, something in the last few has gone drastically wrong. We continue to have excellent relationships with the police, fire, health and building departments, so what went wrong with the AGCO? Those other regulatory bodies continue to work with us to improve our operations by suggesting improvements and working with us. However, the AGCO has switched from a “let’s work together” approach to a “gotcha” mentality.

Almost all of the operators that I talk to from across the province don’t feel this is being driven by the local inspectors or local offices. They feel it is coming from the top down. Most every licensee wants rules and regulations to protect good operators from the less honourable ones. We want to work with the AGCO to make our operations the best they can be. What we don’t want is to be afraid of them, and that is the way we feel right now.

Other authority figures feel much the same as the operators and employees feel. As a matter of fact, a very senior police officer of a large and respected police force, in a recent affidavit, said, “I will conclude by saying that I personally would not work with Inspector X due to his aggressive nature and the disturbing thought of him spreading false and damning statements about me personally and professionally.” Please believe me: This is not an isolated incident.

The other big issue that licensees and employees have is the right to a fair trial. I have looked far and wide across Ontario and have yet to find a business that has won its case against the AGCO once they have been charged. An operator knows that if charged, they are going to be convicted and closed. When the people at the AGCO who charge, prosecute and convict licensees have adjacent offices and quite often travel to trials in the same vehicle, it’s very easy to see why no licensee wins their case. What we desire is the right to go before a real court with an unbiased judge, not the kangaroo court we now face.

A very important argument put forward by the employees—and I know that most operators agree—is, why should all the employees lose their jobs for the length of a suspension when a legitimate charge is the fault of one or two individuals?

Licensees across the province give approximately 32% of their sales—that’s sales, not profits—to three levels of government. Unlike the officials who govern them, most do not have pension plans, dental plans or drug plans. I have almost 300 employees, and I don’t even have those benefits myself.

It would be instructive for you to hear the following words and views of the respected Associate Chief Justice Cunningham of the Ontario Superior Court on the issue of a particular closure: “In our view on these facts, a 14-day suspension is tantamount to a financial penalty out of proportion to the circumstances and is therefore a reversible error.”

The Acting Chair (Mrs. Donna H. Cansfield): Thank you very much. I appreciate that you’ve had an opportunity to speak, and I thank the member for giving up his question time.

Mr. Kormos, do you have a question?

Mr. Peter Kormos: No. My apologies; I had to step out. But I understand the issue; it’s been raised several times already today.

It seems to me that your industry should pursue this in a more aggressive way, directly with the minister and the parliamentary assistant—but then again, there’s an election in 11 months’ time. Maybe you want to wait.

The Acting Chair (Mrs. Donna H. Cansfield): Are there any questions, Mr. Zimmer?

Mr. David Zimmer: No, but if we have any time, I’ll yield it to the speaker, at your discretion, Chair.

The Acting Chair (Mrs. Donna H. Cansfield): Yes, certainly. A minute or so, sir—you may finish your presentation. And if you do not have the time to finish, could we please have a copy of your presentation for the committee members?

Mr. Mike Smith: Certainly. I just had one paragraph left.

The Acting Chair (Mrs. Donna H. Cansfield): Then go ahead.

Mr. Mike Smith: First of all, please work to ensure that there are watertight checks and balances on the AGCO and that there’s a proactive and co-operative working relationship with licensees.

Secondly, when a licensee is charged, please offer them a chance to a fair trial with an objective judge hearing the case. Allowing a tribunal to determine questions of law and facts in this bill is a deeply troubling concept and does not have our support.

The Acting Chair (Mrs. Donna H. Cansfield): Thank you very much for your presentation. It was very insightful. If you do have copies, we would welcome a copy of your presentation for the committee members as well.

Thank you again for taking the time. We will make those adjustments to the list for Hansard.

FRENCH AS A SECOND LANGUAGE
ADVISORY COMMITTEE OF THE
TORONTO DISTRICT SCHOOL BOARD

The Acting Chair (Mrs. Donna H. Cansfield): Our next presenters are from the French as a Second Language Advisory Committee of the Toronto District School Board: Hagit Fry and Julian Heller. Thank you very much for coming to the committee. Please identify

yourselves and where you're from. You have 10 minutes for your presentation.

Mr. Julian Heller: My name is Julian Heller, and this is Hagit Fry. We are parents here on behalf of the French as a Second Language Advisory Committee, or FSLAC, of the Toronto District School Board, also called TDSB. We're dealing with the proposed changes to the Education Act.

M^{me} Hagit Fry: Nos enfants fréquentent des écoles du conseil scolaire de langue anglaise de Toronto, et c'est notre comité qui représente les parents qui veulent s'assurer que nos jeunes aient la possibilité d'apprendre la deuxième langue officielle du Canada à l'école.

Mr. Julian Heller: The TDSB set up the FSLAC as a parent advisory committee following amalgamation. Our role is to advise the board on matters pertaining to French-as-a-second-language programs in the English public board in Toronto. Each of the 22 wards sends parent representatives to the committee, and we currently have 34 parents participating. The committee is co-chaired by a parent who is elected by the parents and a trustee who is elected by the board. French program staff attend each meeting and provide expert input to the committee. We meet formally about seven times during the school year and participate in and organize many ongoing consultations and ward- and school-level meetings across Toronto.

Our mission statement, as approved by the board, is to "consult with and advise the board on French-as-a-second-language matters and to contribute to the work of trustees and staff. This partnership of trustees, staff and parents fosters excellence and growth in FSL programs at the board."

While only parental involvement committees and special education advisory committees are recognized by and given support from the Ministry of Education, our board goes beyond that to recognize and value parental input and involvement on French, as well as alternative, inner-city and aboriginal committees.

In addition to core French, the TDSB offers early French immersion starting in senior kindergarten, middle French immersion starting in grade 4, and extended French starting in grades 4 and 7. The variety of programs meets the various needs and interests of our diverse population.

The TDSB demonstrates its commitment to equity of access by providing transportation to French immersion and extended students based on distance criteria.

More than 19,000 students have chosen to be in immersion and extended French at approximately 100 schools which are spread across the city of Toronto in every riding, and still there is unmet demand for more spots, more sites and more French courses in regular and specialized secondary schools.

Since 2005, when public reporting began, our annual SK immersion enrolment has grown from 1,892 to 2,526, despite the challenges of the primary cap and overall declining enrolment at the board. Our SK immersion program offers 100% French instruction from senior kindergarten to grade 3. This is a best practice in im-

mersion and provides the best foundation for achieving bilingualism. Our program far exceeds the minimum guidelines provided in ministry policy, and this is something that TDSB immersion parents value greatly.

We are very proud that our board, in the absence of specific guidelines from the ministry, has started our first full-day immersion SK program at Parkdale public school in downtown Toronto. At 300 minutes per day, meaning 100% instruction in French, we far exceed the 75 minutes of French instruction that the Ministry of Education has left in place as the threshold for immersion designation and funding for kindergarten.

This is where we come to schedule 3 in the good government bill, Bill 110, and that's attached in the package that you should have before you. The bill states that terms and conditions may be imposed by the minister on the permission to offer French programs in the regular and extended day in English boards.

The appropriate motivation for change is to provide more and better opportunities for learning French for every student. It is unclear to us how our children will benefit from any restrictions that the minister may put on French programs in English schools.

In the Legislature, the minister referenced her great respect for input received from the French first-language community. As strong believers in bilingualism, we also support the French first-language community.

1520

Nous voulons que les écoles de langue française de l'Ontario soient fortes et nombreuses.

However, the vast majority of TDSB parents do not have access to schools in the French boards. French immersion is designed for children whose parents are not proficient in French, and we ask this committee to consider that no input was sought from those who would be most affected by the proposed changes: French-as-a-second-language students and their parents.

Graham Fraser, our Canadian official languages commissioner, has often pointed out that although Canada is bilingual, in fact only a relatively small minority of Canadians speak both English and French. Those who do act as a bridge between the unilingual English and unilingual French communities. Only by increasing bilingualism in both the English and French milieus will Canada truly become bilingual.

Having a minister set terms and conditions on French programming by regulation, allegedly to protect other publicly funded school boards, causes us grave concern. The ministry has set such a low bar regarding hours of instruction in French in an immersion setting that we can only conclude that our own board, with parent input, will be the most mindful of best practices and of meeting the needs of our parents and communities in the extended day.

As parents with children in the Toronto District School Board, we prefer to work this out locally. We have confidence that our board will continue to be a leader in French second-official-language programming and we do not want "terms and conditions." We want every child to

have the opportunity to work towards bilingualism during the regular and the extended day.

The lack of uptake by TDSB parents for the extended day may continue until professional activity and holidays are added into the mix and the numerous logistical and pricing issues are resolved.

The last complication we need is the chill that this amendment to the Education Act would put on our French programs.

This is a bilingual country, and the province of Ontario has an obligation and a commitment to increase the number of bilingual graduates. There has been no indication that the amendments to the Education Act in Bill 110 will help our students or our board to build on our success in providing French programs. Accordingly, we, the parents of the French as a Second Language Advisory Committee of the Toronto District School Board, ask that the amendments adding “terms and conditions” to French in English-language boards be deleted from this bill.

The Acting Chair (Mrs. Donna H. Cansfield): Thank you very much for your presentation, sir. Mr. Clark, I’m going to start with you, since you so graciously gave up your time before.

Mr. Steve Clark: Oh, no problem. I appreciate it, Madam Chair.

I just want to take this opportunity to thank you both for coming. It’s interesting that both groups—the previous group as well, the Canadian Parents for French—are making the same recommendations.

Your board is one of the boards that the group mentioned as having better practices, I guess, for your best practices. I just wondered if there was any advice you have for some of the other boards.

Mr. Julian Heller: Each board makes its decisions according to the resources available to it. We are very proud of the successes that we’ve had and the standards which we have had. Where we can, we offer assistance as a board to those other boards. Certainly, other advocacy groups such as you’ve heard from serve a valuable function in facilitating communication.

Frankly, as a volunteer advisory committee of parents, we don’t have the funds or the resources to co-operate as much as we would like to, but we’re certainly aware that other boards across the province are looking to us to set the example. They are, in fact, following some of the things that we take for granted, like the 100% SK. There are some boards which start later. Education research shows that the earlier the start, the more likely you are to succeed in achieving bilingual graduates.

Mr. Steve Clark: Thank you.

The Acting Chair (Mrs. Donna H. Cansfield): Thank you very much. Mr. Kormos.

Mr. Peter Kormos: As has been noted, you’re the second group of only two groups that have come forward to address the Education Act amendments. This is the problem with omnibus legislation, omnibus bills. It’s presented by the Attorney General—his parliamentary assistant is here, and I have great regard for him, in terms

of addressing Attorney General issues. But where are the Ministry of Education folks? That’s the problem.

So, Chair, please, when we come back for clause-by-clause, before we address this, I suspect that we should have somebody from the Ministry of Education explaining what the ministry intends by the addition of imposed terms and conditions on the permission. Because we’ve heard two illustrations now, examples of how that is very frightening to people who are committed to French-language education. I’d dearly love to know what the ministry contemplates as a term or condition before we vote on this. I’m hoping perhaps the parliamentary assistant could help facilitate that.

The Acting Chair (Mrs. Donna H. Cansfield): Thank you very much, Mr. Kormos. We actually will have Ministry of Education staff available when we do clause-by-clause.

Are there any questions on the—Mr. Ramal?

M. Khalil Ramal: Merci beaucoup pour votre présentation.

Votre « concern », c’est le même qu’avait l’autre groupe, Canadian Parents for French (Ontario).

Je pense que notre gouvernement et notre ministre de l’Éducation aimeraient travailler avec vous dans le futur pour établir des mécanismes spéciaux pour travailler avec le TDSB, « Toronto District School Board ». C’est très important pour nous d’établir des relations spéciales et de continuer à travailler avec vous pour aider tous les élèves de l’Ontario, et leurs parents, pour étudier le français.

Pourquoi votre organisation pensait que passer ce projet de loi n’est pas bien pour vous et n’est pas bien pour le TDSB? C’est la question pour vous.

M^{me} Hagit Fry: Pardon? La question est—

M. Khalil Ramal: Pourquoi vous pensez—

M^{me} Hagit Fry: Pourquoi c’était bon pour nous d’opposer le—

M. Khalil Ramal: Oui, c’est correct. C’est parce que la ministre de l’Éducation tout le temps parle de mécanismes spéciaux avec les francophones de l’Ontario, spécialement pour les enseignants et les enseignantes et spécialement pour les parents et les élèves—

M^{me} Hagit Fry: Mais—pardon. Il y a une différence entre les francophones de l’Ontario, c’est-à-dire les gens qui ont droit à entrer dans le programme des conseils scolaires de langue française de Toronto et de l’Ontario en général, et les familles anglophones, pour ainsi dire ceux qui ne peuvent pas vraiment mettre leurs enfants dans les écoles du conseil scolaire de langue française.

And perhaps I should say it in English so that other people can understand me better.

We represent the interests of kids who do not have the right to go into the French-language school boards. They do not speak sufficient French at home to succeed in these schools. We’re trying to give them the possibility to acquire as much French in the English-language school board so that they can become truly bilingual. If you take away part of the day that they may have in French, then they may find it more difficult to become truly bilingual.

So I don't think we're actually working against the French-language school boards. We're trying to give kids as much access to French as possible.

M. Khalil Ramal: Parce que la ministre a des questions tout le temps—accommodations pour tous les élèves de l'Ontario pour entrer dans des classes francophones et des classes de français, spécialement de Toronto. C'est très important pour nous, et c'est aussi important pour vous, d'assister tous les élèves de l'Ontario à étudier le français.

M^{me} Hagit Fry: Oui, c'est très important. Oui.

M. Khalil Ramal: C'est la ministre qui—

The Acting Chair (Mrs. Donna H. Cansfield): Thank you very much for the presentation. I appreciate you taking the time to come and present to the committee. It's nice to see you.

BRIX NAPA VALLEY GRILLE
AND WINE BAR

NAVA RESTAURANT AND BAR

The Acting Chair (Mrs. Donna H. Cansfield): Our last presenters are the Brix Napa Valley Grille and Wine Bar, and the Nava Restaurant and Bar: Mike Wilson, Teresa Wilson, Douglas Chan, Mansoor Iqbal and Paul Raymond.

Please say your names and where you're from for Hansard. Also, there is 10 minutes for the presentation, which is inclusive for all of you. I'll put up a two-minuter so you can see—

Mr. Mike Wilson: Thank you.

The Acting Chair (Mrs. Donna H. Cansfield): Thank you so much.

Mr. Mike Wilson: I am Mike Wilson.

Mr. Mansoor Iqbal: I'm Mansoor Iqbal. I work for Mike at Napa Valley Grille.

Ms. Teresa Wilson: I'm Teresa Wilson. We own the establishments.

Mr. Paul Raymond: I'm Paul Raymond, head of security.

Mr. Douglas Chan: I'm Douglas Chan, manager at Nava Restaurant and Bar.

The Acting Chair (Mrs. Donna H. Cansfield): Welcome. Please go ahead.

Mr. Mike Wilson: Good afternoon, and thank you for hearing us. My name is Mike Wilson. I am here to address you on aspects of Bill 110 that relate to the Alcohol and Gaming Commission and your proposals to move the adjudication to the licence appeal board.

Accompanying me today are my wife and co-owner, Teresa Wilson, and some of my employees: Mansoor Iqbal, Paul Raymond and Douglas Chan.

1530

I have worked in a licensed establishment for 30 years and have been a licensee for over 20 years. I have owned and operated five different restaurants, including the Fox and Fiddle, Spezzo Ristorante, On The Curve, Brix Napa Valley Grille and Wine Bar, and Nava Restaurant and

Bar. I currently employ a significant number of staff in Markham, Michael Chan's riding, and Richmond Hill, Reza's riding.

Over the last few years, I have also collected millions of dollars in tax revenues.

At our establishments, we have had many events, including parties for Premier Dalton McGuinty; John Manley when he was the Minister of Industry; our member of Parliament, Bryon Wilfert; Frank Scarpitti, mayor of Markham; Michael Joliffe when he was president of the Ontario Liberal Riding Association; and the Young Liberals of Canada.

I have entertained many corporate events for IBM, American Express—

Interjection.

Mr. Mike Wilson: You noticed—Dell Computers, Pfizer and all the major banks, as well as many other large corporations.

In the first 18 years as a licensee, I never had a liquor license offence. In 2008, an inspector came into Brix Napa Valley Grille and laid a charge. We went to provincial court and fought that charge. We won. After winning and beating the charge, things dramatically changed. The inspector felt we had embarrassed him in court, and then our nightmare began. The very night after we had beaten him in court, the inspector we had defeated raided our restaurant with several AGCO inspectors, uniformed police officers and tobacco inspectors. Regular inspections were escalated and my business was under constant attack. The business became a target of the Alcohol and Gaming Commission.

Over these last few years, officers of the Alcohol and Gaming Commission have been harassing our staff and customers, causing tremendous strain on us as business owners to the point that our businesses are now suffering. Sales have declined dramatically, they are scaring off customers and we are finding it increasingly more difficult to retain staff.

What does this have to do with what we're talking about today, Bill 110? Well, we understand from the industry associations that what the government is trying to do with Bill 110 is fix some of the problems with the Alcohol and Gaming Commission. Frankly, I believe this falls way short of fixing the problems that our employees and our businesses face. There are no accountability provisions for oversight of the CEO and registrar, the actions of his agents, and no measure of independent verification of their actions. I stress the word "independent." There is no independence. Essentially, you're telling us, through Bill 110, that you know there are problems with the AGCO; indeed your own review has said that. But spending money on an appeal against well-paid government lawyers and hoping to win at the Licence Appeal Tribunal is futile.

The chair once remarked, "You don't need to hire lawyers." Is he kidding? If that's the case, then why bring highly paid lawyers against us as licensees? Why don't they just send the inspectors to a hearing to even the playing field?

Panel members, the problem is not solved at the hearing level. Currently, licensees refer to the AGCO—and one of my compatriots also said it earlier—as a “kangaroo court” where the rules change from regular court and the chance of leaving with a positive result is virtually impossible. This makes it a complete waste of time and money.

As a licensee, you avoid the hearing process altogether and just try to negotiate a deal to minimize the penalty. The penalty is usually a suspension where they close your business for one day, one week, 45 days, 60 days; or they just take your liquor licence away. That puts a lot of people out of work and can create an insurmountable financial strain on an already recession-weary business.

It emanates from the bureaucratic level. There are no checks and balances on the AGCO, and even if you want to, you can't because their own board appointees can't question the CEO on operational matters.

If the board can't do it, imagine the situation we are in. We live it every day. It's called fear, intimidation and bullying, and if you stand up against them, you're punished with more visits by the AGCO, more harassment by AGCO personnel, more stress on your staff and management, loss of sales, and increased legal bills to the point where they just run you out of business. A well-respected journalist writing in the media on this issue with specific reference to the Ontario liquor laws said, “A free society must allow for freedom of choice. What cannot be tolerated is the government making citizens policemen, enforcing preventive rules and regulations based on state-dictated subjective criteria.

“Life becomes a prison. There was a country like that once. It was called the Soviet Union.”

These inspectors raid our businesses, attack our managers, staff and customers, and lay subjective charges based on their biased opinions.

Further compounding this, at board level and at the three most senior levels of the Alcohol and Gaming Commission, there is not one single person who has any experience running a bar or a restaurant serving alcohol. Is that the way to run a regulator? Imagine me hiring a CEO with no industry experience to make decisions that affect our livelihoods and the livelihoods of our employees. People in positions of power have responsibility. Power can be a very scary thing if it's misused. The AGCO has too much power and it is flagrantly misusing it. A dramatic change and complete overhaul of the AGCO is the only way to fix the problem. The intimidation, bullying and fearmongering has to stop.

I would like to now turn it over to my head of security, if possible, and he can give you some insights into some of the situations that have arisen in our restaurants.

The Acting Chair (Mrs. Donna H. Cansfield): Certainly. You have four minutes left.

Mr. Paul Raymond: Good afternoon. I've been in the entertainment industry for over 23 years and have worked with Mike and Teresa for 15 years. Within the last two years, it's been constant harassment, the AGCO liquor inspectors coming in with uniformed police

officers on a weekly basis. And this permitting drunkenness, which the other colleagues have talked about and I've heard about today, doesn't make any sense to me, because how do you determine a level of “permit drunkenness.”

Just to give you an example really quickly, we had a young female, 20 years old, trip on the stairs. The inspector was there and automatically said, “She's drunk. You're charged—permit drunkenness.” She had two drinks, and she had a glass of water in her hand at the time. I said, “No, she's fine,” and there's no argument—permit drunkenness, charged. That's how they work. You don't have a say.

The Acting Chair (Mrs. Donna H. Cansfield): Does that conclude your presentation, sir?

Mr. Mike Wilson: It does.

The Acting Chair (Mrs. Donna H. Cansfield): Thank you very much. Mr. Kormos.

Mr. Peter Kormos: Thank you, folks. I've always found the permit drunkenness to be somewhat bizarre. I mean, people go there to drink. I suppose there are people like Mr. Zimmer, who has one modest drink when he goes to an establishment like that, but then there are others of us who perhaps want two or three.

This is a very strange situation, because we've been hearing similar stories during the course of the afternoon. The transfer of the judicial function or quasi-judicial function to the Licence Appeal Tribunal is being heralded by some as a positive thing, and we support that, quite frankly.

But I don't know how you're going to get—I've heard similar stories down in my neck of the woods from licensed operators. Again, just like Reza knows his people, I know my people, and I've been in their joints. Perhaps the parliamentary assistant, when his turn comes, could tell us how we address that, because there are enough stories being told to indicate that there perhaps could be a problem, Mr. Zimmer, and these people deserve better.

The Acting Chair (Mrs. Donna H. Cansfield): Mr. Moridi.

Mr. Reza Moridi: Mr. Wilson, Ms. Wilson and colleagues, thank you very much for appearing before this committee. It's great to see you here.

I was wondering, the transfer of adjudicative power from the AGCO to the tribunal, would you see this as a positive step in a positive direction?

Mr. Mike Wilson: I do. I see anything where you can get power away from the AGCO and more to an independent tribunal as a start, absolutely. I just, unfortunately, don't think it's enough.

Mr. Reza Moridi: You think this is not enough. So what are you proposing?

Mr. Mike Wilson: Again, I think that the gentleman before me proposed some very good ideas about better training of the inspectors, a more consistent way that they do inspections, a way of verifying whether they determine—“permitting drunkenness,” what does that mean? It's at their discretion. And then I think that when there are charges, it's taken away to an independent panel

that can review, because as I say, they're judge, jury and executioner.

Mr. Reza Moridi: They're the same. Okay, thank you very much.

The Acting Chair (Mrs. Donna H. Cansfield): Mr. Clark.

Mr. Steve Clark: Reza, I thought you were going to give some of that money back, from some of that fundraising. You know, it's just something I thought.

I want to thank you very much for your presentation. We've heard a lot of similar comments today. I go back to the list of the Alcohol and Gaming Commission employees here. I watched a show the other day where the head of the Chicago Cubs—it's called Undercover Boss—went and worked. I think we should get the CEO and some of these major people from alcohol and gaming and put them behind the bar, put them as bouncers, put

them as servers, and see how they make out against their own enforcement employees.

Mr. Mike Wilson: I applaud that.

Mr. Steve Clark: Thank you very much for coming.

Mr. Peter Kormos: And maybe it's not you, maybe it's your clientele that they don't like.

Mr. Mike Wilson: Well, it's possible.

The Acting Chair (Mrs. Donna H. Cansfield): Thank you very much, Mr. Wilson, for your presentation. And thanks to all of you for coming.

I would just like to remind everyone that clause-by-clause is next Monday, November 29, here in this committee room, and that the amendment deadline is 12 noon on Friday, November 26, at the clerk's office, if you have any amendments to present to this bill.

Thank you, everyone. We're adjourned.

The committee adjourned at 1540.

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