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**Wednesday 26 March 2014**

**Journal  
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(Hansard)**

**Mercredi 26 mars 2014**

**Standing Committee on  
the Legislative Assembly**

School Boards Collective  
Bargaining Act, 2014

**Comité permanent de  
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Loi de 2014 sur la négociation  
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Hansard Reporting and Interpretation Services  
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111, rue Wellesley ouest, Queen's Park  
Toronto ON M7A 1A2  
Téléphone, 416-325-7400; télécopieur, 416-325-7430  
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
THE LEGISLATIVE ASSEMBLY**

**COMITÉ PERMANENT DE  
L'ASSEMBLÉE LÉGISLATIVE**

Wednesday 26 March 2014

Mercredi 26 mars 2014

*The committee met at 1202 in committee room 1.*

**SCHOOL BOARDS COLLECTIVE  
BARGAINING ACT, 2014  
LOI DE 2014 SUR LA NÉGOCIATION  
COLLECTIVE DANS LES CONSEILS  
SCOLAIRES**

Consideration of the following bill:

Bill 122, An Act respecting collective bargaining in Ontario's school system / Projet de loi 122, Loi concernant la négociation collective dans le système scolaire de l'Ontario.

**The Vice-Chair (Ms. Lisa MacLeod):** Ladies and gentlemen, welcome to the Standing Committee on the Legislative Assembly, where we're dealing with Bill 122, An Act respecting collective bargaining in Ontario's school system. Pursuant to the last meeting, we are now going to call for the vote on PC motion 1.1, moved by the Progressive Conservatives. All those in favour?

**Mr. Rob Leone:** Chair, may I have a recorded vote?

**The Vice-Chair (Ms. Lisa MacLeod):** You may.

**Ayes**

Leone, Nicholls.

**Nays**

Balkissoon, Crack, Delaney, Mangat, Mantha, Tabuns.

**The Vice-Chair (Ms. Lisa MacLeod):** The motion does not pass.

We are now dealing with all of section 2. Shall section 2 carry?

*Interjection.*

**The Vice-Chair (Ms. Lisa MacLeod):** Further debate? Mr. Leone.

**Mr. Rob Leone:** Thank you very much for giving me the floor, Chair. I appreciate the opportunity to speak. I will state at the outset that I'm very disappointed by what has transpired in this committee. We have been seeking an opportunity for further discussion and debate about something so vital to parents, which is why we decided, in section 2, which is the definitions section of the act, to include a definition of co-instructional activities that not only included football practices and soccer practices and volleyball practices and all sorts of sports in our schools,

but also the arts, taking care of drama classes, music classes, choir practice and a variety of activities therein, and also helping students outside of the instructional day, which is often considered a co-instructional activity that teachers do provide to their students.

It is with some great disappointment that we weren't able to include that definition into section 2 of this act, particularly because it didn't have any effect, just adding a definition of co-instructional activities at this juncture. It did not, in any way, alter the bill and alter the expectations that we might have of the education system.

I suggest, and will re-suggest, that I'm very disappointed that this committee sought at this juncture to vote down what amounted to an innocuous amendment to include extracurricular activities. That didn't have any force to change anything in the legislation; we were just defining what co-instructional activities actually were.

That being said, I will continue to talk about what remains in section 2, the definitions portion of the act. I will say that it's obviously important to understand what is defined in section 2, because it is the definitions portion of the act, but also what is not defined. What are we missing out?

I noted with interest that in question period today, the Minister of Education continued to state on an ongoing basis that the partners of education include the trustee associations—the Catholic trustees' association, the Ontario Public School Boards Association, the French Catholic and French public trustee associations were partners—and then proceeded to include and enumerate a number of other "partners" that include ETFO, OSSTF, AEFO who are all part of the partners. But what we don't see outlined or enumerated to any degree in this particular part is a definition of other partners that might be included. I will suggest, with some degree of dismay, that what's not included in this definition phase is a definition of what other partners might exist in our system.

Certainly, I have made the point, over and over and over again, that we should be talking about students and parents as being important partners in our education system. They should have a vested interest in the direction, and the future direction, of their education system. We are, at some point, debating with this piece of legislation whether they're going to have more or less control on that direction.

This bill is designed to set up a process whereby we have central tables and we have local tables, and the participants at those tables are spelled out in this legislation.

They include the government, the teaching federations and the school board associations. That's what is outlined in this bill, but there has never been an attempt to consolidate or to consider what effect parents might have on this particular piece of legislation. So I will state with a degree of dismay, once again, that we are here talking about an important piece of legislation to the education sector, and that we aren't considering the effect of parents as partners in this system.

I know that every member on this committee and every member of this Legislature is facing a degree, or did face, particularly in the aftermath—or not just the aftermath, but during the withdrawal of extracurricular activities in our schools that occurred just a year ago. Because of that, I think that we have to consider the thoughts and opinions of our own constituents when it comes to matters of education.

I need not remind members of this committee that education is the second-largest ministry in our government. It helps students learn, but it's so vital to the social fabric of our province and to our economic well-being. To have such a vital part of our legislation talking about definitions—which is what we're doing in this section—but excluding some of the biggest stakeholders in this, who are our kids, from this piece of legislation is, I think, an oversight. I hope that it doesn't mean that the people who drafted this legislation were either told not to consider the thoughts and wishes of parents or that they were simply ignored from the get-go.

I don't know if that's the case. I certainly don't know who—if any parent—was consulted. From my interaction with parents across this province, the answer to that is that they haven't been consulted at all.

**1210**

I want to throw that out to the committee to consider. I think that we have an opportunity and an obligation to look at where parents fall in this whole scheme, and can we put in or insert in this piece of legislation meaningful dialogue and meaningful understanding of precisely who is very important to this education system. I want to put that on the table for committee members to consider.

I hope, in the process of your communication and your actual speaking to this bill that everyone considers to be very, very important to the education sector, that when you take the opportunity—because everyone is given the opportunity to speak to this bill—you will talk about the effect this bill will have on parents in your own communities. That's important to note.

I will also note that another key stakeholder that is not included in this are our kids. I have three young children who are or are about to be in the school system. Education is a vital issue that is of concern to my family. It's a concern to our friends who also have young children. I think nothing is more important to children than what they are doing in their classroom and what they're doing in extracurricular activities.

I know that one of my favourite times of year to visit my son's school is during the Christmas season, when they are doing their celebration and each class is doing

their skit. I can see, as I'm observing the room, just the sheer excitement that is in that room, not just from the kids who are actually performing their plays, reciting their songs or doing their dance, but from the parents who are filling the gymnasiums in schools right across the province of Ontario to witness the spectacle that is before them.

I know that my wife and myself were at that celebration. I know that my parents came. I know that my wife's parents came. I know that there were a lot of people who were enthusiastic about witnessing a very unique feature, which is kids just being kids. It would be a shame to have that experience taken away from our children on the basis of our inability, as a committee, to include co-instructional activities in our deliberations. I'm quite saddened that even on that vote we weren't able to do that. That shouldn't shirk our serious responsibility to our children to ensure that they have a full and wholesome educational experience, the one that I know many of us remember when we were growing up.

Oftentimes, you'll hear our students talk about—our kids talk about—how great their class was. My oldest son is fascinated by learning French. He's also fascinated by math. But he often talks about some of the activities he does outside of the classroom as being part of his educational experience.

I know that members of this committee who have children, or not even if they've had children, but if they have nieces and nephews or grandchildren—well, they would have to have children to have grandchildren, I suppose. But people who are witnessing them, or probably their neighbours, if they don't have children, can sympathize with the fact that we should be saying something positive for our parents. I think that we should talk about students. Critical to the success of the vibrant educational system is the success and the educational experience of our children.

I know in my previous critic portfolio, we often talked about the educational experience for students who are in college and university as being important. I think the same thing applies in this piece of legislation: that we should actually consider the educational experience of our children. Although we can't elaborate on some of the pitfalls of our education system today, whether it's some shortcomings in curriculum—I know mathematics is something that is of importance to parents and to students. There have been media stories probably for the last six months talking about math education, and these are things that parents are deeply concerned about. But they want to have some ability to ensure that they have some control about the success of their students. Obviously, our children are our most precious possession, and I think I can say that on behalf of parents right across the province of Ontario.

Section 2 of this act, which is the definitions section, has a number of subsections as well that we ought to examine and explore. I know that I had gone through some of the definitions and talked about them elaborately, and I'm pretty sure that my colleague, Mr. Nicholls, who's

not really Mr. Smith—I see that name tag not being correctly—

*Interjection.*

**Mr. Rob Leone:** It's on the other side? All right. I just see that we're looking at Mr. Smith, even though he's not here today.

He might want to elaborate on what his opinions are on some of these definitions as well, but I want to point out some of the subamendments. As we're reviewing clause by clause, it's important to review the entire piece of legislation, and I feel that on this committee I'm probably one of two people who have read this bill because I'm the only one who seems to want to go through this clause by clause.

But here we go. We're talking about local bargaining in subsection 2(2) of this act. The definitions part of it states:

"In this act, local bargaining refers to collective bargaining between a school board and a bargaining agent for a collective agreement or, where both central and local bargaining are required, it refers to collective bargaining for local terms to be included in a collective agreement."

Again, I want to stress that it is quite important that we get a process established that is correct, and I appreciate that there are a lot of people in this room who are looking at this legislation and saying that we need to get this passed. Part of the reason for that is because there needs to be some preservation of local bargaining. As I read commentary from our teachers and our unions, I know that local bargaining is something that is quite important and something that they want to preserve. That's partly protected in this piece of legislation. I think there are some concerns, obviously, with respect to local bargaining that may arise from time to time, but the process is laid out such that we have central tables and local tables. I think it's very appropriate to have local bargaining included in this definition.

I noted some union leaders on the weekend or into last week were stating that if Bill 122 doesn't pass, negotiations will occur just as they always have, which is at the local level between locals and school boards in a traditional format. I'm interested to see what the government thinks about that kind of comment and whether they're interested in pursuing that a little further or not; I don't know. I certainly do understand and even appreciate some of the concerns they're raising, particularly because that local bargaining piece was completely absent from the Bill 115 debacle that this government engaged in that upset teachers right across the province of Ontario. I'd love to hear some more from the government on that particular aspect of this legislation.

The definitions section goes to subsection (3), so there are, I think, in this section, four subsections. Subsection (3) is about central bargaining. We understand at the outset that this piece of legislation is trying to define the local process and a central process therein, and so it's important that they define that.

As it suggests:

"In this act, central bargaining refers to collective bargaining between an employer bargaining agency and an employee bargaining agency for central terms to be included in a collective agreement between a school board and a bargaining agent."

Again, the reason why we have a definitions section in legislation is that it sort of gives us a roadmap, some foreshadowing of what's to come in this piece of legislation. As we can tell—in the definitions section here, we can talk about the local terms and the central terms as being critical elements of this piece of legislation. I want to say that as something that's important because in the absence of doing the same thing for extracurricular activities, we're actually suggesting that it's not important or shouldn't be important to this piece of legislation. I don't know if the members of this committee actually really understand the gravity of what they did when they voted on that previous motion. We're trying to establish here a process by which we can look at, examine and explore different ways that we can promote the continuation of extracurricular activities in our classrooms. It is a challenge that we have put to the government.

**1220**

I'll say this openly: If you don't like the idea we're presenting with respect to the amendment that we're making, then come to us with another one. I know you want to pass this piece of legislation. I know it's important to you. It's important to some of the partners out there. I think parents would love the clarity that we could provide, if that opportunity does arise where we could collaborate on this. I haven't seen the olive branch that I've extended to you extended back to me. I'm not really sure why that is. I think it's a very simple request we're making here with regard to extracurricular activities and including them in this piece of legislation.

The final piece of the puzzle here, in terms of the subsection, is subsection (4), and that is regarding the school board as employer: "(4) Nothing in this act changes the status of a school board as the employer of its employees."

I think it's very important to note that we do now have the basis by which this bill is going to move forward. We have central tables that involve, in subsection (1) of this bill, which is the central table—it talks about the minister's role, it talks about school boards, teacher bargaining units and trustee associations and their role in this, but it also talks about what should also be known as the role of school boards as employers.

I think a lot of people actually don't know that our school boards are actually the employer of our teachers, or at least most teachers. There are obviously some exceptions. Not knowing that, they sometimes wonder, and this bill may clarify, what school boards do, what the government does. Simply put, I think that most people acknowledge that the government is the funder of our education system and our school boards offer the nuts and bolts of applying that funding to the front lines, to help teachers do their jobs and keep schools safe. There's a variety of other functions that school boards do. I think

it's important to outline at the outset, again, that they were an employer completely ignored in the process that led up to the last round of quasi-negotiations, I would say. The outcome of Bill 115 and some of the context surrounding that is obviously important to remember when we're devising an approach to this bill.

I think, at the end of the day, what everybody seeks is greater clarity. They want to understand what roles and responsibilities actually are applied to all parties in the negotiation process. I actually find that a very valuable exercise. I don't know if, in the process of doing that exercise, in the process of understanding what we're doing in this process—

**The Vice-Chair (Ms. Lisa MacLeod):** Mr. Leone, I regret to inform you that, although I found your deputation personally riveting, your time has elapsed. I will now ask other members of the committee if they have any comments at this time.

**Mr. Peter Tabuns:** No.

**The Vice-Chair (Ms. Lisa MacLeod):** Are you sure?

**Mr. Rick Nicholls:** I do.

**The Vice-Chair (Ms. Lisa MacLeod):** Okay, great. MPP Rick Nicholls.

**Mr. Rick Nicholls:** Thank you, Chair. You know, just coming into this particular committee, first of all, I want to thank the members for the opportunity of being here today and learning more about Bill 122, An Act respecting collective bargaining in Ontario's school system.

When I was first approached on this and we were looking over the definitions and so on, one of the things I didn't see in there as well was something that I would call "qualified teachers," that is, having the best teachers teaching our students, those who are most qualified—not from a seniority perspective. So I do have some concerns about that, because I recall, most recently, when there was a dispute where the teachers didn't go on strike, but they did what I would call a "work to rule." In other words, there were no extracurricular activities. They were told, "You will not provide any extracurricular activities."

That bothered me. It bothered me for a number of reasons. First of all, I do know that there were a number of students in the Chatham–Kent–Essex area, in the school system there, who were in fact unable to get athletic scholarships or even academic scholarships because of the fact that they were prohibited from doing extracurricular activities that would have and could have further developed their character, developed their leadership skills, developed their athletic potential. As a result of that, they missed out.

When you think about that—and I would call it a selfish act on the part of those instructing the teachers not to conduct extracurricular activities—that cost parents thousands of dollars because of the fact that their students were not allowed to engage in extracurricular activities. I have a real concern about that.

I think back to the time when I was a student and the various clubs and athletic programs that I was involved in. I think about the boys' athletic association, I think

about the drama club, I think about the glee club—yes, I was a singer as well—

**The Vice-Chair (Ms. Lisa MacLeod):** It doesn't surprise us.

**Mr. Rick Nicholls:** It doesn't surprise you.

**Mr. Bas Balkissoon:** Madam Chair, on a point of order.

**The Vice-Chair (Ms. Lisa MacLeod):** A point of order, MPP Balkissoon.

**Mr. Bas Balkissoon:** I think we are discussing section 2. You're being very lenient with both members and I think we have to stick to the definitions. We are also regurgitating a motion that we already voted on and I would ask you to ask the member to speak to section 2.

**The Vice-Chair (Ms. Lisa MacLeod):** Thank you very much. Please keep your comments in context of what we are debating. Carry on.

**Mr. Rick Nicholls:** Happy to do so, Chair.

Again, when I look at the teachers' bargaining unit, the bargaining unit described in section 5, I look at trustees, I look at provincial school authorities, they all contributed to the challenge that was before our students.

The other thing that I'm concerned about, again, is the fact that parents are not included in this definition. I really think they need to be included in that because they have a right as well to know and understand the quality of education that their students are in fact receiving. I don't expect teachers to be the end-all and be-all, but they need to be aware of growing issues and concerns and demands that will better prepare our children today, as well as for the future.

I look at it and, referencing again the extracurricular activity of things, that builds character; it truly does, even in terms of athletic experiences. I remember the old ABC commercial, you know, "the thrill of victory and the agony of defeat." I painfully watch as that skier goes down that slope and goes out of control and I'm thinking, "When he hits, this is going to hurt," and sure enough. But you know what? It teaches you about life. It teaches you about life, realizing that life in itself is full of victories and defeats. It's not so much about the victories, it's about the defeats, because in defeat is when you learn the most about yourself, about life and about being a contributing individual in society today.

I look at athletics. It teaches a lot of things. To me, it's not about being what we'd call a "jock" per se. I was always, in basketball, maybe the first or second person off the bench. In baseball, I was a starter in that. In soccer, I was a starter in that. My point being, I look at the teachers who unselfishly gave of their time so that I could develop and so that hundreds of others, thousands of others, could develop. It's not just sitting and listening to math or history or geography or English or even, in my case, learning Latin—that was one of the most exciting classes I ever had. But my point being, these teachers gave unselfishly of their time and effort to students after school hours.

I really think that definition should in fact be included in there, because when you look at the length of time in a

teaching environment, it's probably five, maybe five and a half, hours of teaching. I don't know anybody here who gets full-time pay and in fact receives full-time pay for five and a half hours. They'll argue that point, I'm sure.

But again, the reality is—

**The Vice-Chair (Ms. Lisa MacLeod):** I'll just ask the member to direct his comments toward the motion.

**Mr. Rick Nicholls:** I will. Okay.

Again, I'm looking at this particular motion itself. Having said that, again, the extracurricular is really important.

Would you have anything else, Mr. Leone, that you would like to contribute to this?

1230

**Mr. Rob Leone:** Are you finished?

**Mr. Rick Nicholls:** Yes, I'm finished with this right now.

**Mr. Rob Leone:** I just want to reiterate something, Chair, if I have time—

**The Vice-Chair (Ms. Lisa MacLeod):** You have time. You have 20 minutes. Time is flying when you do that.

**Mr. Rob Leone:** You know, Chair, I think that it's important to note, again, some of the things—I think what Mr. Nicholls talked about in his very first comments—I would recategorize that. He stated qualified teachers, but what I'm suggesting he meant was the teacher hiring process based on merit versus seniority.

"Merit" is a word that is obviously worthy of definition. When I think of running for office in my community—I think members of this committee will attest, because they all had to go through the same process that everyone else had to, which was to put forth their name on a ballot, and the person who was deemed the most qualified by the greatest pool of voters was the one who won the day. We were judged on our merits and we continue to be judged on our merits. Certainly in the course of debating this piece of legislation, people will be moved either way—supportive or not supportive on our positions that we take, presuming, of course, that we're taking positions. I'm certainly speaking and I've spoken at length to this bill. I'm not sure if others on this committee have taken a position. Maybe there's a political calculation involved with not saying a single word on this particular piece of legislation other than on points of order, which, I guess, just inevitably chew up time and which I'll use to further elaborate on my ideas.

But the concept of merit, I think, requires a little bit of definition, because it is the process by which we make certain assessments and certain presumptions about the person who is best able to fill the position. I am a strong believer in that principle. I think that we should apply that principle, and that principle should be a standard-bearing principle of our province, let alone a principle that should be part of our deliberations on this bill.

Teachers are our most important asset in our schools in terms of how they teach and educate our children. Our children look up to teachers each and every day. We have great teachers in the province of Ontario. I've said that

over and over again and I will continue to say that, because our position on Bill 122 is nothing but to support parents and their kids. We obviously acknowledge that we have great teachers in our schools. We know that we have some questions about this piece of legislation, but in no way do we intend to make this a question of being for or against teachers, because we want to obviously show that we acknowledge the great work that our teachers do in our classrooms.

But how vacancies are filled in our schools, I think, is an important question and one that would be subject to debate. Through the previous process of collective bargaining that took place, we ended up with a regulation, which is regulation 274, that seriously affected the process by which teachers were going to be hired—what my colleague from Chatham-Kent-Essex was speaking to. During the process, if he was as attuned, as I know he is, to his constituents as I am—I know that young teachers were consistently lining up at our constituency offices to talk about how they can find work in a school board in the province of Ontario, particularly in some of our school boards that didn't have such a surplus of teachers that some other school boards do.

I know that it is a concern that young teachers have translated to us. It's something that I know that we, as a caucus, and—I don't want to mention the Chair in a very partisan way today, but there's a bill that she had brought forward in this Legislature, which I had the pleasure of supporting, and I know my colleague from Chatham-Kent-Essex did. It spoke to the principle of merit in how we deliberate over things so vital to the system as how we'd hire teachers to fill vacancies.

I actually think it is an important thing that we should be talking about. It's something that we should express. It should be something that we define. It should be something we debate, because I know that even in the course of the debate on that bill there wasn't agreement, clearly, from the other parties on what we had suggested. But I think if you talk to average Ontarians who send their kids to schools, their concern, obviously, is that their kids are learning and that their kids are inspired, as many kids across the province of Ontario are inspired, to learn. To create that thirst for learning is such an important element of it.

We suggest that merit is an important principle. I would suggest that merit includes, certainly, the qualifications of the teacher. It does factor in, obviously, the experience of the teacher, but it does more than that.

As a former educator myself, I know I was stronger in some subject matters more than others. That doesn't necessarily suggest that there are bad teachers or good teachers. It's just that some teachers are better at teaching certain subjects than they are in other areas. I can speak of that from a personal perspective, as a former educator.

If a school is looking for a particular teacher to fill a role—perhaps their math scores are suffering—perhaps it's an opportunity, if we're looking for new teachers in that particular school, to look at the competencies in mathematics and the special considerations that maybe they're in.

We had made a comment. I remember asking a question about one teacher—his name is Jason Trinh—who is on the long-term occasional teaching list, but he's so far down the seniority list that his prospects of getting a permanent full-time job were minimal. This is a person who actually won the Premier's teachers' award, yet he can't find a full-time position in our schools.

I think when we're talking about how we inspired so many students to actually achieve better in math, the extra work that he had done, the math clubs that he created to foster this amazing sense of curiosity amongst kids to learn math, which is something that we have trouble, as a society, coming around to—I think it's just such an inspiration. I think there are stories like that all over the province of Ontario. It saddens me as a legislator that a person like that is having so much difficulty finding a permanent placement in our schools as a result of a process and a regulation that does not value what I think should be defined as merit.

There are a variety of things that we can do and talk about on a daily basis that are important to parents and to students. We talked about extracurricular activities. It's something that we're going to continue to bring up in this committee, but it's also talking about a concept of merit and making sure that the vacancies that are filled are filled by the person who is a best match and a best fit.

I know that when we talk about this we obviously get the corollary effect: How do you determine merit? It's certainly a question that I'm happy to entertain and deliberate. We can throw ideas around this table if we can get some of the other MPPs to talk about this piece of legislation, but I think that there is a way. If there is a will, there is a way. There are smart people in our education system. They can come up and devise a way to make sure that we can get a good sense of merit and that we can eliminate what seems to be this prevailing issue that only plagues our schools, which is nepotism. I think there are some ways that we can do that as well by putting in place a proper process that obviously suggests that if you know somebody, or are related to somebody, the person doing the hiring is not taking part in the actual hiring process—

**Mr. Bas Balkissoon:** Madam Chair, point of order.

**The Vice-Chair (Ms. Lisa MacLeod):** Yes, point of order.

**Mr. Bas Balkissoon:** Madam Chair, I think you have to take control of the debate. The member has just spoken for eight minutes unrelated to section 2.

1240

**The Vice-Chair (Ms. Lisa MacLeod):** He's discussing the definition. I appreciate your point of order, but he's talking about the definition. I would ask the member, however, to be cognizant that he has to draw back to the motion and the definition in order for this to continue.

**Mr. Rob Leone:** Thank you, Chair. I'm surprised it's taken eight minutes. It means I have 12 more minutes to talk about some important definitions that we should be talking about around this committee table.

I'm just throwing ideas out here for the parliamentary assistant. He can grab on to any one of those ideas. I'm happy to continue to have debate on one of these things.

Excuse me for a second. There was something in my water there.

Merit, I think, is something that we should be considering in the definition phase of this bill. We don't talk about it at all. I think that it's a concept that a lot of Ontarians would appreciate some attention being given to. For whatever reason, it's something that we don't seem to understand.

In defining merit, going back to that whole extracurricular activity discussion, there's some value in understanding whether some holes—whether the choir that lost a teacher to another school or to retirement, if that choir practice should continue with someone who is actually able to have some tone and pitch perfection. It would be far better than having that choir practice led by, say, someone like myself, who is a little bit on the pitchy side of things.

So I think there are elements when we talk about merit and the kinds of teachers who can fill vacancies where that kind of equation might be important to the schools, to the students. There could be some mechanism built into place where we actually consult not just principals, not just teachers, but also parents and students about the kinds of teachers they want in their schools. Right now, we provide absolutely no guidance in our hiring process to those kinds of concerns, to those kinds of issues. When we talk about something so important to parents and students as the curriculum and the teacher in front of the classroom teaching it, we should be entertaining those conversations. We should be talking about a concept like merit.

Now, the corollary of that argument and debate about merit is perhaps a definition of seniority. If you don't want to have a debate or discussion or include an amendment on merit, as I think Mr. Nicholls and myself would like to do, then maybe I'll throw this out: You want to actually include a definition of seniority in your particular piece of legislation.

I've heard from lots of teachers who say that the only objective way of filling a vacancy is by having the most senior person get the job. I think there's certainly a debate we could have about that, on whether that is, in fact, the case. I've met with a number of education partners in the course of being the critic for education for the Ontario PC caucus. In the process of talking to these stakeholders, they always question this concept of such rigid rules revolving around seniority. Seniority, simply, if we want to add a definition, would obviously involve how much time you've been teaching in a particular school board, but interestingly enough, when we talk about seniority, it doesn't actually include how long you've been a teacher. If you've been a teacher for 20 years and you've been a teacher at your first board for 12 years, then you go to another school board for eight years, the seniority has actually changed. You don't have 20 years under your belt anymore, which has implica-



tions for a number of things. I've had constituents of mine, who are teachers, who have been part of this process of switching boards, who have been challenged by some of the things that were part of Bill 115.

So those are certainly concerns that have been raised in my own constituency, and I'm sure that other members would have had or faced the same sorts of issues of concern.

I do want to stress that this is an opportunity with this particular section, section 2 of this act, which is the definitions section, to include some of the things that we think are important. I've heard from Mr. Nicholls what he thinks is important. You've certainly heard at length what I think is important; I think I've probably talked about this section for well over an hour now.

I do want to state for everybody's knowledge that this is an opportunity for us to have this debate and discussion. We want to go through the clause-by-clause proceedings of this particular piece of legislation. Without understanding what those definitions might be from other members of this committee, we can't enlighten this bill. I would suggest to the members of this committee that if they have some opinions or ideas about any of the kinds of definitions we should include, please speak up. Please talk about them, because I think it would enrich the ability to go through this particular point of view.

I want to open the floor, if I can, to cede my time, if I have much left, to members of this committee to talk about some of those definitions they want to include. I want to make sure you understand that there is an opportunity to speak up. We will have an opportunity to debate this further, and that's why I want to encourage you to represent your constituents, to represent your stakeholders even, by agreeing or disagreeing with some of the things that I have mentioned in the process of talking about or debating this bill.

Madam Chair, I will, for now, cede my time to other members who would like to make a contribution, an important contribution, to Bill 122. I have been waiting for several hours now to see such a contribution from members outside the PC caucus and I would encourage members of the government and the NDP to speak up. Let's hear your voice on these particular matters. Thank you, Madam Chair.

**The Vice-Chair (Ms. Lisa MacLeod):** Thank you very much. I appreciated your comments. Any further comments on this section by any other members? Are the members ready to vote?

**Mr. Peter Tabuns:** Ready to vote.

**Mr. Rob Leone:** On a recorded vote.

**The Vice-Chair (Ms. Lisa MacLeod):** On a recorded vote.

#### Ayes

Balkissoon, Crack, Dhillon, Mangat, Mantha, Tabuns.

#### Nays

Leone, Nicholls.

**The Vice-Chair (Ms. Lisa MacLeod):** Moving on, shall section 2—

*Interjection.*

**The Vice-Chair (Ms. Lisa MacLeod):** Oh, that was it. Section 2, as amended, does carry.

Any debate on section 3? Yes, Mr. Leone?

**Mr. Rob Leone:** Madam Chair, I want to thank you once again for recognizing me. It's such an important piece of the bill. People have so little to say about it, yet we have almost 100 amendments that are before the committee that people want changed. I'm kind of curious about when we're actually going to hear someone talk about some of the points or perspectives in this bill.

Section 3 of this piece of legislation, for honourable members who don't have the bill in front of them because they're not reading it or for members of the gallery who are perhaps following or people from home who are looking at the proceedings—section 3 of Bill 122 is several pages long; it's a 28-page-long bill and we're only on page 4. It's a bill that has or contains 55 sections, and now we're only proceeding to section 3 of this piece of legislation, mostly because we've tried to come to an agreement on including the withdrawing of extracurricular activities into this piece of legislation. Seeing that we don't have that there, we are stuck with going through clause-by-clause in a very deliberate manner, and so we will analyze and look at every single word that is in this piece of legislation.

**1250**

I do think that there are some obviously valuable components to this bill. I think that, obviously, every section is written in a particular manner, and some of those things that we see in legislation, for members of the public, are typical in multiple pieces of legislation, if not all pieces of legislation.

So we actually do need to know this section's purpose—what the application of this act is going to be—which is a pretty standard feature in legislation. How is this act going to apply? Who does it apply to? In the process of saying who this act applies to, we can, at that time, also talk about who this bill does not apply to.

We always have a to-and-fro. We can always talk about the application of this act and who it applies to. We can also talk about the fact of who this bill does not apply to. There is an important element, I think, that we can have a good discussion and good debate about. We can talk about this.

This particular section has, again, four subamendments, so we'll go through those four subamendments in the 20 minutes that I have to do that. I certainly hope that other people might have some comments with respect to these particular aspects of the bill.

The first subsection is the application of the act: "This act applies to every school board in Ontario, to the bargaining agents that represent employees of those school boards and to the employees represented by those bargaining agents."

Again, if we can just briefly go back to the previous section, you'll see how these kinds of things are set up.

You have to talk about who an employee is, who the employee belongs to and, if you remember from our discussion—or at least my discussion on section 2, because no one else other than my colleague from Chatham–Kent–Essex decided to say something about it—my discussion talked about who the employers of teachers are. I think there is sometimes some confusion as to who those employers actually are.

This act applies to every school board in Ontario. There are lots of school boards. I know that in my riding of Cambridge we are part of the Waterloo Region District School Board and the Waterloo Catholic District School Board. There is also a French school board that encompasses French schools in my riding, as they do right across the province.

The geography for those French schools—particularly in my part of the province and in Mr. Nicholls' part of the province—is actually quite extensive, so these school boards have a lot of territory to cover. Even though the number of students might not be as excessively high as in some school boards, the territory which these trustees are driving and the school boards are administering, particularly for French schools, is particularly large.

In that vein, I think it's important to suggest that we have to consider the implications that this particular piece of legislation has on school boards. The reality of it is that, in the absence of a process last time, school boards were ignored. This bill wants to make sure that the school boards aren't going to be ignored anymore.

This act does apply to every school board, from Kenora to Cornwall, from Toronto to Trenton, and from Windsor to Waterloo. Everywhere in the province of Ontario, this bill is going to apply. Of course, as we are governing this province, it makes a great deal of sense that you would include those school boards in a piece of legislation. You wouldn't want to exclude, say, your ridings' boards, or mine, or anywhere else in the province. The point of this bill, this piece of legislation, is to standardize the approach to all school boards.

Having said that, there is an ability—as we learned, again, in the definitions section of this bill—to have some local nuances negotiated between the school boards and their teacher federation locals. That prospect is preserved here; while it does preach uniformity and a standardized approach on one end, there are some local issues that can be negotiated on a local-to-local basis.

I think there are important elements that these school boards and the employees, represented by their bargaining agents, bring to the table. I want to stress that I think everyone has a role in this process. The school boards have a role in this process: They will advocate, obviously, for the school boards and some of the matters that they're dealing with on local issues. The teaching federations have a role in this, and I think they play that role to the greatest extent possible in terms of trying to advocate for teachers. The Minister of Education has a role and responsibility in this process as well. But I think all members of this Legislature actually have a role and responsibility to this as well.

So when we talk about the application of this act, we have to see it in that context: There are times when we see the application being evenly doled out, and there are aspects and some prospects of these things that are just simply being left out on an ongoing basis.

Here's the thing: In the even application of this to all school boards in Ontario—I can't tell you how many emails I've received that have suggested the unevenness of the application of Bill 115 in the memoranda of understanding that have come thereafter. So many emails talked about the uneven application of the collective bargaining process.

I can see why, obviously, those teaching union locals would be upset that in one part of the province they are being subjected to different rules and an application of rules that's different than in other parts of the province, and in the process of analyzing, discussing and debating all of that, we have an opportunity to discuss these things.

I do want to state, too, that there is a second subsection to this act: "This act applies to every employer bargaining agency and employee bargaining agency designated under this act to represent school boards or employees for central bargaining purposes."

That's subsection (2) of this act: "every employer bargaining agency and employee bargaining agency designated under this act to represent school boards or employees for central bargaining purposes."

Again, we see now that this act, from the definitions stage, is starting to put some meat behind what this bill is supposed to do, which is to set up the tables and to set up the local and central terms, and we see that the application of this act does so in a particular manner that is consistent with what we've talked about in the previous section.

Of course, the application of this act—and in doing that, we see the evolution of how a process evolves in the design and building of legislation, which is why, in the previous section, we sought to include co-instructional activities in this process. So there are aspects that we have to consider with that as well.

How much time do I have, Chair?

**The Vice-Chair (Ms. Lisa MacLeod):** You have 10 more minutes.

**Mr. Rob Leone:** Ten more minutes.

The other thing I would like to suggest is that we have a third subsection, and what this says is: "Despite subsection (1), this act does not apply with respect to employees of a school board who are or become bound by a provincial agreement within the meaning of subsection 151(1) of the Labour Relations Act, 1995, or with respect to a trade union that represents them for collective bargaining purposes."

Sorry, I had to—I maybe require a little bit more water here.

So this is the thing: What this piece of legislation is suggesting right here in this section is that we actually have to analyze, explore and examine this legislation in parallel to what's happening in the Labour Relations Act. That's important, because this bill obviously does affect

or have some potential consequences for the Labour Relations Act.

It also affects and has some consequences for the Education Act. When we talk about affecting multiple pieces of legislation, we do come to the opportunity of calling this an omnibus bill. As we learned earlier in the previous section, section 1, where this bill does affect the Labour Relations Act, where it does also affect the Education Act—any time you have a piece of legislation that affects two or more separate pieces of legislation, the application of the term “omnibus” is used.

**1300**

I can't tell you how often that word is used in a very negative context. People don't like omnibus pieces of legislation. It's interesting to note that some of the very people who don't like omnibus pieces of legislation in one context may actually like omnibus pieces of legislation in a completely different context. I just want to make light of that, because it's interesting how different varying opinions will become in how you define the process by which we're going, or undertaking, today.

Again, we have to understand that there are some Labour Relations Act implications for this. There is an important aspect and element that we have to consider in conjunction with what's happening with the Labour Relations Act. Subsection 151(1) of the Labour Relations Act, 1995, has been identified as one of those subsections that's important. It also says, as a preamble to that part of it—so subsection (1) was, “This act applies to every school board in Ontario, to the bargaining agents that represent employees of those school boards and to the employees represented by those bargaining agents.”

We have to understand that they're obviously—it's like you're matching two columns together. You put a line to the object that best reflects what you're trying to say, or the picture. If you're saying “food” and you have five different pictures, you're not going to put a line to the soap or to the TV, but you're going to put a line to the sandwiches or the fruit or the lack of cookies that are now present in this committee—from no fault of my own, I might add.

**The Vice-Chair (Ms. Lisa MacLeod):** Could the member please direct his comments to the bill?

**Mr. Rob Leone:** Yes. Was that to me? Okay, I'm sorry. I apologize. That lack of cookies, it's crazy—

**The Vice-Chair (Ms. Lisa MacLeod):** What's wrong with the cookies?

**Mr. Rob Leone:** You're trying to draw a line to the different things that this affects. Sometimes when you're talking to members of the public, they have some difficulty understanding exactly what's affected, what you mean, how does it affect this. I think it's important to actually have an approach that suggests that the application of law and legislation is very specific to who it applies to. We're talking about our public education system clearly in this act. We're not talking about certain elements of private schools or any elements therein. Particularly, although this might change with our legislation that may be before this, we're talking about primary

school from junior kindergarten to grade 12. That is in essence what students are doing. So we're not talking about applying this piece of legislation to students who are preschool or before—toddlers or infants or preschoolers—specifically in this piece of legislation. We're not talking about people who are in our colleges or in universities, in the post-secondary institutions that might define this. The application of this act is very specific to the public education system from JK to grade 12. That's important for all people to understand.

Having this opportunity to discuss and debate particularly sections like this provides myself with an opportunity to talk to the public, because they might not understand exactly what is going on with this piece of legislation. We have to be able to have an opportunity to look specifically at these sections. I would encourage members of this committee to do that.

The final subsection here is, “(4) This act binds the crown.” Most people who are part of our parliamentary system would know that the crown is how things get enacted. We have, obviously, a legislative arm that is important. We have these debates. We have a government that proposes legislation and an opposition that holds the government to account. That is our job. That's what we do on a day-in, day-out basis. Sometimes the government doesn't like the fact that we're pointing out some of the shortcomings of their government, but again, that's part of the process which we're going through.

The government will propose legislation much like Bill 122 that says that we need to act in a particular manner with respect to collective bargaining, that we have to have the tables, that we have to have the crown involved—the crown being the minister as a representative of the crown—that we have to have the school boards at the table and the teacher unions. The fact is that we have the crown in our legislative process represented by cabinet and the government—which is the government. Sometimes I get in the public and they say, “Well, you work for the government.” In fact, I don't work for the government. I work to oppose the government. That's my job. I try and make that clear to people as much as I can.

But the government's job, obviously, is to administer the public service, administer different ministries, administer the laws and apply the laws as evenly as possible. Through the advice of cabinet as a collective and through the assent and consent of the Legislature, bills receive royal assent and the crown acts as one, as a unifying body in our parliamentary system to actually do things. We do things in the name of the crown in our democratic process.

Not to sound overly academic about this, as this is something that I used to teach in Political Science 101, but I've offered, obviously, a very simplistic approach to what the crown is in our parliamentary system. But it is a vital element that I certainly respect and admire as part of what we do here in our legislative system.

Those are the four subsections of section 3 that we're debating here. It took a member of the opposition to actually explain what those subsections are. I do, once

again, appeal to the committee to talk about some of these issues that are important to them. This bill is a vital piece of public policy in the education sphere. I would encourage all members to take the time to review the contents of this bill so that we can get the best bill possible for teachers, for school boards, for parents and for students.

Those are my initial comments, Chair, and I'd welcome any other comment from another member of this committee.

**The Vice-Chair (Ms. Lisa MacLeod):** Any other comments from the members of the committee on section 3? Any other comments? Last call before we go to a vote.

**Mr. Rob Leone:** Can we have a recess, please?

**The Vice-Chair (Ms. Lisa MacLeod):** A 20-minute recess.

*The committee recessed from 1308 to 1328.*

**The Vice-Chair (Ms. Lisa MacLeod):** We are now going to vote on section 3 of Bill 122. All those in favour? All those opposed? The section is carried.

I will now move on to section 4 of the bill. We have an NDP motion, number 2.

**Mr. Peter Tabuns:** Withdraw.

**The Vice-Chair (Ms. Lisa MacLeod):** Mr. Tabuns withdraws.

We now go to motion 3(r). It's a government motion.

**Mr. Bas Balkissoon:** Withdraw.

**The Vice-Chair (Ms. Lisa MacLeod):** Withdrawn.

We now go to 3(r).1, a government motion.

**Mr. Bas Balkissoon:** Withdraw.

**The Vice-Chair (Ms. Lisa MacLeod):** Withdrawn.

**Mr. Bas Balkissoon:** Can I introduce a new 3(r).1?

**The Vice-Chair (Ms. Lisa MacLeod):** Pardon me? Is it 3.1?

**Mr. Bas Balkissoon:** I have a new motion.

**The Vice-Chair (Ms. Lisa MacLeod):** You have a new motion?

**Mr. Bas Balkissoon:** Yes, to replace this.

**The Vice-Chair (Ms. Lisa MacLeod):** Okay.

**Mr. Bas Balkissoon:** It's in the package.

**The Vice-Chair (Ms. Lisa MacLeod):** Is that 3.1?

**Mr. Bas Balkissoon:** It's 3.1.

**The Vice-Chair (Ms. Lisa MacLeod):** Okay. Now we're at government motion 3.1. Mr. Balkissoon.

**Mr. Bas Balkissoon:** I move that subsections 4(2) and (3) of the bill be struck out and the following substituted:

"Same, limited application to the crown

"(2) However, the Labour Relations Act, 1995 applies to the crown only to the extent necessary to enable the crown to exercise the crown's rights and privileges and perform the crown's duties under this act. For all other purposes, subsection 4(2) of that act governs the application of that act to the crown.

"Same, re: related employers

"(3) Without limiting the generality of subsection (2), subsection 1(4) of the Labour Relations Act, 1995 does not apply to the crown.

"Same

"(4) Under subsection 1(4) of the Labour Relations Act, 1995, a school board cannot be treated as constituting one employer with a trustees' association."

**The Vice-Chair (Ms. Lisa MacLeod):** Mr. Balkissoon, I'm just curious. What are you doing with number 3 that appears next in the package?

*Interjections.*

**Mr. Bas Balkissoon:** I have to see—3r and 3r.1, I would remove.

**The Vice-Chair (Ms. Lisa MacLeod):** And then we have 3—

**Mr. Bas Balkissoon:** Oh, the main package. That is being withdrawn. I'll check to make sure.

Yes, that's being replaced.

**The Vice-Chair (Ms. Lisa MacLeod):** So in the original package—

**Mr. Bas Balkissoon:** Is replacing—

**The Vice-Chair (Ms. Lisa MacLeod):** —is replacing 3.

**Mr. Rob Leone:** Can we have a recess to figure this out?

**The Vice-Chair (Ms. Lisa MacLeod):** We have a request for a five-minute recess to figure this out.

*Interjections.*

**The Vice-Chair (Ms. Lisa MacLeod):** Okay. We'll take five minutes.

*The committee recessed from 1331 to 1332.*

**The Vice-Chair (Ms. Lisa MacLeod):** We're back in committee. Just so we're clear, you're removing 3 from the original package to deal with 3.1—

**Mr. Bas Balkissoon:** And replacing it with 3.1.

**The Vice-Chair (Ms. Lisa MacLeod):** So you've withdrawn that. Okay.

**Mr. Rob Leone:** Can someone just show me what we're doing?

**The Clerk of the Committee (Mr. Trevor Day):** Just to clarify for members, everything submitted will remain in the package and they'll be renumbered. You will have to say whether or not you're moving it. Even if you name it as a replacement, it'll be in the packages so that we don't pull anything out—

**The Vice-Chair (Ms. Lisa MacLeod):** So do we need him to formally withdraw?

**The Clerk of the Committee (Mr. Trevor Day):** No, he's fine.

**The Vice-Chair (Ms. Lisa MacLeod):** Okay. You're fine.

**Mr. Bas Balkissoon:** It's just a replacement.

**The Vice-Chair (Ms. Lisa MacLeod):** Is there discussion on this amendment?

**Mr. Bas Balkissoon:** I can make a couple of opening remarks, Madam Chair.

**The Vice-Chair (Ms. Lisa MacLeod):** Okay.

**Mr. Bas Balkissoon:** This motion would clarify the crown's role and obligations in bargaining at a central table by adding that its duties, as well as its rights and privileges, can be enforced at the Ontario Labour Relations Board, including the duty to bargain in good faith.

The motion has been amended so that the relationship between school boards would be included within the scope of the related employer provisions of the Ontario Labour Relations Act, 1995.

This section protects the existing bargaining rights of the support staff unions. The motion would continue to exclude relationships between school boards and trustee associations and would confirm that the related employer provisions do not apply to the crown.

**The Vice-Chair (Ms. Lisa MacLeod):** Any further comments? Mr. Leone.

**Mr. Rob Leone:** Can I ask for some clarity in terms of what this new subsection does that the previously written section does not do, or vice versa: what it doesn't do that the previous does, either by the parliamentary assistant or by the lawyer?

**Mr. Bas Balkissoon:** If I go through, I think it's just a technical amendment of the choice of words. I'll have to find you the exact word.

**The Vice-Chair (Ms. Lisa MacLeod):** Okay. Legislative counsel can assist us.

**Mr. Rob Leone:** Yes.

**Ms. Laura Hopkins:** If you're comparing motion number 3 in the original package and motion number 3.1, the motion that has been moved, motion number 3 in the package, if you look at subsection (4)—I'm going to ask you to start reading with "treated as constituting one employer with another school board or a trustees' association." That portion of subsection (4) has been changed. If you now look at motion number 3.1 and you look at the same start-up words, "constituting one employer with a trustees' association," the reference to "another school board" has been removed from subsection (4).

**Mr. Rob Leone:** And what's the net effect of that? What would be the reason for dropping that part out?

**Ms. Laura Hopkins:** I can't help you with the reason.

**Mr. Rob Leone:** Yes. I'm just asking—

**Mr. Bas Balkissoon:** Just one second. I'll ask folks from the Ministry of Education, because I think there's a technical reason for separating them. We're going to get the staff to come in. There is a technical reason for having them separated.

**The Vice-Chair (Ms. Lisa MacLeod):** Would you like us to recess whilst they get here?

**Mr. Bas Balkissoon:** He's just outside.

**Mr. Rob Leone:** I'll move a two-minute recess, if we can ask.

**Mr. Bas Balkissoon:** Can we take a two-minute recess, Madam Chair? Hopefully, he'll be back. I think he went out to make a phone call.

**The Vice-Chair (Ms. Lisa MacLeod):** Okay. Two-minute recess.

*The committee recessed from 1335 to 1337.*

**The Vice-Chair (Ms. Lisa MacLeod):** I would like to invite the ministry staff to come up. Please state your name for the purposes of Hansard, and then you can continue.

**Mr. Tim Hadwen:** Tim Hadwen from the Ministry of Education.

**Mr. David Strang:** David Strang, counsel with the Ministry of Education.

**Mr. Bas Balkissoon:** The question is being asked, what would be the technical change between 3 and 3.1 and the reason for it?

**Mr. Tim Hadwen:** The change is?

**Mr. Bas Balkissoon:** The original 3 and then the revised 3.1.

**Mr. Tim Hadwen:** The change is the removal of the reference to "school board" in the limitation on the operation of the related employer provisions so as to permit the possibility of a related employer application being brought between two school boards, opening up the possibility of an application to the Labour Relations Board for a related employer finding between two school boards, in the event that it was viewed by the Labour Relations Board that the two school boards were engaged in being one employer for the purposes of labour relations.

**Mr. Rob Leone:** Can I continue?

**The Vice-Chair (Ms. Lisa MacLeod):** Yes.

**Mr. Rob Leone:** So by removing the reference to school boards and just talking about the trustees' association as an umbrella, you avoid a potential legal application. Is that the rationale?

**Mr. Tim Hadwen:** What it does is it expands the potential legal application to permit the potential for there to be application of the related employer provision between two school boards. There continues to be an exclusion for the crown and for trustees' associations. With the crown excluded and the trustees' associations excluded, the remaining scope for applicability is between a school board and a non-school-board form of entity, and a school board and another school board.

**Mr. Rob Leone:** That sounds very legal. What's the purpose? I don't know who is the best to direct the question to, Chair. This requested amendment adds another subsection to the act, subsection (4), which suggests, "Under subsection 1(4) of the Labour Relations Act, 1995, a school board cannot be treated as constituting one employer with a trustees' association."

**1340**

My question is, why is there the addition of this? What's the clarification sought between having this line in and this line out?

**Mr. Tim Hadwen:** I believe that was the issue that I was just addressing.

**Mr. Rob Leone:** Okay. So in the process of not having this, we revert back to what we were dealing with, which is basically what's enumerated in this act, if we don't pass this amendment, essentially?

**Mr. Tim Hadwen:** If this amendment isn't passed, then the result would be that the original provisions would apply. The original provision further limited the potential scope and application of the related employer provision to a smaller grouping—that there would be less entities in respect of which there could be a related employer application made.

**Mr. Rob Leone:** Forgive me, I'm not the greatest of experts on the Labour Relations Act, but when we're talking about subsection 1(4) of the Labour Relations Act, what are we talking about?

**Mr. Tim Hadwen:** I'll turn it over to Mr. Strang to explain subsection 1(4) of the act.

**Mr. David Strang:** It's commonly referred to as the related employer provision. What it does is it allows an application to be made to the Labour Relations Board to declare that two separate entities—say, two corporations or a person and a corporation—should be treated as one employer for purposes of the Labour Relations Act.

Commonly, it's used if somebody is running a business where they've got one corporation owning the building, one corporation employing the staff, and one corporation doing something else and people are transferring between those corporations. The board can say, "Well, for the purpose of labour relations they're all one employer."

**Mr. Rob Leone:** Okay. Do you have any questions?

**Mr. Todd Smith:** Yes. Has there been a precedent set in the past where this has been an issue when it comes to dealing with labour relations in the public education sector? Why is it necessary, pertaining to Bill 122, to have this language included?

**Mr. David Strang:** I'm working here from memory and I don't have an encyclopedic knowledge of all the cases. But the related employer provision has applied to school boards in respect of non-teachers, presumably for as long as one can remember. I believe there have been some applications made. I don't believe any of them have got so far as to result in a decision, but obviously I'm working from my own knowledge. I think there have been a few cases that have settled.

**Mr. Todd Smith:** Is there a scenario that you could draw us to where perhaps this language does become necessary to include? I mean, it would seem to me that the school boards are responsible as employers. Correct?

**Mr. David Strang:** They are the employers, yes.

**Mr. Todd Smith:** So can you draw me to a scenario where this language becomes necessary in there?

**Mr. Tim Hadwen:** Yes. A circumstance could arise where a school board was structuring its affairs in connection with a subsidiary entity or some other entity that it was related to about which the Labour Relations Board might find it appropriate for those two different things or two different entities—the school board and its subsidiary or the school board and a related entity—to be treated as one employer for purposes of labour relations. In other words, for example, there should be one bargaining unit for both of those employers so the employees could be commonly pooled even though there were two entities involved, because, in fact, from a labour relations point of view, those two entities should be treated as one entity for purposes of collective bargaining and there being one bargaining unit representing the employees, whether they worked at the one location or for the one entity or the other.

**Mr. Todd Smith:** Okay. These changes were brought forward in a government motion. In examining the bill, there must have been an alarm bell that went off at some time that deemed that this language was important to include. Can you tell me how that occurred or when that occurred? It's a government motion. This is a government bill. I'm just curious as to how this motion came about.

**Mr. Tim Hadwen:** One of the issues in dealing with labour relations legislation and its applicability in different sectors is always the application of section 1 for the Labour Relations Act and what entities could potentially be related to other entities, so it's a standard part of the consideration of labour relations legislation with respect to any sector. The issue will arise about whether or not there would be a related employer provision between, say, an entity practising or operating in a sector and the crown itself in government. So the issue will always come up and commonly needs to be addressed in any circumstance when it's contemplating labour relations in the broader public sector.

**Mr. Rob Leone:** I have another question.

**The Vice-Chair (Ms. Lisa MacLeod):** Okay. Mr. Leone.

**Mr. Rob Leone:** Since we have you here, we'll try to get our questions put to you as—

**Mr. Tim Hadwen:** We're not going anywhere.

*Laughter.*

**Mr. Rob Leone:** The original bill, subsection 4(3), stated, "No person is entitled to make an application to the Ontario Labour Relations Board under subsection 1(4) of the Labour Relations Act ... with respect to a school board." Does that mean that if the original subsection that I'm referring to is kept in place, it would be difficult to bring an application under the Labour Relations Act with respect to the school boards? Is that the main reason for revising that subsection?

**Mr. Tim Hadwen:** With respect to 1(4). With respect to the application of 1(4) absent the change, there couldn't be a 1(4) application brought with respect to a school board.

**Mr. Rob Leone:** So that would seriously limit the Ontario Labour Relations Board intervening in school board matters? Is that what that suggests?

**Mr. Tim Hadwen:** That would further limit the application of section 1(4) to mean that it could not be brought in respect of a school board at all.

**Mr. Rob Leone:** I'm as curious as Mr. Smith is in terms of why such a provision would have been put in place in the first place, but I respect that you're probably not able to answer that question specifically.

**Mr. David Strang:** Perhaps I could be helpful on that.

**Mr. Rob Leone:** Oh, could you?

**Mr. David Strang:** Currently, the Education Act covers the labour relations of teachers, and the application of 1(4) is excluded in that act. The Labour Relations Act covers the labour relations of non-teachers, and section 1(4), as I say, has applied to non-teachers for as long as I've been practising law.

**Mr. Rob Leone:** Okay. That does provide more clarity.

**Mr. David Strang:** So this act covers both teachers and non-teachers.

**The Vice-Chair (Ms. Lisa MacLeod):** Further questions? Shall we put this to a vote?

**Mr. Rob Leone:** No. I think we should have some debate.

**The Vice-Chair (Ms. Lisa MacLeod):** We would like to debate it. Okay. Mr. Leone, do you have comments?

**Mr. Rob Leone:** Yes. I'm pleased that we're actually starting to see some other people talk about Bill 122 and its application. I have noticed with interest, and I will note with interest, that there were a number of amendments put forth on this particular section, so there is some issue to debate what the section actually does. I think it's also important to note that there is this link between the Education Act and the Labour Relations Act that is important. What we just heard from the ministry is that we have to have provisions put in place for both teachers and non-teachers, and I think that's certainly a discussion worthy of having.

Now, I know a lot of people, when they start talking about the Ontario Labour Relations Act—it's a very dense document. It's a very thick document. It's one that tries to spell out the processes that are undertaken in labour relations in the broader society, in terms of employer-employee agreements and so on and so forth.

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Education is held to a special standard, of course. We have some particularities involved that are spelled out in the Education Act that are important. I state that because one of the things we have consistently said with respect to this bill is our desire to see some legislation that does, in fact, talk about and speak to the issues we're continually raising with regard to extracurricular activities. We have an opportunity in the Education Act to further protect the continuation of co-instructional activities in our schools. That's why we have an Education Act: to talk specifically about those aspects.

The Ontario Labour Relations Act, obviously, is just talking about labour relations in a variety of sectors in addition to education, so we obviously have to combine the two acts and look at this particular piece of legislation side by side with the Labour Relations Act and the Education Act. I note with interest that there are aspects of both acts that are actually embedded—either specifically, as this one is, as we point to a subsection of the Labour Relations Act, subsection 1(4), that has this to and fro.

I'm just particularly interested that, in the course of spending months and months on this legislation, we've seen about three or four different potential amendments that this bill could go through. We're now entertaining one amendment; that is, we're trying to provide further clarity.

I will note for the record, Chair, that one of the things that we're adding to this section, particularly subsection 4(2)—as you recall, this amendment is striking sub-

section 4(2) and subsection 4(3) from the original piece of legislation, and adding three other subsections. It's taking two subsections away and putting three subsections in, just to provide some further clarity on what's worded.

I want to take the committee through the difference between this amendment and what's outlined in the act that is different. For example, if we look at subsection 4(2), it suggests in the act, "However, the Labour Relations Act, 1995, applies to the crown only to the extent necessary to enable the crown to exercise the crown's rights and privileges under this act. For all other purposes, subsection 4(2) of that act governs the application of that act to the crown."

The difference that we're seeing in this particular subsection is the addition of five words into the subsection. The new subsection says, "However, the Labour Relations Act, 1995, applies to the crown only to the extent necessary to enable the crown to exercise the crown's rights and privileges and perform the crown's duties under this act." The words "and perform the crown's duties" are added to this subsection. That's what my colleague Mr. Balkissoon had suggested when he wanted to move this subamendment.

We're asking that the legislation, particularly in relation to subsection 4(2), include the words "and perform the crown's duties." I wonder why we have to list that. I wonder why we actually have to define that, because I think the assumption is that the crown will perform its duties. Actually spelling out that they must perform their duties is, I think, a very interesting twist to this particular piece of legislation, insofar as the implication is, in the absence of this particular subamendment, whether the crown will be bound to actually perform its duties or not. I mean, that's the way I take this subamendment. Perhaps others on this committee might not take this subamendment quite the same way, but it does add these specific words—I'm interested to know for what reason they were added—"performing the crown's duties" and "perform the crown's duties," as if they had to spell out that the minister and the ministry had to do their job. I'm not totally opposed to that. I think that's a good, robust statement that we should get from the—and if we can embed that into legislation, I think that's a good thing.

Then we look at the next subsection, and it's (3). I should look at this. The title of subsection (3) in the original legislation was "Restriction re: related employers." That title has now changed to "Same re: related employers."

After that point, subsection (3) is completely different than what is actually written in the legislation. The legislation states in subsection 4(3)—so section 4, subsection (3), if you're following—that "No person is entitled to make an application to the Ontario Labour Relations Board under subsection 1(4) of the Labour Relations Act, 1995 with respect to a school board."

We heard from the ministry staff exactly why that might be, why the case is. It would prevent, I would as-

sume, some future applications to be heard that may not have been possible with what existed in the particular piece of legislation.

This subsection, this amendment, adds another subsection, as we have stated before—sorry; before I get to that, I should state what the new subsection says, for clarity. Subsection 4(3) says, “Without limiting the generality of subsection (2), subsection 1(4) of the Labour Relations Act, 1995 does not apply to the crown.”

So we see between the new version and the old version that we’re changing who this applies to from the school boards to the crown. There’s a very deliberate attempt to understand the differing labour relations involved with respect to those certain things.

As I mentioned, this section now, with the amendment that was proposed by my honourable colleague, adds another subsection, which is (4), to this bill. It says, “Under section 1(4) of the Labour Relations Act, 1995, a school board cannot be treated as constituting one employer with ... a trustees’ association.”

So we have some greater clarity that is provided with this particular amendment that is quite different than the intent that was originally written in the legislation.

My great question as we move along—and we’ve seen a variety of particular attention to this section—is, in the process of spending so much time, in the process of understanding the variability and negotiating and consulting with our partners in education, why we missed certain aspects of this bill, much like we have with this section.

It has received quite a great deal of attention. I know my colleagues in the other two parties have both raised some perspectives that came through, as I understand, a public hearing process that, as we’ve stated before, was too limited in scope, with not enough time given to actually hear and listen to those concerns. I just wonder, if we actually had more public hearings, how many more amendments like this we’d actually find in the review of Bill 122. It’s a pretty interesting question that I’m sure we’ll get to at another time.

This is, again, the amendment—I think the clarity that it provides is important. I think that the elaborate omission and rushing through, perhaps, the writing of this particular section seems to more correctly assess what is transpiring with this particular piece of legislation, and I would encourage members to provide their comments on this amendment.

I think that we have two versions here that are worthy of debate, and I look forward to listening to my other colleagues’ comments and questions regarding this section.

**1400**

**The Vice-Chair (Ms. Lisa MacLeod):** Further debate? Mr. Smith.

**Mr. Todd Smith:** It’s a pleasure to join debate on Bill 122 here this afternoon. Section 4 is where we are, and I know we have asked some questions of Ministry of Education staff who are here today. We do have some issues still to debate with this section. I believe, as my colleague Mr. Leone just indicated, there are still a

number of questions outstanding when it comes to this section, which is, again, section 4, “Application of the Labour Relations Act, 1995.”

It has been very clear that the Labour Relations Act is a complex piece of legislation. One thing that has been pointed out that we are obviously interested in learning more about is the links between the Education Act and the Labour Relations Act. It was made clear that there was some concern in this section from the staff, obviously, and that prompted this government motion 3.1, which we’re debating now.

As was pointed out by the staff, and we thank them for their answers on this, it removes a reference to a school board possibly opening up an application, and that clarifies this process so that we know exactly where we’re headed when we get down to the link between the Labour Relations Act and the Education Act.

I know one of the points was made that there are many employees and some teachers, not all teachers, there are non-teaching staff who are included, when dealing with this as well—that was one of the concerns actually that I heard an awful lot about when we look back at what occurred in September 2012 in regard to Bill 115. There were the teachers’ federations and the teachers’ unions that obviously were involved, but there were many non-teaching staff who, in my discussions with them, referred to themselves almost as “collateral damage” in the process. I think those were the words that they used throughout this.

This was largely controversial for the teachers and the current government and the issues that existed there when it came to Bill 115. But also lumped into that were the non-teaching staff. There were clerical staff, the custodians, educational assistants who work in our schools, who don’t have the same compensation, to be quite honest, that many of our educators do, who were affected negatively by what occurred. I had a number of meetings in my constituency office in Belleville with those employees. They were very concerned about what had happened. In their words, again, “innocent bystanders” is the way that a lot of them referred to what happened in September 2012.

So you can understand how we want to make sure the definitions are very clear. I think we’ve established in some previous sessions that the definitions must be clear. Of course, we were pushing very strongly here in the Progressive Conservative caucus to include the definitions of “co-instructional” and “extracurricular activities” in the bill, but we’ve already established here today that that has been voted on—

**The Vice-Chair (Ms. Lisa MacLeod):** Just a reminder: We’re on section 4.

**Mr. Todd Smith:** Yes, I agree.

**The Vice-Chair (Ms. Lisa MacLeod):** Okay. No problem.

**Mr. Todd Smith:** Thank you, Chair.

We just want to make sure, obviously, that we get the definitions right, which we’ve done. Now we’re dealing with section 4, which is the application of the Labour



Relations Act, 1995. One of the things that we've seen happen here is, again, in subsection 4(2), some words have been added. I know it was raised by my colleague Mr. Leone, wanting to know why those five words were added. At this point, I would like to perhaps get an answer to that question. I'm not sure if ministerial staff or legislative counsel would be best to answer this question. The five words that were added in subsection 4(2) were "and perform the crown's duties." They've been included in that section. I'm wondering if maybe we can get an answer as to what the crown's duties are, from the ministerial staff—

**The Vice-Chair (Ms. Lisa MacLeod):** We'll start with the government members. If they can't explain it—

**Mr. Todd Smith:** Sure.

**The Vice-Chair (Ms. Lisa MacLeod):** Mr. Balkissoon.

**Mr. Bas Balkissoon:** Madam Chair, if he could just state that clearly again so I can understand exactly—

**Mr. Todd Smith:** I'd be happy to do that, unless the Chair would like to do that. I would be happy to oblige here. There were five words that were added to subsection (2). Under the title "Same, limited application to the crown," after the words "privileges and" we have included "perform the crown's duties," and then "under this act." We're wondering what the crown's duties—

**Mr. Bas Balkissoon:** It would mean the duties as specified in the rest of this act.

**Mr. Todd Smith:** Okay. It's as simple as that.

**Mr. Bas Balkissoon:** Because the crown is now being injected into the bargaining process. The whole process of the crown participating in the bargaining is in almost every section of the act. It's just to clarify that those are the only duties they're going to do, and that everything else does not apply in comparing previous bargaining to what it will be in the future.

**Mr. Todd Smith:** Okay. This was a change that had been made in this motion. There was another reference that was changed as well, and we're striking sections. I'm just wondering why that addition of those words was made. Why was it necessary to add those words? Why was the original language in the bill not efficient or effective enough?

**Mr. Bas Balkissoon:** Madam Chair, if I could just say to my colleagues on the other side, this bill was presented to the Legislature in a previous form. Negotiations with the stakeholders continued throughout that process up until deputations. The amendments that you're seeing being put forward here are amendments that some of the stakeholders made of the minister and the ministry. We accepted those requests, and that's why they're now here as amendments to the original bill.

**The Vice-Chair (Ms. Lisa MacLeod):** Does that clarify?

**Mr. Todd Smith:** Sure. I would think it would be important to be able to express to the committee why these amendments and changes to the language are necessary. I'm not exactly sure that we've established why these changes are necessary—

**Mr. Bas Balkissoon:** I just said it. We did it because the stakeholders continued to meet with the minister. They requested some of these changes, and that's why you see a lot of the government amendments.

**Mr. Todd Smith:** I would also like to point out again that while the members on the government side have talked about the fact that they have met with stakeholders on this piece of legislation, I strongly argue that they haven't met with all stakeholders on this piece of legislation. The parliamentary assistant opened the door, here, saying that the government has met and consulted with stakeholders on this piece of legislation. But quite clearly, as we've discovered through this committee process, we haven't met with all stakeholders. We've met and heard from various teachers' federations, teachers' unions and some trustee associations, but we didn't hear from principals' councils, we didn't hear from parent councils and we didn't hear from parents on this piece of legislation. I just want to get that on the record again, that while the parliamentary assistant says that they have met with the various stakeholders on this important piece of legislation, they certainly have fallen short of meeting with all stakeholders in relation to Bill 122 and the impact that it's going to have on our education sector. Again, I just want to make sure we state that on the record loud and clear.

**1410**

The Education Act and the link with the Labour Relations Act is essentially what we're talking about in this piece of legislation. There were those five words that were added in subsection 4(2), "perform the crown's duties under this act." According to the parliamentary assistant, these words were added because stakeholders informed the government that they would like to have these words added. I'm not exactly sure that we've heard an explanation as to why these words were necessary in the legislation, but we'll move on to the next subsection, which is subsection (3) of section 4. I guess it would be subsection 4(3).

What we had previously has been completely struck and replaced with the words "Without limiting the generality of subsection (2), subsection 1(4) of the Labour Relations Act, 1995 does not apply to the crown." We've asked the ministry staff who are here about the effects that that change would have on this piece of legislation, and there were concerns there about the removal of the reference to the school boards opening the possibility of application or two school boards engaged in being one employer.

I'm just wondering if it would be possible again to ask the ministry staff if we could get some clarification on if two school boards have ever been engaged as one employer. Would it be possible to ask ministry staff?

**Mr. Bas Balkissoon:** Madam Chair, I think he asked the same question already, and the staff gave their best answer.

**Mr. Todd Smith:** I don't believe we have an answer on that.

**Mr. Bas Balkissoon:** I think Mr. Hadwen answered that question to the best of his ability.

**Mr. Todd Smith:** I'm sure I didn't ask that question.

**The Vice-Chair (Ms. Lisa MacLeod):** Could we have ministerial staff—

**Mr. Bas Balkissoon:** I believe he was asked the question, "Have there been instances in the past or can he give an example?" and he did provide an answer.

**Mr. Todd Smith:** Well, I would argue that I asked if there were scenarios in the past where this legislation and this language has been necessary to add, but I never asked if there were two school boards ever engaged as being one employer.

**The Vice-Chair (Ms. Lisa MacLeod):** What we'll do is for quick clarification, we'll ask ministerial staff to come to the table. If they cannot answer, they can say that.

Again, I just remind you to state your name very clearly for Hansard. If you can't answer it, that's fine.

Mr. Smith.

**Mr. Todd Smith:** Thank you, Chair. Gentlemen, I know in your previous visit here, I did ask if there were any scenarios that had existed previously in which it was necessary to change the language in the bill as it stands right now. I guess what I'm asking—correct me if I'm wrong, but you previously stated that there was some concern about two school boards being engaged as one employer. Could you maybe add some light to that?

**Mr. Tim Hadwen:** Tim Hadwen. The potential could exist for two school boards to act as one employer. Under the motion, that could be the subject of an application for the related employer application under the Labour Relations Act to apply.

The second part is whether, to our knowledge, there has been a case where two school boards have acted as one employer. Mr. Strang can address that question again.

**Mr. David Strang:** I'm not aware of any case. Obviously, I haven't had the opportunity to do a study, but I'm not aware of any case where two school boards have been alleged to be one employer.

**Mr. Todd Smith:** Right. I know there was some discussion that—and forgive me if I forget which section we were dealing with at the time, but there was some concern about the two French-language school boards. We were clearly defining the two French-language school boards. Is there any concern there that is related to this language? You're shaking your head "no."

**Mr. Tim Hadwen:** That's right. We're shaking our heads "no." There's no specific concern related to that issue.

**Mr. Todd Smith:** Okay. Thank you, gentlemen.

**The Vice-Chair (Ms. Lisa MacLeod):** Thank you very much to Mr. Hadwen and Mr. Strong.

**Mr. David Strang:** Strang.

**The Vice-Chair (Ms. Lisa MacLeod):** Strang; sorry.

**Mr. Todd Smith:** It's Strang with an A.

**The Vice-Chair (Ms. Lisa MacLeod):** Strang with an A.

**Mr. Todd Smith:** Yes.

**The Vice-Chair (Ms. Lisa MacLeod):** But he is strong—a strong performance.

**Mr. Todd Smith:** How much time do I have?

**The Vice-Chair (Ms. Lisa MacLeod):** You have about five minutes.

**Mr. Todd Smith:** Okay. Thank you, Chair. We were also discussing, and my colleague Mr. Leone was discussing, subsection 4(4) here, which has been added to the bill. Previously, there were three subsections under section 4. In the rewritten government motion that we're dealing with, (4) deals with, "Under subsection 1(4) of the Labour Relations Act, 1995, a school board cannot be treated as constituting one employer with a trustees' association."

It just seems to me that when we are debating a motion like this from the government, and the changes that have been made under section 4, we wonder how many other changes would be necessary or would have been brought forward to our committee had we gone through a proper process on this bill. We've talked about the fact that there have been a number of concerns. We have heard from many, many stakeholders in our ridings and from across the province, and we will be bringing forward our various motions and amendments to the bill. It begs the question: How thick is this document eventually going to become with amendments to Bill 122? Obviously, the changes that have been made here to section 4 are significant to improving the language in the bill, at least in the eyes of the stakeholders that the government has met with, and that's why we're debating these changes to the bill here today. But it does beg the question: How many changes would be made had there been a proper public consultation on this bill?

Again, we do have a significant stack of amendments in front of us already, and we will be going through the process of examining all of these various motions and amendments over the next series of meetings that we have here at the committee level. We wonder how many amendments we will actually be dealing with once we have tabled our amendments. So there is some concern in regard to the language that existed in the bill as it was originally drawn up. Obviously, it's a very important piece of legislation. If there had been a proper amount of public consultation on this bill, I believe we would be faced with many more, obviously.

**1420**

But the one thing, again, that I believe has struck me in the changes that have been made to this section was the fact that we were making it clear that the language needed to be right because we're dealing with two different groups within this act. We're dealing with the teaching staff and the non-teaching staff. Again, one of the issues that was driven home to me in the last year and a half was that there does need to be language in there that allows the non-teaching staff and the teaching staff to be dealt with in a proper fashion.

Again, I believe the link between the Education Act and the Labour Relations Act and clearly explaining how it affects teaching and non-teaching staff has been im-

portant to the process. The words that have been changed in this bill have come from the stakeholders who have been consulted, so it's important that we have at least listened to some of the stakeholders and had the opportunity here in committee to debate the changes that have been made. I look forward to moving on to the various sections, and we'll likely see some changes coming in those sections as well. But as far as section 4—

**The Vice-Chair (Ms. Lisa MacLeod):** I'm glad that you want to move on, because you're out of time, my friend. Yes, thank you. Any further comments? Any members?

**Mr. Rob Leone:** I do.

**The Vice-Chair (Ms. Lisa MacLeod):** Okay. Mr. Leone.

**Mr. Rob Leone:** Just a few comments. I don't think I'll take the rest of my time on this. I just wanted to touch upon something that my colleague Mr. Smith was talking about with respect to requesting some explanation for what the purpose was of adding the five words "and perform the crown's duties" to this piece of legislation. I noted with interest the response that we got from the parliamentary assistant on this particular matter, where he said that—and the only explanation we were given was because this was what was requested, basically, from the feedback that we got on this particular piece of legislation. I'd accept that position if it weren't for the fact that we heard a few comments on this particular piece of legislation from a couple of stakeholders that are different from what we actually see in this piece of legislation.

We heard from OECTA, for example—the talks about being bound by the Ontario Labour Relations Act. I remember they talked extensively about that. They also talked about trying to change the nuance of the wording. I remember CUPE also making a deliberation to this committee about subsection 4(3), and CUPE wanted to delete that subsection because they felt it was unrelated to the establishment of the central bargaining process in the sector. It would hamper their right to bring labour board and subsection 1(4) applications with respect to school boards.

I say this because while we only had the benefit of our interaction of a five-minute presentation and three minutes per party to actually to discuss these things, we don't have the benefit of those reasons that may be formulating, under which you have decided to actually put this amendment forward, rather than the other ones that were removed from the package or not going to be debated; they weren't really removed if they haven't been tabled. While I respect the fact that you suggest that there is some negotiation going on that has been ongoing since October 2013, we haven't been privileged to those kinds of negotiations. So when my colleague Mr. Smith asks a question about why we're including some words, we're kind of hoping for a bit more explanation than, "Well, we just had some negotiation with some of the stakeholders that were involved with this particular piece of legislation."

That, to me, speaks to the reasons why—I'm not going to go into them yet again—we sought more open, trans-

parent public hearings on this particular piece of legislation, so that all of us would benefit from having that understanding.

We're now being asked to vote on an amendment to this subsection without the benefit of the understanding that may have been shared with the government by various stakeholders. We don't know if this, at the end of the day, matches exactly what they want. I say that because—  
*Interjections.*

**The Vice-Chair (Ms. Lisa MacLeod):** Order. Order.

**Mr. Rob Leone:** I appreciate the order; I was almost having a problem hearing myself think.

I would be more confident that this amendment was consistent with what the stakeholders had suggested had we had the full benefit of public hearings, but also if we had the opportunity to have some confidence that the government got this legislation right in the first place.

We were told that this legislation was put forth to the varying stakeholders—the partners, if you will, that the government likes to talk about that exclude parents and students. We were told that the lead-up to this legislation was so intense with negotiation that when we actually saw the piece of legislation, we thought we were going to have a bill that everyone agreed on. Nothing was further from the truth.

In fact, we have 70 amendments that were presented—more than 70 amendments; I can't even keep track of how many amendments there are. There are six piles of different amendments, the same amendments. I'm not sure what the total number is at this point in time, but I wouldn't be surprised if there are upwards of 100 different versions of amendments, at the very least. Not to say that we'd debate all those amendments, but there are at least 100 different versions of them.

I would suggest that to provide us with greater confidence that you actually got it right this time, when Mr. Smith asks a question about why we're including these words, the answer is a little bit better than, "Well, we've been negotiating with our partners and this is what we came up with." We thought that was what you came up with when you actually tabled the bill.

I don't have very much confidence at all that the debate and deliberations of changing these words actually satisfy the needs of our partners in education. Your partners obviously don't include parents and students like they do for us.

I do want to be very clear about this because it's so important to understand—and I think that when we ask these questions we're doing this because we do actually, genuinely, want to understand what we're voting on.

The ministry staff did come to the table and did provide that clarity, and the rationale seems to make intuitive sense to me. I would hate to suggest that if we actually go through with this amendment, we will at some point in the future see one of these partners balk at the kinds of changes we've made. You know how this happens when you have so many people at the table: If one person wants to change something, you say, "Oh, that intuitively makes sense," but it might not be consistent

with what another person you're trying to deal with thinks. So then what? Does that person complain? If that person complains, does this change yet again?

I think the fact that we've seen so many different versions of amendments on this whole section, section 4 of this act that talks about the application of the Labour Relations Act, 1995—we can't forget that is what we're talking about. I think we would all benefit from the full knowledge of what that is.

I would encourage the parliamentary assistant, in the future, if we do ask a substantive question, that there is, perhaps, a greater explanation so that we have more confidence that the amendment you've proposed fits the rationale, even if it's to say that we've had X partner and Y partner come forward that have both proposed this particular amendment, and that you've actually caucused it with other partners—some degree of reassurance that where you're landing right now with this amendment and this subamendment is exactly where you need to land, because without that benefit, as I've said before, we aren't going to have the confidence that that's actually been done.

1430

At this point in time, I don't know who has proposed this particular subamendment because we weren't privy to those discussions. I have some concern about that aspect and that possibility that there might be another partner out there that doesn't know about this subamendment, that doesn't know or doesn't agree to it, and that by passing this particular subamendment, we will be putting ourselves in a bind between two partners of varying opinion. That possibility exists anytime we make a particular amendment.

So I hope, when we try this once again, to ask for some greater clarification; that we actually do end up getting that clarification for the members of this committee who are going to be asked to vote on this.

I do want to just touch upon a couple of other things. We have been talking about the proposed amendment, which is to change subsections 4(2) and (3) by striking them and adding the new language on subsections 4(2) and (3) and adding subsection (4) to this section.

One of the things that I wonder is: Why do we have to add subsection (4) as a completely other subsection? If you look at the way the titles of these sections are listed, subsection (2) says that the title of that is, "Same, limited application to the crown," which is the same as the bill suggests, but the title of subsection (3) changes from "Restriction re: related employers" to the new wording, which is "Same re: related employers." Subsection (4) just has the title of "Same." I'm assuming, in the process of saying "Same" for subsection (4), that it means, "Same regarding related employers." If I'm not correct in that, I hope that somebody—well, am I correct in that? Is that a proper assumption?

*Interjection.*

**Mr. Rob Leone:** So why, then, are we actually adding a subsection (4)? Why aren't we just adding the verbiage, "Under subsection 1(4) of the Labour Relations Act,

1995, a school board cannot be treated as constituting one employer with a trustees' association"? Is someone able to answer that question for me, of why we have to have another subsection with respect to that aspect?

**The Vice-Chair (Ms. Lisa MacLeod):** Mr. Balkissoon, can you answer?

**Mr. Bas Balkissoon:** Madam Chair, I think if you look at the section—I'm sure my colleague would go back to the heading of section 4. All the other sections—2, 3 and 4—are related to the main topic that's on 4, which is "Application of the Labour Relations Act, 1995."

"Same," (2), is just saying the limitations to the crown.

"Same," (3), is related to employees.

I'm sure my colleague is familiar with the way legislation is drafted.

**Mr. Rob Leone:** I'm just asking why subsection (4) isn't included in subsection (3) if it's the same as "related employers." You just wanted to specify and make sure everyone knew, and it was highlighted, with their eyes pointed to the fact that it was a point very important to make, that you had to actually add it to those subsections?

**Mr. Bas Balkissoon:** Absolutely.

**Mr. Rob Leone:** That's it? I can accept that. I'm not quite sure why, but I at least can accept that.

I'll note that when we looked at the other changes, there is variability between 3.1—sorry; I shouldn't name them like that—between what we presented today with what we were presented before. There were some changes with respect to that, particularly in this last subsection. I'll read the two in and then we'll talk a bit about that.

The original amendment that we were presented that has not been tabled is, "Under section 1(4) of the Labour Relations Act, 1995, a school board cannot be treated as constituting one employer with another school board or a trustees' association." So there has been some modification and refinement there. I can see the clarity that has been given and the rationale to it. But again, it speaks to the greater question of what I was talking about before. The negotiation to these amendments that the government presented started happening right after the October 22 tabling of this bill—

**The Vice-Chair (Ms. Lisa MacLeod):** I just want to draw to the member's attention, he has to talk to the motion that he's putting forward, not one that hasn't been moved.

**Mr. Rob Leone:** Okay. My statement is a little bit different. We're talking about the one that's before us and I acknowledge that.

What I was going to suggest, though, is that when these negotiations started happening, we were presented with a version of this amendment that is different than the one that we see today. In the process of making these amendments, I find it very interesting that we are seeing a different version. Again, it speaks to the issue that I brought up when I started my second round of comments on this. We need to have the confidence that we've ac-

tually got this subsection right. At this point in time, I'm not seeing that we do.

Again, there are varying interpretations of what we should have said. I'm hoping that we've squared on the language that's acceptable to most people, but I don't know, as a legislator on this committee, whether that is, in fact, correct, because I didn't hear in the public hearings those specific comments and we didn't benefit from what the government was saying.

Chair, that is the point I wanted to make. As I mentioned, I didn't want to take my full 20 minutes. I'm not sure if my colleague Mr. Smith has any further comments to make on this particular bill, but I would be happy to finish my comments on that.

**The Vice-Chair (Ms. Lisa MacLeod):** Sure. Any further comments on this section? Are the members ready to vote?

**Mr. Peter Tabuns:** Yes.

**Mr. Rob Leone:** I'd like a recess, please. Twenty minutes?

**The Vice-Chair (Ms. Lisa MacLeod):** A 20-minute recess? That's what you want?

**Mr. Rob Leone:** Yes.

**The Vice-Chair (Ms. Lisa MacLeod):** Okay. We'll return at 2:57.

*The committee recessed from 1437 to 1457.*

**The Vice-Chair (Ms. Lisa MacLeod):** Okay, ladies and gentlemen, we're back. We have one vote before us on government motion 3.1. I'm now calling the vote.

All those in favour, please say "aye." All those opposed? The motion is carried.

Given the time, we're going to adjourn for the day until next Wednesday at noon in this same room. Have a great week.

*The committee adjourned at 1458.*





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