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**Official Report
of Debates
(Hansard)**

Thursday 31 May 2012

**Journal
des débats
(Hansard)**

Jeudi 31 mai 2012

**Standing Committee on
Justice Policy**

Security for Courts, Electricity
Generating Facilities
and Nuclear Facilities Act, 2012

**Comité permanent
de la justice**

Loi de 2012 sur la sécurité
des tribunaux, des centrales
électriques et des installations
nucléaires

Chair: Laura Albanese
Clerk: William Short

Présidente : Laura Albanese
Greffier : William Short

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
JUSTICE POLICY**

**COMITÉ PERMANENT
DE LA JUSTICE**

Thursday 31 May 2012

Jeudi 31 mai 2012

The committee met at 0905 in committee room 1.

SECURITY FOR COURTS, ELECTRICITY
GENERATING FACILITIES
AND NUCLEAR FACILITIES ACT, 2012
LOI DE 2012 SUR LA SÉCURITÉ
DES TRIBUNAUX, DES CENTRALES
ÉLECTRIQUES ET DES INSTALLATIONS
NUCLÉAIRES

Consideration of the following bill:

Bill 34, An Act to repeal the Public Works Protection Act, amend the Police Services Act with respect to court security and enact the Security for Electricity Generating Facilities and Nuclear Facilities Act, 2012 / Projet de loi 34, Loi abrogeant la Loi sur la protection des ouvrages publics, modifiant la Loi sur les services policiers en ce qui concerne la sécurité des tribunaux et édictant la Loi de 2012 sur la sécurité des centrales électriques et des installations nucléaires.

The Chair (Mrs. Laura Albanese): Good morning, all members of the Standing Committee on Justice Policy. We're here again, and we have on the table a motion that was moved on May 10 by Ms. Wong that reads as follows: "I move that the committee cease further deliberation of the issue and immediately commence clause-by-clause consideration of Bill 34."

Yes, Ms. Wong.

Ms. Soo Wong: Madam Chair, I'd like to speak about this motion. Just to go back to where we started back in May, we've been at this committee now for over a month, ready to work for Ontarians, ensuring that we have the best possible security legislation for this province, for the people of Ontario. I know that staff has worked really hard—the support staff, our ministry staff—working very hard, and the challenges continue to be in the past. As I say, in the past was the bell ringing and obstructing the work of this committee, so hopefully today we will be ready to work with each other.

I'm prepared—I want to put my colleagues on notice—to withdraw my original amendment, because we know that all three parties' House leaders met yesterday. In the spirit of the House leaders' work and in respect for their work, I am prepared to withdraw my original motion that was set forth on May 10. But I'm still encouraging and requesting our committee, working together, to go through clause-by-clause.

I am on record to withdraw my initial motion that was set forth, that was submitted and tabled on May 10.

The Chair (Mrs. Laura Albanese): Any debate, further—

Mr. John Yakabuski: No.

The Chair (Mrs. Laura Albanese): Any comments?

Mr. John Yakabuski: We agree.

The Chair (Mrs. Laura Albanese): So this motion is withdrawn.

Mr. John Yakabuski: Madam Chair, in light of the motion by Ms. Wong, I would request a 15-minute recess so I can discuss this with members of my caucus as well.

The Chair (Mrs. Laura Albanese): Mr. Yakabuski has requested a 15-minute recess. Agreed? Agreed.

The committee recessed from 0908 to 0939.

The Chair (Mrs. Laura Albanese): We're back. Just to resume where we're at: Ms. Wong has withdrawn her motion, and I assume we're ready to move into clause-by-clause of Bill 34. I would remind all members that it's very important to give me a show of hands as you're voting.

The first thing we will do is ask for unanimous consent to stand down sections 1, 2 and 3 of the bill so that we can deal with the schedules. Do we have unanimous consent? Agreed.

We'll start with schedule 1, section 1. There are no amendments. Shall schedule 1, section 1, carry? Carried.

Shall schedule 1, section 2, carry? Carried.

Shall schedule 1 carry? All those in favour? Carried.

We're now moving to schedule 2. There is an NDP amendment 0.1.

Mr. Paul Miller: Madam Chair, we withdraw that.

The Chair (Mrs. Laura Albanese): That's withdrawn.

So we're now on schedule 2, section 1. We have a Liberal motion, a government motion. Ms. Wong?

Ms. Soo Wong: Madam Chair, I move that the following provisions of the Police Services Act, as set out in section 1 of schedule 2 to the bill, be amended by striking out "to produce identification" wherever it appears and substituting in each case "to identify himself or herself":

- (1) Subparagraph 1(i) of subsection 138(1).
- (2) Subparagraph 4(i) of subsection 138(1).
- (3) Subparagraph 5(i) of subsection 138(1).
- (4) Clause 138(2)(a).
- (5) Clause 139(1)(a).

The Chair (Mrs. Laura Albanese): Thank you. Any debate? Seeing none, all those in favour? Carried.

Next, an NDP motion.

Mr. Paul Miller: Madam Chair, I move that paragraph 1 of subsection 138(1) of the Police Services Act, as set out in section 1 of schedule 2 of the bill, be struck out.

The Chair (Mrs. Laura Albanese): Any comments? Seeing none, all those in favour? A show of hands, please. Opposed? That's lost.

We'll move on to government motion 138—oh, yes. The page number is 2.

Ms. Soo Wong: Section 1 and schedule 2, Madam Chair?

The Chair (Mrs. Laura Albanese): Yes.

Ms. Soo Wong: Madam Chair, I move that subparagraph 2(ii) of subsection 138(1) of the Police Services Act, as set out in section 1 of schedule 2 to the bill, be struck out and the following substituted:

“(ii) any vehicle that the person is driving, or in which the person is a passenger, while the person is on, entering or attempting to enter premises where court proceedings are conducted, and”

The Chair (Mrs. Laura Albanese): Thank you. Any comments? Seeing none, all those in favour? Opposed? Carried.

We now have NDP motion 2.1. Mr. Miller?

Mr. Paul Miller: Thank you. I move that paragraph 2 of subsection 138(1) of the Police Services Act, as set out in section 1 of schedule 2 to the bill, be struck out and the following substituted:

“2. Search, without warrant, a person who is entering or attempting to enter premises where court proceedings are conducted or who is on such premises in order to determine whether the person has in his or her custody or care a weapon as defined in the Criminal Code (Canada).”

The Chair (Mrs. Laura Albanese): Any comment?

Mr. Paul Miller: It's pretty self-explanatory.

The Chair (Mrs. Laura Albanese): All those in favour? Opposed? That's lost.

We'll move on to NDP motion 2.2.

Mr. Paul Miller: I might as well withdraw it.

The Chair (Mrs. Laura Albanese): Withdrawn.

NDP motion 2.3.

Mr. Paul Miller: I move that subparagraph 4(i) of subsection 138(1) of the Police Services Act, as set out in section 1 of schedule 2 to the bill, be struck out and the following substituted:

“(i) if the person refuses to submit to a search under paragraph 2,”

The Chair (Mrs. Laura Albanese): Thank you, Mr. Miller. I have to rule this motion out of order because it is dependent on motion 1.1 that was previously lost. That's out of order.

Mr. Paul Miller: Madam Chair, we lost 1.1, so why can't we submit this one?

The Chair (Mrs. Laura Albanese): This is submitted, but it's out of order because it was dependent on 1.1 carrying.

Mr. Paul Miller: I'd like an explanation of that, please—“dependent on 1.1.”

The Chair (Mrs. Laura Albanese): It was dependent on 1.1 carrying, the previous motion that you presented.

Mr. Paul Miller: I understand that, but why was it dependent on 1.1?

The Chair (Mrs. Laura Albanese): We'll have legislative counsel explain that.

Ms. Tamara Kuzyk: The amendment set out in motion 2.3 is completely consequential on the amendment that's made by motion 1.1. It removes reference in that subclause to the production of identification, which was going to be removed by 1.1, but since 1.1 was lost, you don't want to lose it in 2.3. You need to retain it now, wherever it remains in the act.

Mr. Paul Miller: Okay. Thank you.

The Chair (Mrs. Laura Albanese): So now we'll move on to motion 2.4, NDP motion.

Mr. Paul Miller: I'm assuming this has to be withdrawn too?

The Chair (Mrs. Laura Albanese): You can still move the motion if you wish. It will be ruled out of order.

Mr. Paul Miller: Okay, we'll move the motion.

I move that subparagraph 5(i) of subsection 138(1) of the Police Services Act, as set out in section 1 of schedule 2 to the bill, be struck out and the following substituted:

“i. if the person refuses to submit to a search under paragraph 2,”

The Chair (Mrs. Laura Albanese): Thank you. This one is also ruled out of order because it is consequent to 1.1, which was lost.

We're now on NDP motion 2.5.

Mr. Paul Miller: I move that section 138 of the Police Services Act, as set out in section 1 of schedule 2 to the bill, be amended by adding the following subsection:

“Search to be minimally intrusive

“(1.1) Searches carried out under subsection (1) shall be conducted in a minimally intrusive manner.”

The Chair (Mrs. Laura Albanese): Any comment? Seeing none, all those in favour? Opposed? The motion is lost.

We'll now move on to government motion number 3. Ms. Wong.

Ms. Soo Wong: I move that the following provisions of the Police Services Act, as set out in section 1 of schedule 2 to the bill, be amended by striking out “without producing the identification” wherever it appears and substituting in each case “without identifying himself or herself”:

1. Clause 138(2)(a).

2. Clause 139(1)(a).

The Chair (Mrs. Laura Albanese): Thank you. Any comments? Mr. Miller.

Mr. Paul Miller: I'd like further explanation on this one, please.

Ms. Soo Wong: With regard to the amendment that we're asking for, we revert the power to request identification closer to the language in the public services protection act; for example, changing "without producing the identification" to "without identifying himself or herself." This change will be made wherever "without producing the identification" is referenced in the bill. The power to request identification is currently read in the context of reasonableness. It may be required by the court security personnel to ask for identification—for example, to vet the attendees. When you vet attendees, you act against a list of known threats, so you have to ask that lawyers also produce identification in order to bypass the search. We made this amendment so that it provides greater security for the courthouse.

The Chair (Mrs. Laura Albanese): Thank you. Any further debate on that? Seeing none, I would seek to see who's in favour. All those in favour? Carried.

We now move to NDP motion 3.1.

Ms. Teresa J. Armstrong: I move that clause 138(2)(a) of the Police Services Act, as set out in section 1 of schedule 2 to the bill, be struck out.

The Chair (Mrs. Laura Albanese): Thank you, Ms. Armstrong. This is ruled out of order as the previous ones because it is consequent to motion 1.1 being carried. So that's lost.

We'll move on to NDP motion 3.2.

0950

Ms. Teresa J. Armstrong: I move that section 138 of the Police Services Act, as set out in section 1 of schedule 2 to the bill, be amended by adding the following subsection:

"Reasonable accommodation

"(6) In exercising the powers conferred by this section, reasonable accommodation shall be made with respect to a person's religious beliefs or in relation to the needs of a person with a disability."

The Chair (Mrs. Laura Albanese): Any comments? Seeing none, all those in favour? Carried.

We'll now move to NDP motion 3.3. Ms. Armstrong.

Ms. Teresa J. Armstrong: I wish to withdraw.

The Chair (Mrs. Laura Albanese): You wish to withdraw?

Ms. Teresa J. Armstrong: Yes.

The Chair (Mrs. Laura Albanese): Withdrawn.

We'll move on to NDP motion 3.4.

Mr. Paul Miller: I move that subsection 140(1) of the Police Services Act, as set out in section 1 of schedule 2 to the bill, be struck out and the following substituted:

"No derogation

"Re judicial powers

"140(1) Nothing in this part derogates from or replaces the power of a judge or judicial officer to control court proceedings, or to have unimpeded access to premises where court proceedings are conducted."

The Chair (Mrs. Laura Albanese): Any comments?

Mr. Paul Miller: It's pretty self-explanatory.

The Chair (Mrs. Laura Albanese): All those in favour? Opposed? That is lost.

We'll now consider government motion number 4.

Ms. Soo Wong: I move that section 140 of the Police Services Act, as set out in section 1 of schedule 2 to the bill, be amended by adding the following subsection:

"Privilege preserved

"(3) Nothing in this part shall operate so as to require the disclosure of information that is subject to solicitor-client privilege, litigation privilege or settlement privilege, or permit the review of documents containing such information."

The Chair (Mrs. Laura Albanese): Any comments? Seeing none, all those in favour? Carried.

We'll move on to NDP motion 4.1.

Mr. Paul Miller: I move—

Interjections.

The Chair (Mrs. Laura Albanese): This can be read into the record.

Mr. Paul Miller: Oh, thanks. I appreciate that.

I move that section 140 of the Police Services Act, as set out in section 1 of schedule 2 to the bill, be amended by adding the following subsection:

"Privilege preserved

"(3) Nothing in this part shall operate so as to require the disclosure of information that is subject to solicitor-client privilege, litigation privilege or settlement privilege, or permit the review of documents containing such information."

The Chair (Mrs. Laura Albanese): Thank you, Mr. Miller. This is identical to the motion that was just carried and therefore ruled out of order.

We'll move to government motion number 5. Ms. Wong.

Ms. Soo Wong: I move that section 1 of schedule 2 to the bill be amended by adding the following section to the Police Services Act:

"Regulations, court security powers

"141(1) The Lieutenant Governor in Council may make regulations respecting the exercise of the powers conferred by section 138 for the purposes of safeguarding the rights and freedoms guaranteed by the Canadian Charter of Rights and Freedoms and the Human Rights Code and, without limiting the generality of the foregoing, the regulations may provide for the accommodation of persons on the basis of creed or disability.

"Same

"(2) A regulation made under subsection (1) may be general or particular in its application."

The Chair (Mrs. Laura Albanese): Any comments? All those in favour? Carried.

We'll consider now NDP motion 5.1.

Mr. Paul Miller: I move that section 1 of schedule 2 to the bill be amended by adding the following section to the Police Services Act:

"Regulations, search powers

"141. The Lieutenant Governor in Council may make regulations governing the exercise of the powers conferred by section 138, including imposing restrictions,

limitations and conditions on the exercise of those powers.”

The Chair (Mrs. Laura Albanese): Any comments? Seeing none, all those in favour? Carried.

We’ll now consider NDP motion 5.2.

Mr. Paul Miller: I move that section 1 of schedule 2 to the bill be amended by adding the following section to the Police Services Act:

“Regulations, reasonable accommodation

“142. The Lieutenant Governor in Council may make regulations governing the accommodation of religious beliefs and the needs of persons with a disability in relation to the exercise of the powers conferred by section 138.”

The Chair (Mrs. Laura Albanese): Any comments? All those in favour? Carried.

We’ll now consider NDP motion 5.3.

Mr. Paul Miller: I move that section 1 of schedule 2 to the bill be amended by adding the following section to the Police Services Act:

“Regulations, access by legal counsel

“143. The Lieutenant Governor in Council may make regulations governing the expedited access by persons who provide identification indicating that they are legal counsel or paralegals to premises where court proceedings are conducted, including providing that one or more provisions of this part do not apply, or apply with specified modifications, in respect of such persons.”

The Chair (Mrs. Laura Albanese): Any comments? All those in favour? Opposed. The motion is lost.

We’ll now consider NDP motion 5.4.

Mr. Paul Miller: I move that section 1 of schedule 2 to the bill be amended by adding the following section to the Police Services Act:

“Regulations, general or particular

“144. A regulation made under this part may be general or particular in its application.”

The Chair (Mrs. Laura Albanese): Any comments?

Mr. Jack MacLaren: I have a question. Can you explain this?

Mr. Paul Miller: Actually, I really don’t have an explanation for this because the person who drafted this is not here. Sorry. It stands alone.

The Chair (Mrs. Laura Albanese): All those in favour, please raise your hand. All those opposed? Carried.

We’ll now consider NDP motion 5.4.1.

Mr. Paul Miller: I move that section 1 of schedule 2 to the bill be amended by adding the following section to the Police Services Act:

“Review of act and regulations

“145. A committee of the Legislative Assembly shall begin a review of this part and the regulations made under it no later than two years from the date on which section 1 of schedule 2 to the Security for Courts, Electricity Generating Facilities and Nuclear Facilities Act, 2012 comes into force, and shall, no later than one year after beginning that review, make recommendations to

the assembly concerning amendments to this part and the regulations.”

The Chair (Mrs. Laura Albanese): Any comments? All those in favour? Opposed? The motion is lost.

We’ll consider NDP motion 5.4.2.

Ms. Teresa J. Armstrong: I move that section 1 of schedule 2 to the bill be amended by adding the following section to the Police Services Act:

“Definition, ‘premises where court proceedings are conducted’

“146. In this part, ‘premises where court proceedings are conducted’ means a building or part of a building used by a court for the purposes of conducting court proceedings.”

The Chair (Mrs. Laura Albanese): Any comments? All those in favour? Opposed? Lost.

We’ll move on to NDP motion 5.5R.

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Mr. Paul Miller: I move that section 1 of schedule 2 to the bill be struck out and the following substituted:

“1. Part X of the Police Services Act is amended by adding the following sections:

““Weapons prohibited

““138. No person shall possess a weapon on premises where court proceedings are conducted unless authorized to do so by the regulations or by a security officer.

““Screening before entry

““139(1) A security officer may screen a person for weapons before the person enters premises where court proceedings are conducted.

““Refusal of entry

““(2) A security officer may refuse a person entry to premises where court proceedings are conducted if the person,

““(a) refuses to be screened for weapons; or

““(b) has possession of a weapon and the possession is not authorized by the regulations or by a security officer or is in violation of any prescribed terms or conditions.

““Screening after entry

““140(1) A security officer may require a person on premises where court proceedings are conducted to move to a place, on those premises or elsewhere, where screening is routinely conducted, and may screen the person for weapons.

““Eviction

““(2) A security officer may evict a person from premises where court proceedings are conducted if the person,

““(a) refuses to be screened for weapons; or

““(b) has possession of a weapon and the possession is not authorized by the regulations or by a security officer or is in violation of any prescribed terms or conditions.

““Screening to be minimally intrusive

““141. The screening of persons under this part shall be conducted in a minimally intrusive manner.

““Restricted zones

““142(1) No person shall enter a restricted zone unless authorized to do so by the regulations.

““Eviction

“(2) A security officer may evict a person from a restricted zone if the person is not authorized by the regulations to enter the restricted zone.

“Reasonable force

“143. A security officer may use reasonable force in refusing a person entry to premises where court proceedings are conducted or to a restricted zone within those premises, or in evicting a person from premises where court proceedings are conducted or from a restricted zone within those premises, if the security officer first provides a reasonable opportunity for the person to leave.

“Reasonable accommodation

“144. In exercising the powers conferred by this part, reasonable accommodation shall be made with respect to a person’s religious beliefs or in relation to the needs of a person with a disability.

“Offences

“145(1) A person is guilty of an offence if the person,

“(a) possesses a weapon on premises where court proceedings are conducted and the possession is not authorized by the regulations or by a security officer;

“(b) enters premises where court proceedings are conducted after a security officer has refused the person entry to those premises;

“(c) enters premises where court proceedings are conducted after refusing to be screened for weapons by a security officer; or

“(d) refuses to leave premises where court proceedings are conducted or a restricted zone within those premises when asked to do so by a security officer.

“Penalty

“(2) A person who is convicted of an offence under this section is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than 60 days, or to both.

“No derogation

“Re judicial powers

“146(1) Nothing in this part derogates from or replaces the power of a judge or judicial officer to control court proceedings, or to have unimpeded access to premises where court proceedings are conducted.

“Re powers of persons providing court security

“(2) Nothing in this part derogates from or replaces any powers that a security officer otherwise has under the law.

“Privilege preserved

“(3) Nothing in this part shall operate so as to require the disclosure of information that is subject to solicitor-client privilege, litigation privilege or settlement privilege, or permit the review of documents containing such information.

“Regulations, court security

“147(1) The Lieutenant Governor in Council may make regulations,

“(a) governing the authorization of persons to possess weapons on premises where court proceedings are conducted, including specifying such persons and estab-

lishing criteria, such as training requirements and other qualifications, that such persons must meet;

“(b) respecting the weapons that authorized persons may possess on premises where court proceedings are conducted, including the terms and conditions on which they may possess those weapons;

“(c) designating parts of premises where court proceedings are conducted as restricted zones;

“(d) authorizing persons to enter restricted zones;

“(e) governing the search methods that may be used by security officers to screen persons for weapons, including imposing limitations, conditions and restrictions on the power to conduct searches;

“(f) governing the accommodation of religious beliefs and the needs of persons with a disability for the purposes of section 144;

“(g) governing the expedited access by persons who provide identification indicating that they are legal counsel or paralegals to premises where court proceedings are conducted, including providing that one or more provisions of this part do not apply, or apply with specified modifications, in respect of such persons;

“Same

“(2) A regulation made under subsection (1) may be general or particular in its application.

“Review of act and regulations

“148. A committee of the Legislative Assembly shall begin a review of this part and the regulations made under section 147 no later than two years from the date on which section 1 of schedule 2 to the Security for Courts, Electricity Generating Facilities and Nuclear Facilities Act, 2012 comes into force, and shall, no later than one year after beginning that review, make recommendations to the assembly concerning amendments to this part and the regulations.

“Definitions

“149. In this part,

““premises where court proceedings are conducted” means a building or part of a building used by a court for the purposes of conducting court proceedings;

““restricted zone” means a part of a premises where court proceedings are conducted designated by the regulations as a restricted zone;

““screen” means search in accordance with this part and the prescribed methods;

““security officer” means a person who is authorized by a board to act in relation to the board’s responsibilities under subsection 137(1) or who is authorized by the commissioner to act in relation to the Ontario Provincial Police’s responsibilities under subsection 137(2);

““weapon” means a weapon as defined in the Criminal Code (Canada).”

That was a long one.

The Chair (Mrs. Laura Albanese): That was a long one. You deserve a glass of water.

Mr. Paul Miller: I need a drink.

The Chair (Mrs. Laura Albanese): Any comments? All those in favour? Opposed? Lost.

We’ll now consider NDP motion 5.5.

Ms. Teresa J. Armstrong: I move that section 1 of schedule 2 to the bill be struck out and the following substituted:

“1. Part X of the Police Services Act is amended by adding the following sections:

““Weapons prohibited

““138. No person shall possess a weapon on premises where court proceedings are conducted unless authorized to do so by the regulations or by a security officer.

““Screening before entry

““139(1) A security officer may screen a person for weapons before the person enters premises where court proceedings are conducted.

““Refusal of entry

““(2) A security officer may refuse a person entry to premises where court proceedings are conducted if the person,

““(a) refuses to be screened for weapons; or

““(b) has possession of a weapon and the possession is not authorized by the regulations or by a security officer or is in violation of any prescribed terms or conditions.

““Screening after entry

““140(1) A security officer may require a person on premises where court proceedings are conducted to move to a place, on those premises or elsewhere, where screening is routinely conducted, and may screen the person for weapons.

““Eviction

““(2) A security officer may evict a person from premises where court proceedings are conducted if the person,

““(a) refuses to be screened for weapons; or

““(b) has possession of a weapon and the possession is not authorized by the regulations or by a security officer or is in violation of any prescribed terms or conditions.

““Restricted zones

““141(1) No person shall enter a restricted zone unless authorized to do so by the regulations.

““Eviction

““(2) A security officer may evict a person from a restricted zone if the person is not authorized by the regulations to enter the restricted zone.

““Reasonable force

““142. A security officer may use reasonable force in refusing a person entry to premises where court proceedings are conducted or to a restricted zone within those premises, or in evicting a person from premises where court proceedings are conducted or from a restricted zone within those premises, if the security officer first provides a reasonable opportunity for the person to leave.

““Reasonable accommodation

““143. In exercising the powers conferred by this part, reasonable accommodation shall be made with respect to a person’s religious beliefs or in relation to the needs of a person with a disability.

1010

““Offences

““144(1) A person is guilty of an offence if the person,

“(a) possesses a weapon on premises where court proceedings are conducted and the possession is not authorized by the regulations or by a security officer;

“(b) enters premises where court proceedings are conducted after a security officer has refused the person entry to those premises;

“(c) enters premises where court proceedings are conducted after refusing to be screened for weapons by a security officer; or

“(d) refuses to leave premises where court proceedings are conducted or a restricted zone within those premises when asked to do so by a security officer.

““Penalty

“(2) A person who is convicted of an offence under this section is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than 60 days, or to both.

““No derogation

““Re judicial powers

““145(1) Nothing in this part derogates from or replaces the powers of a judge or judicial officer to control court proceedings, or to have unimpeded access to premises where court proceedings are conducted.

““Re powers of persons providing court security

“(2) Nothing in this part derogates from or replaces any powers that a security officer otherwise has under the law.

““Privilege preserved

“(3) Nothing in this part shall operate so as to require the disclosure of information that is subject to solicitor-client privilege, litigation privilege or settlement privilege, or permit the review of documents containing such information.

““Regulations, court security

““146(1) The Lieutenant Governor in Council may make regulations,

“(a) designating buildings, parts of buildings and spaces used by a court as premises where court proceedings are conducted for the purpose of this part;

“(b) authorizing persons to possess weapons on premises where court proceedings are conducted;

“(c) respecting criteria to be used in authorizing persons to possess a weapon on premises where court proceedings are conducted;

“(d) respecting the weapons that authorized persons may possess on premises where court proceedings are conducted, including the terms and conditions on which they may possess those weapons;

“(e) designating parts of premises where court proceedings are conducted as restricted zones;

“(f) authorizing persons to enter restricting zones;

“(g) governing the search methods that may be used by security officers to screen persons for weapons, including imposing limitations, conditions and restrictions on the power to conduct searches;

“(h) governing the accommodation of religious beliefs and the needs of persons with a disability for the purpose of section 143;

“(i) governing the expedited access by persons who provide identification indicating that they are legal counsel or paralegals to premises where court proceedings are conducted, including providing that one or more provisions of this part do not apply, or apply with specified modifications, in respect of such persons;

“(j) limiting the peace officer powers of a security officer.

“Same

“(2) A regulation made under subsection (1) may be general or particular in its application.

“Definitions

“147. In this part,

““premises where court proceedings are conducted” means the building, part of a building, or space used by a court and designated by the regulations as such premises for the purposes of this part;

““restricted zone” means a part of premises where court proceedings are conducted designated by the regulations as a restricted zone;

““screen” means search in accordance with the prescribed methods;

““security officer” means a person who is authorized by a board to act in relation to the board’s responsibilities under subsection 137(1) or who is authorized by the commissioner to act in relation to the Ontario Provincial Police’s responsibilities under subsection 137(2);

““weapon” means a weapon as defined in the Criminal Code (Canada).”

The Chair (Mrs. Laura Albanese): Thank you, Ms. Armstrong. That was rather lengthy as well. Any comments? All those in favour? Opposed? The motion is lost.

Shall schedule 2, section 1, as amended, carry? Carried.

Shall schedule 2, section 2, carry? Carried.

Shall schedule 2, as amended, carry? Carried.

So we’re now on schedule 3, section 1. PC motion 5.5.1.

Mr. John Yakabuski: Thank you, Madam Chair.

I move that subsection 1(1) of the Security for Electricity Generating Facilities and Nuclear Facilities Act, 2012, as set out in schedule 3 to the bill, be amended by adding the following definition:

““premises where a restricted access facility is located” means, with respect to a particular restricted access facility, any real property relating to the restricted access facility that is under the direct control of its operator, including any buildings and structures on that property;”

The Chair (Mrs. Laura Albanese): Any comments? All those in favour? Opposed? Carried.

Shall schedule 3, section 1, as amended, carry? Carried.

Shall schedule 3, section 2, carry? Carried.

Shall schedule 3, section 3, carry? Carried.

We’ll move on to schedule 3, section 4. PC motion 5.5.2.

Mr. John Yakabuski: I move that paragraph 1 of section 4 of the Security for Electricity Generating

Facilities and Nuclear Facilities Act, 2012, as set out in schedule 3 to the bill, be amended by striking out “Request” at the beginning of the portion before subparagraph i and substituting “Require”.

The Chair (Mrs. Laura Albanese): Any comments? All those in favour? Opposed? Carried.

We’ll move on to PC motion 5.5.3.

Mr. John Yakabuski: I move that paragraph 2 of section 4 of the Security for Electricity Generating Facilities and Nuclear Facilities Act, 2012, as set out in schedule 3 to the bill, be amended by striking out the portion before subparagraph i and substituting the following:

“2. Search, without warrant.”

The Chair (Mrs. Laura Albanese): Any comments? All those in favour? Opposed? Carried.

We’ll move to Liberal motion 6.

Ms. Soo Wong: Madam Chair, I move that subparagraph 2ii of section 4 of the Security for Electricity Generating Facilities and Nuclear Facilities Act, 2012, as set out in schedule 3 to the bill, be struck out and the following substituted:

“ii. any vehicle that the person is driving, or in which the person is a passenger, while the person is on, entering or attempting to enter the premises, and”

The Chair (Mrs. Laura Albanese): Any comments? All those in favour? Opposed? Carried.

We’ll now move to NDP motion 6.1.

Mr. Paul Miller: I move that paragraph 2 of section 4 of the Security for Electricity Generating Facilities and Nuclear Facilities Act, 2012, as set out in schedule 3 to the bill, be struck out and the following substituted:

“2. If the person consents, conduct a search of,

“i. a person who wishes to enter the premises or who is on the premises, in order to determine whether the person has in his or her custody or care a weapon as defined in the Criminal Code (Canada), and

“ii. any vehicle that the person is driving, or in which the person is a passenger, while the person is on, entering or attempting to enter the premises.”

The Chair (Mrs. Laura Albanese): Thank you. Any comments?

All those in favour? Opposed? That motion is lost.

1020

Mr. Paul Miller: Actually, that was a tie. Do you want to do that again?

Interjection.

Mr. Paul Miller: He put his hand up, we did and one over there.

The Chair (Mrs. Laura Albanese): Let’s do that again, then.

Mr. Paul Miller: Yes, let’s do it again.

The Chair (Mrs. Laura Albanese): All those in favour? Opposed?

Mr. Paul Miller: It’s changed now. Okay.

The Chair (Mrs. Laura Albanese): The motion is carried—

Interjection.

The Chair (Mrs. Laura Albanese): Sorry, lost.

Shall schedule 3, section 4, as amended, carry? Carried.

I guess we'll stop here. We do have another five minutes. We could try to go through—we won't finish.

Interjections.

The Chair (Mrs. Laura Albanese): I'm pretty sure. Let's try. PC motion 6.1.1.

Mr. John Yakabuski: I move that clause 5(1)(a) of the Security for Electricity Generating Facilities and Nuclear Facilities Act, 2012, as set out in schedule 3 to the bill, be amended by striking out "after being requested" at the beginning and substituting "after being required".

The Chair (Mrs. Laura Albanese): Any comments? All those in favour? Opposed? Carried.

PC motion 6.1.2.

Mr. John Yakabuski: I move that clause 5(1)(b) of the Security for Electricity Generating Facilities and Nuclear Facilities Act, 2012, as set out in schedule 3 to the bill, be amended by striking out "requested to" and substituting "directed to".

The Chair (Mrs. Laura Albanese): Any comments? All those in favour? Opposed? Lost—sorry, carried. I'm getting confused here.

PC motion 6.1.3.

Mr. John Yakabuski: I move that clause 5(1)(d) of the Security for Electricity Generating Facilities and Nuclear Facilities Act, 2012, as set out in schedule 3 to the bill, be amended by striking out "enters or attempts to enter" at the beginning and substituting "enters, attempts to enter or is found on".

The Chair (Mrs. Laura Albanese): Any comments? All those in favour? Opposed? Carried.

PC motion 6.1.4.

Mr. John Yakabuski: I move that subsection 5(1) of the Security for Electricity Generating Facilities and Nuclear Facilities Act, 2012, as set out in schedule 3 to the bill, be amended by striking out "or" after clause (d), by adding "or" after clause (e) and by adding the following clause:

"(f) in any other way obstructs or interferes with a peace officer in the exercise of the powers conferred by section 4."

The Chair (Mrs. Laura Albanese): Any comments? All those in favour? Opposed? Carried.

Shall schedule 3, section 5, as amended, carry? Carried.

We'll move on to schedule 3, section 6. PC motion 6.1.5.

Mr. John Yakabuski: I move that clause 6(1)(a) of the Security for Electricity Generating Facilities and Nuclear Facilities Act, 2012, as set out in schedule 3 to the bill, be amended by striking out "after being requested" at the beginning and substituting "after being required".

The Chair (Mrs. Laura Albanese): Any comments? All those in favour? Opposed? Carried.

PC motion 6.1.6.

Mr. John Yakabuski: I move that clause 6(1)(b) of the Security for Electricity Generating Facilities and Nuclear Facilities Act, 2012, as set out in schedule 3 to the bill, be amended by striking out "requested to" and substituting "directed to".

The Chair (Mrs. Laura Albanese): Any comments? All those in favour? Opposed? Carried.

PC motion 6.1.7.

Mr. John Yakabuski: I move that clause 6(1)(d) of the Security for Electricity Generating Facilities and Nuclear Facilities Act, 2012, as set out in schedule 3 to the bill, be amended by striking out "enters or attempts to enter" and substituting "enters, attempts to enter or is found on".

The Chair (Mrs. Laura Albanese): Any comments? All those in favour? Opposed? Carried.

PC motion 6.1.8.

Mr. John Yakabuski: I move that subsection 6(1) of the Security for Electricity Generating Facilities and Nuclear Facilities Act, 2012, as set out in schedule 3 to the bill, be amended by striking out "or" after clause (d), by adding "or" after clause (e) and by adding the following clause:

"(f) the person in any other way obstructs or interferes with a peace officer in the exercise of the powers conferred by section 4."

The Chair (Mrs. Laura Albanese): Any comments? All those in favour? Opposed? Carried.

Shall schedule 3, section 6, as amended, carry? Carried.

And now we'll have to stop. The committee is recessed until 2 p.m. this afternoon.

The committee recessed from 1025 to 1402.

The Vice-Chair (Mr. Shafiq Qaadri): J'appelle à l'ordre cette séance du Comité permanent de la justice.

We'll start with schedule 3, section 6.1, which is a new section, for which purpose I invite the honourable Mr. Miller of the NDP to present.

Mr. Paul Miller: I move that the Security for Electricity Generating Facilities and Nuclear Facilities Act, 2012, as set out in schedule 3 to the bill, be amended by adding the following section:

"Reasonable accommodation

"6.1 In exercising the powers conferred under this act, reasonable accommodation shall be made with respect to a person's religious beliefs or in relation to the needs of a person with a disability."

The Vice-Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller. If there is any commentary before we proceed to the vote? Mr. Singh.

Mr. Jagmeet Singh: With respect to a similar amendment that was passed for court security in a courthouse, similarly, there are accommodations for people who are either part of a guided tour or attending for any other purpose that's already deemed legitimate; that reasonable accommodation is made if they're a disabled person or if they have a particular head covering or article of faith that they carry; and that those tasked with the security in terms of searching would ensure that there is a reasonable

accommodation made for whatever that particular practice is so that, if they were attending or an employee or entering, they wouldn't be precluded based on the search provisions.

The Vice-Chair (Mr. Shafiq Qaadri): Merci pour vos remarques. Are there any further comments before? Ms. Wong.

Ms. Soo Wong: I want to make sure the committee recognizes that the facilities that we're talking about are actually critical infrastructure for the government. These are not open to the public, and they're quite different in terms of standards of protection. As we probably all know, the Human Rights Code and the Canadian Charter of Rights and Freedoms already provides some legal framework for diversity and human rights. It is not clear how the proposed amendment will work within this existing framework. In some ways, it's more narrowing; for example, it limits to religious beliefs or disability, and it may in other contexts be read in a way that limits or weakens the security of nuclear electricity-generating facilities. There are concerns that the proposal will go beyond articles of faith, like clothing covering the whole body. The existing regulation-making authority in Bill 34 would address accommodation requirements.

The Vice-Chair (Mr. Shafiq Qaadri): Thank you, Ms. Wong. Are there any further comments on NDP motion 6.2 before we proceed to the vote?

Mr. Jagmeet Singh: Sure. Just to address Ms. Wong's comments, the issue of security, the issue of sensitivity, the issue of an electricity-producing facility being something of integral infrastructure is, of course, noted. There is no way that a reasonable accommodation would in any way infringe our ability to protect a facility. If there's a weapon, if there's an explosive device, if there's anything that's concealed—all those elements can still be covered by searching a person, by going through a metal detector or by going through any other means that the act has already provided for. There are many, many ways to protect security. This is just recognizing that there should be some reasonable accommodation.

Now, "reasonable" means that it should be within reason—that it doesn't harm anyone, doesn't cause any danger, doesn't cause any threat. There should be an accommodation made for people, whatever their issues are, whether it's religious or a disability concern.

That in no way would limit your ability to keep the premises secure. There's nothing in it that would stop that.

In addition, it would go hand in hand with any existing constitutional rights or any existing human rights coda. There's nothing in the wording that would stop it. Because it's a reasonable accommodation, that clause, in and of itself, is a very broad consideration. It doesn't narrow anything, and it wouldn't contravene or contradict any other existing protection under the human rights regime or under any constitutional regime.

The Vice-Chair (Mr. Shafiq Qaadri): Thank you, Mr. Singh. Yes, Mr. Miller.

Mr. Paul Miller: I'd like a recorded vote on this, please.

The Vice-Chair (Mr. Shafiq Qaadri): Recorded vote. We would invite members to please enthusiastically show their hands for that purpose.

Ayes

MacLaren, Paul Miller, Singh.

Nays

Berardinetti, Jaczek, Milligan, Wong, Yakabuski.

The Vice-Chair (Mr. Shafiq Qaadri): Regrettably, NDP motion 6.2 is lost.

We'll now proceed to schedule 3, section 7, PC motion 6.2.1, for which purpose I invite Mr. Yakabuski.

Mr. John Yakabuski: I move that clause 7(1)(c) of the Security for Electricity Generating Facilities and Nuclear Facilities Act, 2012, as set out in schedule 3 to the bill, be struck out.

The Vice-Chair (Mr. Shafiq Qaadri): The floor is open to comments before we proceed to the vote. Mr. Miller.

Mr. Paul Miller: I'd like further clarification, please.

The Vice-Chair (Mr. Shafiq Qaadri): We await further clarification. Do you address that to anyone in particular—to the presenter or to legislative counsel?

Mr. Paul Miller: To Mr. Yakabuski.

The Vice-Chair (Mr. Shafiq Qaadri): Mr. Yakabuski.

Mr. John Yakabuski: This change will eliminate the ability to define the extent of the premises through regulation. It's complementary to 5.5.1, which was done earlier, with the legislated definition of "premises," and it ensures that the premises cannot be extended beyond the facility perimeter through regulation.

The Vice-Chair (Mr. Shafiq Qaadri): The explanation is satisfactory, Mr. Miller?

Mr. Paul Miller: I heard it. I don't know if it's satisfactory.

Laughter.

The Vice-Chair (Mr. Shafiq Qaadri): All right. Mr. Singh.

Mr. Jagmeet Singh: If I could just ask, perhaps, legislative counsel to comment on that, on the motion that was passed that describes what the premises is. If the premises are described by legislation, would this regulation be able to expand the definition of "premises" so that it could be more than what is legislated, and what would that impact be?

The Vice-Chair (Mr. Shafiq Qaadri): Thank you. A question on "premises" for legislative counsel.

Ms. Tamara Kuzyk: PC motion 5.5.1 creates a static definition of what "premises" is. To be sure, there might be expansion or contraction of that through interpretation in the courts. What PC motion 6.2.1 does is, if carried, get rid of the ability to further define or delineate "premises" by way of regulation. By carrying both, if that were what would happen, you'd be getting rid of

prescribed concepts of premises and replacing them with static concepts of premises in the act, which would require, obviously, a legislative amendment, then.

But in terms of how premises are actually defined, that would be for the courts. That would be—

Mr. Jagmeet Singh: Just to clarify one further thing: If you could just clarify the way “premises” is defined now with the motion that was passed.

Ms. Tamara Kuzyk: You mean read out motion 5.5.1?

Mr. Jagmeet Singh: Yes, just to clarify it.

1410

Ms. Tamara Kuzyk: The text, the definition of “premises where a restricted access facility is located”: The way it’s defined in PC motion 5.5.1 “means, with respect to a particular restricted access facility, any real property relating to the restricted access facility that is under the direct control of its operator, including any buildings and structures on that property.”

The Vice-Chair (Mr. Shafiq Qadri): May we proceed, then, Mr. Singh, or do you have further questions?

Mr. Jagmeet Singh: My understanding is that the 5.5.1 that’s passed now has a static, legislated definition of “premises,” which would be in the legislation. If we pass 6.2.1, then the government wouldn’t have the power through regulation to expand the definition of “premises,” to go beyond what is already legislated here. If there was ever a change needed to “premises,” it would have to be done through legislation. That would go through the regular channels of a legislated change, as opposed to a regulation change, which would be done by cabinet without the input of the rest of the House.

Ms. Tamara Kuzyk: I think that’s a good overview of it, yes.

Mr. Jagmeet Singh: Okay. We should probably support it.

The Vice-Chair (Mr. Shafiq Qadri): Thank you. If there’s enough satisfaction, we’ll move to the vote. Those in favour PC motion 6.2.1? Those opposed? The motion is carried.

Government motion 7.

Ms. Soo Wong: I move that clause 7(1)(f) of the Security for Electricity Generating Facilities and Nuclear Facilities Act, 2012, as set out in schedule 3 to the bill, be struck out and the following substituted:

“(f) governing the exercise by persons appointed under section 2 of the powers of a peace officer;”

The Vice-Chair (Mr. Shafiq Qadri): Thank you. Comments before the vote? Mr. MacLaren and then Mr. Singh.

Mr. Jack MacLaren: Could you explain what that means?

Ms. Soo Wong: This is a technical amendment to subsection 7(1) of schedule 3 that governs the exercise of powers of persons appointed under section 2 and powers conferred by section 4, including imposing restrictions, limitations and conditions on the exercising of those powers to include peace officers, because we heard from

deputations that they want the peace officer to be part of this piece. So that’s why it’s here.

Currently, clause 7(1)(f) authorizes the making of regulations with respect to two distinct matters: (1) exercise by a person appointed under section 2 of the powers of a peace officer, and (2) exercise by a person appointed under section 2 of powers conferred by section 4.

This motion and the subsequent motions would separate these two matters. So that’s important.

The Vice-Chair (Mr. Shafiq Qadri): Thank you. After Mr. MacLaren, Mr. Singh.

Mr. Jagmeet Singh: The way the act currently reads, it allows—I’m just trying to understand the difference. It’s to strike out, in schedule 3, clause 7(1)(f). In 7(1)(f), it’s “governing the exercise by persons appointed under section 2....”

This is a question, perhaps, to legislative counsel and perhaps to the government, which is bringing this. In clause (f), it allows the imposing of restrictions, limitations and conditions on the exercise of those powers. So it gives the ability to restrict the powers of those—

Ms. Soo Wong: Let me go back. This is a technical amendment to subsection 7(1) of schedule 3 that governs the exercise of power of persons appointed under section 2 and powers conferred by section 4, including imposing restrictions, limitations and conditions on the exercise of those powers to include a peace officer, because we heard a deputation that peace officers should be part of this.

The Vice-Chair (Mr. Shafiq Qadri): Mr. Singh, are you pondering or may we proceed?

Mr. Jagmeet Singh: I’m just pondering for a moment.

Mr. Lorenzo Berardinetti: How long can you ponder for?

Mr. Jagmeet Singh: Yes. Is there a rule on how long you can ponder for?

Mr. John Yakabuski: We have an amendment, actually, dealing with that.

The Vice-Chair (Mr. Shafiq Qadri): It seems to be a relatively rare occurrence, so I’ll extend you the courtesy.

Mr. Jagmeet Singh: Thank you. Perhaps legislative counsel can explain.

Legislative counsel: In your opinion, what’s significantly different between the way section 7(1), subsection (f) is currently, and then with it struck out in the new—because it’s essentially being struck out and replaced by the following—

The Vice-Chair (Mr. Shafiq Qadri): I’m sensing that legislative counsel would like to defer to—

Ms. Tamara Kuzyk: Yes, I think ministry counsel can speak to this very adequately.

The Vice-Chair (Mr. Shafiq Qadri): I’m sure you know the drill and protocol. Please identify yourself and then address the question.

Mr. John Malichen-Snyder: John Malichen-Snyder, counsel with the ministry.

The way 7(1)(f) reads right now, the power to impose restrictions, limitations and conditions is only with respect to a person appointed under section 2. The proposal is to replace that with an ability—and (f) contains two parts: one is about appointing people, and the other is about imposing restrictions. The proposal is to separate that. So there will still be an ability to make regs governing the appointment. There will be a separate section governing the ability to make regs imposing restrictions, but the ability to impose restrictions won't be restricted to someone appointed under section 2; it would include any peace officer. So if there's a special constable who's providing services, the restrictions could apply to that special constable, for example. It's to broaden the ability to make regulations imposing restrictions.

The Vice-Chair (Mr. Shafiq Qaadri): Thank you. Are there any further questions?

Mr. Jagmeet Singh: Yes. I just don't see any language of imposing restrictions, though. I think that is a fair explanation, that it expands the definition to apply to everyone, including a peace officer. But it just governs the exercise. It doesn't include the language of imposing restrictions, limitations and conditions on the exercise of power.

Mr. John Malichen-Snyder: There are two related motions. The existing one subsection is being divided into two, so there would be a new (f), and then subsequently there would be a (j).

Mr. Jagmeet Singh: I see. That's the next page.

The Vice-Chair (Mr. Shafiq Qaadri): Thank you. I will now invite the vote on government motion 7. Those in favour? Those opposed? Government motion 7 carries.

Government motion 8.

Ms. Soo Wong: I move that subsection 7(1) of the Security for Electricity Generating Facilities and Nuclear Facilities Act, 2012, as set out in schedule 3 to the bill, be amended by adding the following clause:

“(j) governing the powers conferred by section 4, including imposing restrictions, limitations and conditions on the exercise of those powers.”

The Vice-Chair (Mr. Shafiq Qaadri): Comments before the vote?

Mr. Jack MacLaren: It would seem that the previous motion and this one add up to what was (f). Is that not so?

Ms. Soo Wong: It's a new one. This is, again, a technical amendment, Mr. MacLaren. This is a new proposed clause, (j), that authorizes a regulation with respect to exercising powers conferred by section 4. So under the new clause (j), regulations can be made with respect to the exercise of powers conferred by section 4 by peace officers, not just a person appointed by section 2. I think the question Mr. Singh asked earlier is covered in this particular section.

The Vice-Chair (Mr. Shafiq Qaadri): We'll proceed to the vote?

Mr. Jack MacLaren: Yes.

The Vice-Chair (Mr. Shafiq Qaadri): Those in favour of government motion 8? Those opposed? Government motion 8 carries.

NDP motion 8.1.

Mr. Paul Miller: I move that subsection 7(1) of the Security for Electricity Generating Facilities and Nuclear Facilities Act, 2012, as set out in schedule 3 to the bill, be amended by adding the following clause:

“(j) governing the accommodation of religious beliefs and the needs of persons with a disability in relation to the exercise of the powers conferred under this act.”

The Vice-Chair (Mr. Shafiq Qaadri): Any further comments?

Mr. Paul Miller: Recorded vote.

The Vice-Chair (Mr. Shafiq Qaadri): Recorded vote.

Ayes

MacLaren, Paul Miller, Singh.

Nays

Berardinetti, Jaczek, Milligan, Wong, Yakabuski.

The Vice-Chair (Mr. Shafiq Qaadri): NDP motion 8.1 is defeated.

Government motion 9.

Ms. Soo Wong: I move that subsection 7(2) of the Security for Electricity Generating Facilities and Nuclear Facilities Act, 2012, as set out in schedule 3 to the bill, be amended by striking out “clause 1(e) or (f)” and substituting “clause (1)(e), (f) or (j)”.

The Vice-Chair (Mr. Shafiq Qaadri): Comments? We'll proceed to the vote, then. Those in favour of government motion 9? Those opposed? Government motion 9 carries.

Shall schedule 3, section 7, carry, as amended? Carried.

Schedule 3, section 8, carry? Carried.

Schedule 3, section 9, carry? Carried.

Schedule 3, as amended, carry? Carried.

Before we proceed to the final items, we need to return to sections 1, 2 and 3, which were deferred from earlier—stood down, as it were.

Shall sections 1, 2 and 3 carry? Carried.

Title carry? Carried.

Bill 34, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

I thank you for your endurance and co-operation. This committee is officially adjourned.

The committee adjourned at 1423.

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Ms. Soo Wong (Scarborough–Agincourt L)

Mr. John Yakabuski (Renfrew–Nipissing–Pembroke PC)

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Mr. William Short

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