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**Official Report  
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(Hansard)**

**Tuesday 6 November 2001**

**Journal  
des débats  
(Hansard)**

**Mardi 6 novembre 2001**

**Standing committee on  
justice and social policy**

Prohibiting Profiting  
from Recounting  
Crimes Act, 2001

**Comité permanent de la  
justice et des affaires sociales**

Loi de 2001 interdisant  
les gains tirés  
du récit d'actes criminels

Chair: Toby Barrett  
Clerk: Tom Prins

Président : Toby Barrett  
Greffier : Tom Prins

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
JUSTICE AND SOCIAL POLICY**

**COMITÉ PERMANENT DE LA JUSTICE  
ET DES AFFAIRES SOCIALES**

Tuesday 6 November 2001

Mardi 6 novembre 2001

*The committee met at 1607 in room 151.*

**PROHIBITING PROFITING  
FROM RECOUNTING CRIMES ACT, 2001**

**LOI DE 2001 INTERDISANT  
LES GAINS TIRÉS  
DU RÉCIT D'ACTES CRIMINELS**

Consideration of Bill 69, An Act to protect victims by prohibiting profiting from recounting of crime / Projet de loi 69, Loi visant à protéger les victimes en interdisant les gains tirés du récit d'actes criminels.

**The Chair (Mr Toby Barrett):** Good afternoon, committee.

**Mr Peter Kormos (Niagara Centre):** On a point of order, Chair: It is now 4:07 pm. I understood this committee to commence at 3:30 or as soon as orders of the day were reached in the House, if orders of the day were arrived at subsequent to 3:30. Orders of the day were reached in the House at approximately 4 pm, perhaps 4:01 pm. It is my understanding, Chair, that your obligation is to perform here as a non-partisan player in this committee process and that it is your job to call the meeting to order when it is to come to order. It is not your job to protect the government against a lack of a quorum. That displays and betrays a partisanship which is not becoming of a Chair and, I put to you, is one that we should not expect from any Chair of any political stripe, whether they are from the government caucus, the Liberal caucus or the NDP caucus.

I am suggesting to you, Chair, that you purposely delayed calling this meeting to order. In fact, it was brought to your attention that the meeting should have been called to order and you indicated to me that you were going to wait for a quorum. That, Chair, is not your function. You are paid a substantial amount of money acting as Chair, serving as Chair, to perform this responsibility in an objective and neutral manner. I find your response to me that you were going to use your power as Chair to wait before calling this meeting to order until there was a quorum, which meant until the government had its members here under the circumstances, to be a serious breach of your responsibility to conduct yourself in a neutral manner.

**Mr Marcel Beaubien (Lambton-Kent-Middlesex):** Mr Kormos pointed out that in the House, orders of the

day were called at approximately 4:01, according to his watch. You called the meeting to order at 4:07, according to his watch. That is six minutes. At my age, I would strongly suggest it probably takes me a minute, a minute and a half, to get from the House to here. So really, from the time the orders of the day were called to the time that this committee was brought to order is six minutes. I don't know what the point is and I don't know what the member from Welland is trying to prove, but I certainly find six minutes, from the time of orders of the day to the time this meeting was brought to order, fairly reasonable.

**Mr Kormos:** Chair, it's not a matter of what Mr Beaubien finds reasonable, and it's not a matter of how capable he is of getting up and down from the chamber; it's a matter of your neutrality. You indicated clearly to me that you were declining to call the meeting to order because there was no quorum. Once again, I put on the record that I find that to be a betrayal of your responsibility to conduct yourself in a neutral and non-partisan manner in this committee. Mr Beaubien should perhaps have some regard to what the appropriate conduct is of Chairs here in this Parliament.

**Mr David Tilson (Dufferin-Peel-Wellington-Grey):** It's on the record. Let's move on.

**The Chair:** My only comment is that I am less inclined to have you put something on the record, speaking on my behalf, from a conversation that was held previously. I've been chairing—

**Mr Kormos:** Are you about to refute what I said you said, which other people heard?

**The Chair:** Can I continue, sir?

**Mr Kormos:** Are you about to refute what you said or deny that you said you were going to wait until there was a quorum? Are you denying that? If you deny that, you will be lying.

**Mr Tilson:** On a point of order, Mr Chairman: It is completely out of order for Mr Kormos to get into a debate with the Chair. You can listen to his point of order and you can rule on that point of order—

**Mr Kormos:** It's entirely out of order for the Chair to conduct himself in a partisan manner.

**Mr Tilson:** It is completely out of order for Mr Kormos to debate with you. I would suggest that Mr Kormos has made his point. Let's move on and start debating this bill.

**The Chair:** That's not a point of order, Mr Kormos. I won't comment on this any further.

We meet this afternoon as the standing committee on justice and social policy for today, November 6, 2001. Our agenda is Bill 69, An Act to protect victims by prohibiting profiting from recounting of crime. Our order of business is clause-by-clause consideration of the bill. I will put the question, are there any comments or questions or amendments to Bill 69, and if so, to which section or sections?

**Mr Kormos:** On a point of order, Chair: That's not how it's done. You call one clause at a time. You don't say, "Has anybody got an amendment to any clause in the bill?" You call section 1 and then you ask if there's any debate on that and/or any amendments. You don't do an omnibus call for any amendments that anybody may have to any clause. Please.

**The Chair:** That's not a point of order, Mr Kormos. I am asking for amendments to any section of the bill. Seeing no amendments to any sections of the bill—

**Mr Kormos:** On a point of order, Chair: An amendment to a section is made when that section is called.

**The Chair:** If we have an amendment, we could continue. I'll start with the Liberal Party. Are there any amendments or comments or questions or discussion to any sections of this bill?

**Mr Michael Bryant (St Paul's):** Mr Chair, maybe I could suggest that we use general comments and questions in discussion on section 1, which I believe is the way we ordinarily would proceed. In other words, we'll make general comments and questions once we turn to each provision. Or are you suggesting that we undertake a different procedure? I'm not clear exactly what you're asking us. This isn't general—

**The Chair:** I have put the question, are there any comments or questions or amendments to any section? Please identify which section or sections you wish to comment on, because this is open. Pick a section if you wish to comment.

**Mr Kormos:** Is that how we're supposed to run it?

**Mr Bryant:** No. I'm trying to be of assistance here, Mr Chair. Should we just turn to section 1?

**The Chair:** Let's start with section 1.

**Mr Kormos:** Praise the Lord.

**Mr Bryant:** I'm going to reserve my comments, by and large, to third reading debate on this bill. I just want to repeat that I believe this bill very much to be a paper tiger. It is unfortunate that this Legislature is spending time cutting and pasting Mr Jackson's private member's bill into another bill. While I appreciate that sometimes bills need to be updated, my understanding is that the number of times Mr Jackson's bill has been used through litigation has been few, if ever. In those circumstances, I don't quite know why the taxpayers of Ontario are forking out to put a bill through this Legislature that in fact is, at the end of the day, not going to have any real, substantial impact for victims of crime in Ontario. Obviously, we support the spirit of the bill and the intent of the bill. We supported Mr Jackson's bill, so we'll be supporting this bill. I guess my question is, of all the things we could be doing for victims of crime today, why

is it that we're spending time on this bill, which has not been used by victims in the past and, I would suggest, is not going to be of much assistance to victims in the future? That's all I have to say.

**The Chair:** We'll now go to the NDP.

**Mr Kormos:** You have people here at the table, I trust, who are here for our assistance. I wonder if we could find out who they are.

**Mr Tilson:** If there are any technical questions or questions that I can't answer, there are members from the Attorney General's office here who will attempt to answer any questions that any members of the committee may have.

**Mr Kormos:** I think they should be able to tell us who they are and what they do at the Ministry of the Attorney General.

**Mr Tilson:** Sure, that's fair.

**The Chair:** Could we ask you to identify yourselves, please?

**Ms Lois Lowenberger:** I'm Lois Lowenberger. I'm counsel with the Ministry of the Attorney General, court services division.

**Mr Mohan Sharma:** I'm Mohan Sharma, counsel, court services division, Ministry of the Attorney General.

**Mr Kormos:** I do have some questions. First, referring to the Victims' Right to Proceeds of Crime Act, 1994, during the course of the debate around this bill, we made frequent reference to—of course that act is repealed by this bill. Can you tell us whether or not there has ever been any money seized or surrendered as a result of the 1994 legislation?

**Ms Lowenberger:** To our knowledge, the only amount that's outstanding is \$1.07. I've not heard of any other amounts.

**Mr Kormos:** In other words, the amount that's held in the trust?

**Ms Lowenberger:** That is correct, yes.

**Mr Kormos:** Do you know—and I'm dead serious—how it got there?

**Ms Lowenberger:** No, and I don't think I can speak to it, really.

**Mr Tilson:** Obviously, there has been very little, if any, litigation with respect to Mr Jackson's bill—I can't recall the number of it; we'll refer to it as Mr Jackson's bill. One of the difficulties that we're going to have talking about what I agree is a rather strange amount is something called privacy legislation. There may be an answer, but the difficulty we're going to have is in giving that answer. It probably—not probably; it does contravene the privacy legislation, and I don't think you or I want to do that. But that is the amount that I believe still sits there.

**Mr Kormos:** I am so pleased to see your interest in defending the right to privacy of just plain folks. I'm pleased to see that from the parliamentary assistant.

**Mr Tilson:** Thank you very much, Mr Kormos.

**Mr Kormos:** But I wouldn't have expected anything less from him, knowing him as I do.

**Mr Tilson:** Absolutely.

**Mr Kormos:** But, look, \$1.07, fair enough, but has the Victims' Right to Proceeds of Crime Act, 1994, been used to require the forfeiture or the deposit of monies during the course of its life from 1994 to the present?

**Mr Tilson:** Go ahead. I think the answer to that is no, but perhaps you'd better confirm that.

**Ms Lowenberger:** I don't think I can comment on that, really.

**Mr Tilson:** My understanding with respect to Mr Jackson's bill is that that has to do specifically with civil litigation. The bill that is before us, Bill 69, has to do with the recovery of money, assets or whatever that are being used with respect to the publication of material used by perpetrators involving victims—television, movies, that sort of thing. The Jackson bill did not have that type of focus.

**Mr Kormos:** This is where I need help, because clearly I misunderstand the Jackson bill. I understood that it similarly required the deposit of monies that were received as a result of a contract but required a judgment for a victim to seize money.

**Mr Tilson:** That's true.

**Mr Kormos:** Am I mistaken or am I right?

1620

**Mr Tilson:** I'm going to let the staff pursue that question, but I'm trying to distinguish the difference between the Jackson bill and Bill 69. You go ahead and try to answer Mr Kormos's question.

**Mr Kormos:** But the reason I responded that way to you is because you left the impression that if there had been no civil actions against criminals, there wouldn't be any money deposited in the fund.

**Mr Tilson:** You're returning to the \$1.69 and I've given you the best answer I can. I can't improve on that answer.

**Mr Kormos:** But au contraire, what I want to find out—you see, under the Jackson bill, monies do not necessarily have to be paid out to a victim unless that victim gets a judgment. I understand that. But it does require, similar to this legislation, that monies received or owed as a result of a contract with a de facto criminal—having been proved guilty beyond a reasonable doubt, which Mr Tilson will find interesting in the bill—have to be deposited in this fund. So I'm getting the impression that the Jackson bill has never been invoked to seize or require the deposit of any monies obtained by a criminal for his or her recounting of a crime. I just want to make sure I'm accurate in that regard and that I understand you. Is that correct or not?

**Ms Lowenberger:** The current Victims' Right to Proceeds of Crime Act, subsection 2(3) provides that "A person who is required under a contract to pay money to the accused or convicted person or to a related person shall pay it instead to the Public Guardian and Trustee." And there's a subsequent provision which provides for payment out under certain circumstances.

**Mr Kormos:** What I want to know is, has the Jackson bill ever been invoked, since it received royal assent, to

require the deposit of monies in the manner prescribed in the bill?

**Mr Tilson:** To my knowledge, the answer to that is no.

**Mr Kormos:** I wonder if that's the AG staff's understanding as well.

**Mr Tilson:** We could confirm that.

**Ms Lowenberger:** Yes, it is.

**Mr Kormos:** Thank you. What prompted the bill we're now considering in committee in view of the fact that there hadn't been a single contract with a criminal or that the Jackson bill had never been invoked and tested?

**Mr Tilson:** Mr Chairman, I don't know whether Mr Kormos is directing that question at me. I'll attempt to answer it.

This bill is being used as a deterrent. Notwithstanding what Mr Kormos is trying to bring about, the Jackson bill has not been that productive. We are concerned with respect to victims. We have seen, since the Jackson bill, a number of situations, of cases, of serious crimes against victims. I really don't want to give them the credit of what they are. We all know—

**Mr Kormos:** We agree.

**Mr Tilson:** I'm trying to answer your question.

**Mr Kormos:** No, we agree.

**Mr Tilson:** Absolutely. We acknowledge that. We do not believe that the Jackson bill goes far enough to protect victims. We are not acting as a reaction to these situations; we are trying to prevent the type of situation we have all talked about, that is, perpetrators benefiting from their crimes against victims. So to respond to Mr Kormos's question, this bill is being used as a deterrent to events that have occurred since the Jackson bill was passed.

**Mr Kormos:** How is this bill any more of a deterrent in view of the fact that this bill, in a very similar if not identical manner to the Jackson bill, causes the forfeiture of any monies received in a contract with, let's say, a book publisher and a criminal? How does it provide a greater deterrent?

**Mr Tilson:** We're spending a fair bit of time here on the comparison between Bill 69 and the Victims' Right to Proceeds of Crime Act, which we've been referring to as the Jackson bill. This bill was the first of its kind in Canada, and Ontario is still the only jurisdiction in Canada to have such legislation. Bill 69, the bill that is before the committee, differs from the Victims' Right to Proceeds of Crime Act in a number of aspects.

(1) Victims would no longer be required to obtain a civil judgment before they collect. The Attorney General would commence civil proceedings to forfeit the proceeds of a contract for recounting a crime and the victims would only have to apply for compensation.

(2) Bill 69 would apply to any form of consideration which is received by a criminal or a perpetrator—or an accused person, I might add—such as money, a house, stocks, any type of consideration that could be paid by the publisher of a book, the producer of a film or a

television show. The Victims' Right to Proceeds of Crime Act applies only to money.

(3) Bill 69 would improve enforcement. It provides that there would be a clear court process to apply for and forfeit funds.

(4) It would also impose a personal liability on directors and officers of corporations who have a duty to report the existence of that contract to the government but fail to do so. These mechanisms do not exist under the Jackson bill or the bill known as the Victims' Right to Proceeds of Crime Act.

(5) The Victim's Right to Proceeds of Crime Act applies to accused persons and requires money to be forfeited even though the person has not been convicted. Bill 69 would apply only to the accused persons for the purpose of interim freeze orders. On the final determination of the criminal proceeding, if a person is acquitted, the proceeds would be returned or, if the person is convicted, the Attorney General would then go back to court and apply for a permanent forfeiture order.

(6) The Victims' Right to Proceeds of Crime Act does not define the crimes to which it applies. Bill 69, the bill that is before this committee, defines a designated crime as a serious, violent crime—that is, an indictable offence where the penalty is five years' imprisonment or more—sexual assault and serious property offences. These are crimes for which contracts for recounting crimes will be most likely to be entered into.

This topic did arise in the second reading debate, and I pointed out—I think it was to Ms Martel, who raised this question—that it is most unlikely that someone is going to write a book on shoplifting. I suppose it's possible, but this bill would not apply to that type of offence. It would apply to the serious offences, which is what Bill 69 applies to. Bill 69 does not include those minor types of crimes which, if included, we would argue, constitute an overly broad infringement of the right of expression.

(7) The funds under the Victims' Right to Proceeds of Crime Act are simply held in trust. If any funds remain after civil judgments are satisfied, the balance is returned to the accused or convicted person. Under this bill before the committee, Bill 69, funds would be forfeited to the government, at which point the convicted person would lose any rights to the remaining funds that might exist, and residual funds would be used to assist victims generally.

Those are the main distinctions. It appears that where Mr Kormos is going is trying to distinguish between the Jackson bill and this bill. But the real reason for it is to act as a deterrent. If convicted criminals of these crimes, particularly the most outstanding crimes that we've seen in eons, are going to benefit from those crimes in Ontario, whether it be through books or films, they're not going to get the proceeds. We're going to seize those proceeds and pay them to victims.

1630

**Mr Kormos:** It's interesting that you don't want an overly broad definition of crime in Bill 69 but one was

perfectly acceptable in Bill 30. But that really isn't relevant to this debate, is it, Mr Parliamentary Assistant?

I put this to you: in terms of the distribution of funds, what factors will be used to determine the amount of monies paid out of the fund to a victim?

**Mr Tilson:** My position would be that hopefully this bill will receive third reading and at the appropriate time regulations will be prepared, and those types of questions will be answered in the regulations.

Mr Chairman, are we going to start at section 1 or is this going to be a Q and A by Mr Kormos toward me? Are we going to proceed with section 1 and debate section 1? I'm prepared, at your wish, to answer questions from any member of the committee, but I understood we were here to go through clause-by-clause and not for a debate between Mr Kormos or anyone else and myself. I always like to debate Mr Kormos, but I'm not sure this is the appropriate time. The more appropriate time would be in the House.

**The Chair:** My understanding is that we are discussing section 1. However, there may be comments or questions or amendments to any other sections.

**Mr Tilson:** OK, if that's your wish, Mr Chairman.

**The Chair:** Any further—

**Mr Kormos:** Mr Parliamentary Assistant, please, it isn't a debate. I know you are advocating for this bill. I understand that full well. I'm just curious as to why, and I think this is a good venue in which I can determine that; don't you, Chair? This is the place to do it. As a matter of fact, if you'll refer to my comments in the House on second reading debate, I said we need a chance in committee to ask these questions.

You talk about the need for a civil judgment which would assess the quantum—is that the right word; is that what lawyers use?—of damages of a victim that would—

**Mr Tilson:** No, that isn't what this bill is. You've misinterpreted what the bill is. The bill says that if the Attorney General's office determines that there has been a contract that has been entered into by a publisher, producer or some other person who is going to enter into a contract with a convicted criminal to receive an amount of money, an action would be taken, through the approval of the court, to seize that amount of money. Even as early as before the trial takes place, those monies would be seized and frozen pending trial. That's what it's all about. This has nothing to do with an action for damages by a victim against an accused person or indeed someone who has been convicted of a crime.

**Mr Kormos:** That's interesting, because the bill I have before me, Bill 69, says, "The Minister of Finance may make payments out of the account for the following purposes:

"1. To compensate persons who suffered pecuniary or non-pecuniary losses ... as a result of the crime."

Am I incorrect that this is a scheme to pay out proceeds that are obtained by the fund to victims of crime?

**Mr Tilson:** Well, it is possible. Mr Kormos is being consistent with his position, because this is the exact

position that he and his New Democratic colleagues raised in the House.

**Mr Kormos:** We tried.

**Mr Tilson:** You do your best, Mr Kormos, and I respect that.

The question that was raised was, why is the word “may” there as opposed to—I don’t know which section that is. Could someone help me?

**Mr Kormos:** Section 9.

**Mr Tilson:** The New Democratic caucus spent a considerable amount of time in second reading on this issue. For example, it may be that a convicted criminal or accused could write a book, if I could create a hypothetical situation, and the consideration could be, say—I don’t know—\$50,000. The damages that could be sustained by the victim, which could be approved by a court of law; it could be not approved by a court of law. The victim doesn’t necessarily have to go to court to establish the damages or the injuries they’ve sustained, whether it’s pain and suffering, psychological, physical, whatever. The amount that could be received by that victim could be less than \$50,000, it could be more than \$50,000, depending on what amount is in the fund. There is no hard-and-fast rule that the full amount seized from the proceeds under this contract is going to be paid to the victim. It may be all of the amount, it may be less than the amount, it may be more than the amount.

**Mr Kormos:** Who will determine the amount?

**Mr Tilson:** That too will be set forth by the regulations. I’m going to ask the staff to help me on this. The criminal compensation board?

**Mr Sharma:** Criminal Injuries Compensation Board.

**Mr Tilson:** Criminal Injuries Compensation Board.

**Ms Lowenberger:** Or similar entity.

**Mr Sharma:** Set out in—

**Mr Tilson:** I should let them finish.

**Mr Sharma:** It’s set out in clause 13(1)(d).

**Mr Tilson:** This question would be answered in the regulations. The regulations haven’t been presented yet, but the solicitors from the Attorney General’s office have given an example as to whom they expect will be making that determination, but it may be some other group.

**Mr Kormos:** Let me ask the parliamentary assistant, doesn’t subclause 13(1)(d)(ii) cause you some great concern?

**Mr Tilson:** Subclause 13(1)(d)(i)?

**Mr Kormos:** No, 13(1)(d)(ii).

**Mr Tilson:** OK.

**Mr Kormos:** Very disturbing.

**Mr Tilson:** I’m going to defer to the staff.

**Mr Kormos:** Yes, perhaps the staff should make sure—so I don’t misinterpret it, because I don’t want to do that.

**Mr Tilson:** We wouldn’t want that, Mr Kormos.

**Mr Kormos:** Maybe the staff should tell me what that little paragraph there means in terms of the capacity to regulate.

**Ms Lowenberger:** I’m sorry. Subclause 13(1)(d)(ii)?

**Mr Kormos:** Yes.

**Ms Lowenberger:** That simply relates to the process for appealing or not appealing a decision to grant benefits under subclause 13(1)(d)(i).

**Mr Kormos:** Maybe I’m misreading it, but it seems to say that the bill permits the enactment of a regulation that would forbid any appeal of a decision made or any judicial review of a decision made as to the amount to be paid out to a victim. Am I misinterpreting that?

**Mr Guzzo:** Unless it’s patently unreasonable.

**Mr Kormos:** I don’t know whether I’m misinterpreting it. If it denies an appeal, it denies an appeal. I don’t know. Am I incorrect?

**Ms Lowenberger:** No, I believe that would be correct, subject to whatever was in the regulations.

**Mr Kormos:** I hope we’re clear now. The paragraph I’ve referred to, 13(1)(d)(ii), permits a regulation that denies any right of appeal to a person or a claimant seeking compensation from the fund. Am I correct? We’re in agreement in that regard?

**Ms Lowenberger:** I believe that’s right, as I say, subject to whatever the regulations may provide.

**Mr Kormos:** Does that not bother you at all, Parliamentary Assistant?

1640

**Mr Tilson:** Mr Guzzo, I believe, has given a pretty good answer to that. The final half-dozen words in clause (d) state, “unless the decision is patently unreasonable.” I don’t know how you can get any better than that.

**Mr Kormos:** Mr Tilson, you would force a claimant to reach that high a hurdle in the course of an appeal when similar rights to appeal in so many other venues aren’t denied them?

**Mr Tilson:** I don’t know how we can add to the answers we’ve already given.

**The Chair:** Any further questions, Mr Kormos?

**Mr Bryant:** To ask that question another way, often the decision of an arbitrator is insulated because he or she is an expert in a particular field, and that’s why we don’t want those decisions easily overturned by Divisional Court or by an appellant court. I suppose what Mr Kormos is getting at is, what is it about these decisions that would lead to this clause which in essence is insulating it from appeal? In other words, is there some specialty involved in the adjudicators? Is there something about the nature of the issues before the courts that would lead to this kind of provision, which is ordinarily applied, for example, to a labour tribunal to recognize the labour tribunal’s expertise there and to defer to that lower court? I think what Mr Kormos is getting at is, why are we deferring to the lower court? I’m sure there’s a very good explanation for it. I’m just wondering what it is about this particular matter.

**Mr Tilson:** But we’re not in a court. With this fund, we’re not in a court. The judgment for the amount that’s under the contract has already been received. That’s what we’re talking about. We’re talking about that money. We’re not talking about a judgment. You two are talking about a judgment. This is not a judgment. This is an

amount of money that has been received and is in the fund.

**Mr Bryant:** So the decision is not subject to appeal, is not subject to AJR? Is that the idea?

**Mr Tilson:** Maybe I should let the experts respond to that, but it would seem to me that if you have an action against a publisher for the amount that's in the contract, either side could appeal that decision. What you're talking about is after that amount of money has already been received and is in a fund. It may even be in a fund that exceeds the amount that this particular victim is entitled to. It's in a general fund. Please correct me if I'm incorrect.

**Mr Bryant:** Maybe I used the wrong language. What is it about the nature of the decision? We're insulating this from an application for judicial review, in essence. Isn't that what we're doing? Is that right?

**Mr Tilson:** Jump in at this point, Mr Chairman.

**Mr Bryant:** The language is "appeal," "appeal decision."

**Mr Tilson:** Again, we're not talking about a judicial decision. We're talking about an appeal to the fund. Your question is, is that application for the money under that fund appealable? That was Mr Kormos's original question, and I believe that has been answered.

**Mr Bryant:** No, that wasn't my question. This provision to some extent insulates a decision—I'm using the word from the statute, decision—and it insulates it from—and my question is—from an appeal. Again, this is the word in the provision. I take it that when we're talking about an appeal of a decision, we're not talking about an appeal to cabinet.

**Mr Tilson:** We're talking about an application that has been made by a victim to the fund.

**Mr Bryant:** I understand that.

**Mr Tilson:** That's what we're talking about. Your question is, when whatever body is chosen—and we have given an example of who will probably hear it, but it may be some other group—makes a decision, is that appealable?

**Mr Bryant:** Right.

**Mr Tilson:** That's your question. I'm reluctant to get into something here which the experts perhaps should be looking at, but it seems to me that question has been—

**Mr Bryant:** You could have fooled me that you're reluctant. I can't even get my question out.

**Mr Tilson:** Fire away again, Mr Bryant.

**Mr Bryant:** OK. Here's my question: are we talking about an application for judicial review of a decision made by whatever body it's going to be? Is that what this is?

**Ms Lowenberger:** That would be the type of decision this provision refers to. It would be subject to the regulation and of course subject to any court interpretations.

**Mr Bryant:** Sure. But the appeal referred to in this provision is an application for judicial review of the decision. Is that what the appeal is referring to?

**Ms Lowenberger:** That would be correct, yes.

**Mr Bryant:** I have one more question. I'm sorry if you have already answered this; I didn't quite understand. The fund in which the \$1.07 is sitting, what is that fund?

**Ms Lowenberger:** That is the fund created under the Victims' Right to Proceeds of Crime Act.

**Mr Bryant:** Again, I'm sorry if I missed this. Where does this \$1.07 come from? We don't know, is that right?

**Ms Lowenberger:** I can't comment any further on that, I don't think.

**Mr Bryant:** Let me ask this: can you tell me where that \$1.07 comes from?

**Mr Tilson:** The details of the contract involving the \$1.07 cannot be disclosed, as I indicated to Mr Kormos, because of the freedom of information and protection of privacy legislation. We would be clearly violating the legislation if we commented on that specific case.

**Mr Bryant:** I guess you are the lead officials in the ministry in terms of—actually, the minister is the lead minister and this is the parliamentary assistant. You are the lead officials in the ministry on this bill, I guess. That's why you're here. Is that right?

**Ms Lowenberger:** We're here to provide technical expertise to the committee.

**Mr Bryant:** You worked on this bill?

**Ms Lowenberger:** I don't really know that I could comment on the internal procedures.

**Mr Tilson:** Where are you going, Mr Bryant? We're trying to answer your questions. If you want to ask personal questions, that's unfair.

**Mr Bryant:** Personal questions? No, I'm just trying to ask what the ministry officials—

**Mr Kormos:** On a point of order, Mr Chair: I would admonish and ask Mr Bryant to be careful. Clearly, these people are working for a very heavy-handed government.

**The Chair:** That's not a point of order, sir.

**Mr Kormos:** I'd ask Mr Bryant to lay off of them, because these people are clearly frightened of talking about what's going on in that ministry. I certainly wouldn't want to get them into trouble and I know Mr Bryant wouldn't either.

**Mr Carl DeFaria (Mississauga East):** On a point of order, Mr Chair: This is clause-by-clause. I would appreciate it if we could proceed with section 1.

**Mr Tilson:** We haven't got past the purpose yet, it appears. I tried that and it didn't work.

**The Chair:** Let's continue the rotation. I should offer the PCs time for discussion.

**Mr Kormos:** Yes, let's hear what they have to say.

**The Chair:** We're still on section 1, although we can go to any other section in clause-by-clause.

**Mr Tilson:** I guess I can only speak on the procedure. My concern is trying to determine what the procedure is. So far we've had an interrogation specifically by Mr Kormos and somewhat by Mr Bryant. They are free to ask any questions with respect to the bill, and I gather we're still on the issue of purpose. If they don't have any other questions, perhaps we could vote on section 1.

**Mr Kormos:** Why?

**Mr Tilson:** We did jump from section 1 to a number of other succeeding sections later on in the bill; one was the regulation section, section 13. We seem to have moved from section 1 to the overall bill.

**Mr Bryant:** That's what we wanted to do in the first place.

**Mr Kormos:** Following the Chair's direction.

**Mr Bryant:** We're just following the Chair's direction.

**Mr Kormos:** I'm in the hands of the Chair.

**Mr Tilson:** Indeed. Aren't we all.

**The Chair:** Let's focus on section 1. Is there any further discussion on section 1?

1650

**Mr Kormos:** Thank you very much, Chair. Section 1 deals with the purpose, as Mr Tilson has already made quite clear. It speaks to compensation of persons who suffer pecuniary or non-pecuniary loss. You then inherently involve and call for a consideration of section 9, which provides for the compensation, and down to—and I'm so thankful to Mr Tilson for drawing it to my attention—section 13, the regulation-making power. Because you indicate that it's contemplated that the Criminal Injuries Compensation Board may be—because it would require a regulation to do that—the board considering the applications for compensation, I want to know what standards will be used. I know what standards a victim has available to him or her in a civil action, and so does the victim. It's long-standing law. They similarly have the right to appeal a judgment or an award of damages should they be dissatisfied with that judgment or the award of damages. You purport to deny them that right of appeal in this process. Are you going to subject them to a meat chart? I can't recall you, Mr Tilson, during the insurance wars, but I knew some of your colleagues who were actively involved.

**Mr Tilson:** I remember you during the insurance wars.

**Mr Kormos:** That's right, but I knew some of your colleagues, and they didn't advocate meat charts then for innocent victims. Are you advocating, are you proposing, a meat chart for the disposition of claims to this fund?

**Mr Tilson:** I would think you'd want to stay far away from New Democratic legislation on insurance, which I recall you strongly opposed—

**Mr Kormos:** Yes.

**Mr Tilson:**—and did an admirable job—in fact, were often maintained as the real New Democrat in the Rae government.

However, we're now into An Act to protect victims by prohibiting profiting from recounting of crime, and that is where we are today. The question that was put forward, which I will attempt to answer, is, what criteria will be used in deciding how much a victim is entitled to receive? As I have indicated earlier, there will be regulations prepared to outline what those criteria are. The distribution and the manner of payment would be prescribed by these regulations, and it's expected that the regulations would include reference to such factors as the

nature of the harm caused, any out-of-pocket expenses, the amount of funds forfeited, and there might be other relevant factors.

Those are some of the items that I expect would be dealt with in the regulations, but as you know, we don't have those regulations at this time. That would be developed after the bill, hopefully, would be passed.

**Mr Kormos:** Will the regulations contain a cap?

**Mr Tilson:** I can't say that. To the staff?

**Ms Lowenberger:** I can't comment.

**Mr Tilson:** There you go.

**Mr Kormos:** Chair, I wonder if I could find out what would happen to the victim in the context of this bill, Bill 69, if a victim obtained a judgment for, let's say, \$100,000 against the perpetrator of the crime against them. Would they then be able to use that judgment to attach monies that have been seized from that perpetrator pursuant to this legislation, or that were deposited pursuant to this legislation as a result of the legislation?

**Mr Tilson:** I don't know whether I thoroughly understand the question. I tried to give an example earlier of where the Attorney General, after receiving permission from the court, freezes a certain amount of money that has been entered into in a contract between a publisher of a book, for example, and the criminal or the accused criminal. I gave the example of \$50,000. The victim in another action may sue for any number of things. The victim could apply to the fund. The contractual amount entered into between the publisher and the criminal or the accused—the amount the victim is entitled to could be more than that amount or it could be less than that amount.

Therefore, returning to your question of “shall” versus “may,” that is the rationale as to why the word “may” is used as opposed to the word “shall,” because they might not be entitled to the \$50,000. They might only be entitled to \$25,000. They might even be entitled to \$75,000. You're asking a question, you're calling this a lawsuit, when what it is is an application to the fund.

**Mr Kormos:** I want to really understand this before we deal with this bill in terms of the committee having to consider whether to refer it back. If I am a victim of crime and I initiate—well, let me back up. Where is the provision in this bill similar to the Jackson bill which requires the fund, so to speak, to give notice to the victim that monies have been received? It's perhaps there. Where is it?

**Mr Sharma:** I don't believe there is a section. However, clause 13(1)(d) sets out that regulations may govern procedures for payments out of the account.

**Mr Kormos:** But you agree with me that the Jackson bill, the 1994 legislation, has a provision for—

**Mr Tilson:** Mr Chairman, on a point of order: I wonder if I can ask questions to Mr Kormos's staff?

**Mr Kormos:** Yes, by all means. Allie Vered, our House leader's staff person—I mean, there's one of her and there are eight Liberal staffers behind the speaker's chair.

**Mr Tilson:** They are going to have to get elected to sit where you are.

**Mr Kormos:** You may have your chance in due course.

Am I correct that the 1994 legislation puts a requirement on the fund, a provision for notifying victims when monies have been obtained, seized, received?

**Mr Sharma:** Yes.

**Mr Kormos:** Where is a similar provision in this bill that notifies a victim that monies have been obtained, forfeited, received, seized from the perpetrator of their crime? Do you understand what I'm saying? If it's there, just tell me so I can move on and be comfortable.

**Mr Tilson:** Mr Chairman, I'll try to continue on with the area Mr Kormos is getting into, the criteria. This money received is part of a fund. It's not part of a judgment; it's put in as a fund. The forfeiture of money or assets—it could be assets, it could be anything, as I indicated earlier—would be made available to all victims. There may be more than one victim; there may be several victims. Life isn't as simple as the New Democratic caucus says. Life sometimes gets complicated. There may be victims who have already obtained civil judgment. There may be victims who have chosen not to bring an action for judgment. There could be a multitude of victims, and the distribution to victims—I think that's where you're going: the percentage that might be awarded to victims. There could be different classifications of victims: victims who have proceeded in court, victims who are in court, victims who have already got judgment. That distribution would be based on criteria by regulation.

**Mr Kormos:** I'm looking at section 9 again, and subsection (3), paragraph 1, clearly talks about taking specific monies and using those monies to compensate the victims of the crimes to which those monies are attached. "If money is deposited in an account ... in respect of a designated crime ... may make payments out of the account ... to compensate persons who suffered" as a result of the crime, as distinct from paragraph 2, which speaks to the more general "to assist victims of crime."

I'm glad you raised this, because it still doesn't get to the notice section. Is this intended for specific victims to be able to access specific monies, or am I merely misreading that? Perhaps the staff could assist us in that regard.

1700

**Mr Tilson:** I'd like to try first, if I could. Mr Kormos may not like my answer, and he can ask the staff.

**Mr Bryant:** He can appeal your answer.

**Mr Tilson:** That's right. He could appeal my answer.

**Mr Kormos:** Then I have to watch your staff and their body language, and that's uncomfortable.

**Mr Tilson:** I again repeat that there may be a multitude of victims, and one victim may or may not be entitled to the entire pot. They may be entitled to more than the entire pot, the money in this fund. We're talking about a fund now; we're not talking about the proceeds of a judgment.

**Mr Kormos:** But you see, under the Jackson bill, 1994, a victim was notified when monies were received in the fund. We know there's \$1.07 in the Jackson fund now.

**Mr Tilson:** It obviously didn't work very well, did it?

**Mr Kormos:** We know there's \$1.07 in the Jackson fund now. It isn't related to a criminal or a perpetrator, because we've also effectively been told that, but had it been, we know that a victim would have been advised. The government and its parliamentary assistant appear to rely upon freedom of information—fair enough—but then acknowledge that there are no provisions in Bill 69 to notify any victims that there's money in the fund. So what is going on here? How do victims access this fund if they're not going to be told whether or not there's any money in the fund, never mind any money coming from the perpetrator of the crime against them?

**The Chair:** Mr Bryant?

**Mr Bryant:** Let's get an answer, and then I have a question.

**Mr Tilson:** I don't think I can improve on the question Mr Kormos has asked any more than I have. He can keep asking the question and we can continue to keep giving an answer which he obviously doesn't like. I don't know how I can add to it any further, unless the staff have some more information they'd like to give.

**The Chair:** Mr Bryant, you have a quick comment?

**Mr Bryant:** The parliamentary assistant said of the Jackson bill just now, "It obviously didn't work," in reference to the fact that there's only \$1.07 in the account. Can I ask, did the ministry consult with Mr Jackson at all before proceeding with this bill, directly about his bill and about this bill?

**Mr Tilson:** I don't know that. You'll have to answer that.

**Ms Lowenberger:** I don't think we can comment on that. I'm sorry.

**Mr Bryant:** Perhaps I could ask the question in another way. Can you confirm whether you consulted with Mr Jackson at all?

**Mr Tilson:** Did I personally consult—

**Mr Bryant:** Did the ministry? You're speaking for the ministry.

**Mr Tilson:** Indeed.

**Mr Bryant:** Can you confirm that in fact the ministry did not consult with Mr Jackson?

**Mr Tilson:** We can ask him. I don't think that issue is going to make or break section 1, but I'll ask him.

**Mr Bryant:** No, no. I'm asking: you cannot tell me now—

**Mr Tilson:** Both the staff and I have given both you and Mr Kormos the answer that we don't have any further information at this time. If you want me to say I'm going to ask him, sure I'll ask him.

**Mr Bryant:** No. I meant, did you consult him before you drafted the bill, and what you're telling me is that you can't confirm that you did not.

**Mr Tilson:** At this point I can't, Mr Bryant, no.

**Mr Bryant:** You did not.

**Mr Tilson:** No, I didn't say I did not. I said that at this point I can't answer that question.

**The Chair:** Any further discussion?

**Mr Kormos:** Mr Chair, please, unless Mr Bryant has more.

**Mr Bryant:** No.

**Mr Kormos:** Look, this is important.

**Mr Tilson:** Mr Chairman, I have just received a note from our staff that Mr Jackson was consulted. I can't give any details on what that consultation was.

**The Chair:** Further discussion on section 1?

**Mr Kormos:** I want to understand very clearly. I really have to know this. If Mr Bryant assaults me and beats me to a pulp and I sue him and get a judgment against him—what would that be, assault and battery?—for \$10,000, and he then enters into a book contract to write about how he beat the daylights out of Kormos, and you seize the \$20,000 that the publisher would have paid to him for that book, you then have it in your fund, pursuant to Bill 69. I have a judgment for \$10,000. Can I attach those monies with my judgment, or does that judgment become mooted by your seizure of those assets, subjecting them to the pool? This is what I'm trying to find out. Do you understand what I'm saying? I think it's an important distinction, because victims may not like your meat chart that's going to flow under this bill and your discretionary and highly arbitrary method of compensating. Some victims may say, "No, I want a court, a judge, to decide what my damages are worth."

**Mr Tilson:** In your example, a court awarded you \$10,000. The contract was for \$20,000. Is that what your example was, or was it the same?

**Mr Kormos:** The funds seized were \$20,000 from Bryant's publisher. That's where they'd get it from, right?

**Mr Tilson:** Yes.

**Mr Kormos:** The publisher called you up and said, "Mr Tilson, this book about Bryant beating up Kormos is going to be a big seller. We signed a contract for \$20,000—"

**Mr Tilson:** This is like a moot court proceeding here, Mr Chair.

**Mr Kormos:** "We signed a contract for \$20,000, but instead of paying it to Bryant, we're going to pay it into your fund under Bill 69, as we're obligated by law." I'm outside there in the community with a judgment for \$10,000. Can I attach the monies that are deposited in your fund pursuant to this bill?

**Mr Tilson:** Lawyer Kormos is using the legal term of attachment, and I'm going to let our legal representatives talk about that. My belief is that we're talking about a fund, and I guess the question is whether he can attach his judgment.

**Ms Lowenberger:** I'm not sure I can really add anything further than what Mr Tilson has said about the way in which the fund is going to function. Issues like that are probably going to be for the courts to determine.

**Mr DeFaria:** When you're talking about damages, what's "attachment"?

**Mr Kormos:** Oh, Jesus. I'm praying now.

**Mr Tilson:** Well, we want a lesson.

**Mr DeFaria:** We want a lesson, yes.

**Mr Kormos:** A lesson in praying.

Chair, I really need some help on this. The problem is, I'm reading the so-called time allocation of this bill, and this bill doesn't have to be completed today in this committee. There's no requirement that every question be put—

**Mr Tilson:** Yes, you are entitled to hold the bill up, Mr Kormos.

**Mr Kormos:** There's no requirement that every question be put etc.

**Mr Tilson:** Mr Kormos is entitled to hold the bill up.

**Mr Kormos:** In view of the fact that, one, we started late, and in view of the fact that we're not getting very helpful answers to some pretty simple questions, in my view, from the folks here—I'm asking, if a victim utilizes the civil court system to obtain a judgment against a criminal and seeks to have that judgment satisfied by assets that were deposited pursuant to this bill, can those assets be seized as a result of that judgment once the funds or monies have been received by Bill 69 into the Attorney General's fund, or do they become, as I think some lawyers might say, commingled? It's a question.

**Mr Tilson:** I can't add to that. Mr Kormos has asked a legal question as to whether or not he can enforce a judgment against the fund. I think that's what his question is. Maybe he can clarify that. I believe that's what his question is. You're asking whether or not someone can enforce the judgment against the fund.

**Mr Kormos:** Not against the fund. Against those monies in the fund that were the monies—

**Mr Tilson:** They're not the victim's funds to seize. They belong to the state. You're getting into an area of the law, and I don't know whether I'm able to answer that question. It would seem to me that you are now confusing what is in the fund and what the victim is entitled to through a judgment.

**Mr Kormos:** No, I'm not confusing them.

**Mr Tilson:** They're two different things.

**Mr Kormos:** I'm getting the distinct impression that this fund could frustrate my enforcement of my judgment against Mr Bryant if the only assets he had were the funds to be paid to him by the book publisher and those funds were paid into the fund by the book publisher so that they—the book publisher, not Bryant—would comply with the legislation. You're telling me, then, that I'm a victim and I can't have my judgment satisfied after I had a court tell me the beating Bryant gave me was worth \$10,000 in damages?

**Mr Tilson:** I believe you're returning to the area—and I don't know how I can add to it any further—as to what criteria the people who are administering that fund would use with respect to distributing those proceeds. I can't add anything further than to say the manner of payment from the fund would be prescribed by regulation.

1710

**Mr Kormos:** Wow. Do you—

**Mr Bryant:** Mr Chair, just to follow that up, I'll bet the Office for Victims of Crime would have some con-

cerns with that particular result. Could I ask, has the Office for Victims of Crime been consulted on this bill?

**Mr Tilson:** Can you answer that?

**Ms Lowenberger:** I don't think we can comment on that either. Sorry.

**Mr Tilson:** Give me a minute.

The answer to that is yes, Mr Bryant, the Office for Victims of Crime has been consulted. In fact, I have a press release that was put out by the Ministry of the Attorney General on June 5, which you may have in your file—it may even be in these binders we have—where Sharon Rosenfeldt, the chair for the Office for Victims of Crime, stated, “Victims need protection from the unscrupulous efforts of criminals to capitalize on their crimes.... It is encouraging that the government is taking action to ensure victims do not have to relive their pain as a result of the actions of convicted criminals.” So the answer to your question is yes, and the Office for Victims of Crime has fully supported the legislation.

**Mr Bryant:** I think you've answered. Just so I'm clear, I'm wondering—and this is the same with Mr Jackson. I wasn't referring to whether you are willing to talk to him in the future. I was referring to whether he was consulted. I'm just saying—

**Mr Tilson:** I've answered in the affirmative that Mr Jackson was consulted. I've now been advised that Mr Jackson was consulted.

**Mr Bryant:** Right. I just wanted to make sure the office was consulted before the drafting or I guess during the drafting of the bill. Are you able to tell me that? I'm just wondering if they put their minds to this particular issue, which I know would be of concern to victims.

**Mr Tilson:** Give me another minute.

Mr Chairman, I've been advised that the Office for Victims of Crime was indeed consulted before this legislation was introduced. In fact, they review any legislation that involves victims, and they provide advice to the Attorney General's office. That has indeed been done with respect to Bill 69.

**Mr Kormos:** What causes me concern is, are you telling us the Office for Victims of Crime is endorsing or approving a bill that eliminates the rights of the individual victim in deference to the collective? We just came to understand that as an individual victim of the scenario I described of Mr Bryant assaulting me, my right to sue him and have a judgment enforced vis-à-vis proceeds he might obtain from a book publisher or movie producer are then displaced by the book publisher's or movie producer's obligation to submit those monies to the fund contemplated in Bill 69.

**Mr Tilson:** You still have, as a victim, the right to enforce your judgment. You can take whatever action your counsel recommends to you to enforce your judgement.

**Mr Kormos:** But can I go after monies that were deposited, pursuant to Bill 69, by the publisher who negotiated a contract with Mr Bryant about the beating he gave me?

**Mr Tilson:** I don't think we can add any further, Mr Chairman. We've been asked this question at least three times, and we've given the best answer we can give.

**Mr Kormos:** Would you answer it? Can I go after the monies?

**Mr Tilson:** There's the fourth time we've been asked the question.

**The Vice-Chair (Mr Carl DeFaria):** I think the parliamentary assistant has indicated that he has no further answer to your question, Mr Kormos.

**Mr Kormos:** Perhaps he could remind me what his earlier answers were.

**The Vice-Chair:** If I may just have a minute. We have to deal with the bill today.

**Mr Kormos:** No.

**The Vice-Chair:** We have only one day.

**Mr Kormos:** Yes, and there's no provision—

**The Vice-Chair:** So—

**Mr Kormos:** One moment, Chair. You see, there is no provision in the time allocation for the deemed presentation or moving of clauses or the deemed passing of them. The Chair knows that it's standard form when that's done, and in fact it gives until November 22 for a report back. I suspect that the Chair finds itself in a very difficult position, because were this bill necessarily to be completed today, the motion before you would have the provisions, to wit, “and at 6 o'clock every section not yet put shall be deemed to be put,” or even from time to time you see, “deemed to have been passed.”

**Mr Tilson:** Mr Chairman, the New Democratic caucus has chosen to delay the bill. I suggest that we proceed with the debate on the clause-by-clause.

**Mr Kormos:** One moment. I think we'd better get a clear understanding of this. This motion does not achieve that end. This motion merely says that one day shall be allocated. There's no deeming section. I put to you that in view of the fact that other motions have deeming provisions, we can't infer a deeming provision.

**Mr Tilson:** Let's proceed, Mr Chairman. Mr Kormos is the New Democratic House leader, and I trust he and the other House leader will debate this issue when he goes back to discuss why he has delayed this bill.

**The Vice-Chair:** Thank you, Mr Kormos. If I may just—

**Mr Kormos:** I'm not just going to delay it; I'm going to oppose it.

**The Vice-Chair:** Mr Kormos, you have made a point. I look at the order of the House that says one day is to be allocated. As the Chair, I would interpret that we would have to put the questions on the clauses by the end of the day. We have basically run out of answers from the parliamentary assistant, so I'm going to put the section to the committee.

Shall section 1 carry?

**Mr Kormos:** A recorded vote.

**The Vice-Chair:** A recorded vote.

**Mr Kormos:** And adjournment for 20 minutes, please, pursuant to the rules.

**The Vice-Chair:** Can we vote on it first?

**Mr Kormos:** No. That's what the adjournment is for.

**The Vice-Chair:** You want the adjournment before the vote?

**Mr Kormos:** Yes.

**The Vice-Chair:** Well, I'm asking.

**Mr Kormos:** No, no, the rules provide for it before the vote.

**Mr Tilson:** He wants to caucus it.

**The Vice-Chair:** We'll adjourn for 20 minutes.

*The committee recessed from 1719 to 1745.*

**Mr Tilson:** Mr Chair, we seemed to be tied down to a question that both Mr Bryant and Mr Kormos—

**The Chair:** Sorry, Mr Tilson. I do wish to put the question on these votes.

**Mr Tilson:** You wish to which?

**The Chair:** I do wish to put the question on section 1. Shall section 1 carry? All those in favour?

**Mr Kormos:** A recorded vote

**The Chair:** This has previously been asked for?

**Mr Kormos:** Of course.

**The Chair:** This is a recorded vote.

**Mr Kormos:** You can only ask for an adjournment if it's a recorded vote.

### Ayes

Beaubien, Bryant, DeFaria, Guzzo, Kormos, Tilson.

**The Chair:** I declare section 1 carried.

Shall section 2 carry?

**Mr Kormos:** No—debate. In that regard, again, I would like Mr Tilson, as parliamentary assistant for the Attorney General, to please respond to the question about the prospect of an innocent victim who's obtained a judgment with an award for damages being precluded from enforcing that judgment against monies that would have been the property or assets of the perpetrator, the defendant in the lawsuit, if those monies had been delivered into the fund contemplated by Bill 69 by a book publisher or movie producer etc.

**Mr Tilson:** I'll try to answer the question as briefly as possible. That is a legal question and the answer is a qualified no. I say that because there may be situations—and Mr Kormos has given a factual situation which may or may not have issues or such things as fraud involved, in which case the group or the board or the compensation people, or whoever will be designated under the regulations, may determine that it's inappropriate because of those allegations of fraud and, notwithstanding a judgment, may choose not to—I can only repeat—provide those funds.

Having said that qualified no, I can only emphasize that it's the intention of the government and of the bill, which would be elaborated on with respect to the regulations, that that victim receive the compensation that is due to him or her, whether it's under a judgment or whether it's under a pre-judgment claim.

**Mr Bryant:** Just so I understand, are you saying that if in fact there is some loophole or there is some short-coming, it's going to be corrected via regulation?

**Mr Tilson:** No. I'm trying to answer directly Mr Kormos's question, which is a legal question as to whether—

**Mr Kormos:** On a point of order, Mr Chair: The bells are ringing. May I suggest that the Chair not view the clock, so that we can resume after the vote before the House?

**The Chair:** On that point of order, I understand that it's not permissible to do that.

**Mr Kormos:** To not view the clock?

**Mr Tilson:** The bells are ringing; we have to go and vote.

**The Chair:** Are the members ready to vote?

**Mr Kormos:** No. Mr Tilson, I interrupted you with a point of order. I'm going to try to wrap this up to accommodate the vote in the House in seven minutes.

**Mr Tilson:** I don't know how I can add to the answer that I've given you. It's not the answer you're looking for, but it's the answer that you're going to get.

**Mr Kormos:** I simply want to make it clear that I appreciate the parliamentary assistant using his best efforts to get a response, organize a response, to the question I posed. That in and of itself, I've got to tell you, causes me great concern, because the parliamentary assistant has very much indicated, with his best information with respect to the impact of the bill, very much in contrast to the Jackson bill, which would clearly have the opposite effect, because monies seized and deposited in the Jackson bill are there almost being held in trust for a potential litigant or a potential plaintiff—

**Mr Beaubien:** On a point of order, Mr Chair: How much time are you going to give us to get to the chamber tonight to vote?

**Mr Tilson:** We have six minutes, I hope.

**The Chair:** Enough time to get there to vote.

**Mr Beaubien:** How much is enough time? I have a medical condition with my knees whereby stairs are very difficult for me to handle. So I do need some time to get up there. I would like to see how much time you're going to give us to get upstairs. I would strongly suggest that I need four minutes to get upstairs.

**The Chair:** Following from that, is the committee amenable to my collapsing sections 2 to 21 for purposes of the vote?

**Mr Kormos:** I'm not finished my comments.

**Mr Tilson:** Mr Kormos could go on all night.

**Mr Kormos:** No, I told you—

**Mr Tilson:** I've got other plans for tonight. I'm not going to come back here and let Mr Kormos take me on into the early hours of the morning. We're hopefully going to finish this bill this afternoon. Mr Kormos has chosen to delay the bill, and that's his decision.

**Mr Kormos:** I'm not delaying the bill.

**The Chair:** We do not come back after the vote.

**Mr Kormos:** The government has presented a bill which is soviet in its impact, which permits the state to

go in and seize assets. No one quarrels with the prospect of seizing assets from a criminal, but then in the course of seizing those assets it would deny access by an innocent victim, pursuant to, let's say, a judgment obtained in a civil court by that victim, from accessing those assets. The New Democrats find that a particularly repugnant element of the bill. I simply, like so many other people here, have supported for too long the right of plaintiffs to utilize the court to determine liability, to assess damages, and I find this bill a repugnant contradiction of that right.

We believe that the repeal of the Jackson bill is a dangerous thing to do. There could well have been amendments to the Jackson bill to achieve some of the stated goals of the government, but the repeal of the Jackson bill and the replacement of it by Bill 69 is not acceptable, does not serve victims well, nor does it serve the interests of justice. I am ready to proceed with a recorded vote.

**Mr DeFaria:** On a point of order, Mr Chair: I would ask that sections 2 to 21 be put to the committee for a vote.

**Mr Kormos:** That's not a point of order. I'm ready to proceed with the recorded vote on the balance of the bill collapsed into one motion.

**The Chair:** This is a recorded vote. Shall section 2 through section 21 carry?

**Ayes**

Beaubien, Bryant, DeFaria, Guzzo, Tilson.

**Nays**

Kormos.

**The Chair:** Shall the long title of the bill carry? This is a recorded vote.

**Ayes**

Beaubien, Bryant, DeFaria, Guzzo, Tilson.

**Nays**

Kormos.

**The Chair:** Shall Bill 69 carry?

**Mr Kormos:** A recorded vote.

**Ayes**

Beaubien, Bryant, DeFaria, Guzzo, Tilson.

**Nays**

Kormos.

**The Chair:** Carried. Shall I report the bill to the House?

**Mr Kormos:** A recorded vote.

**Ayes**

Beaubien, Bryant, DeFaria, Guzzo, Tilson.

**Nays**

Kormos.

**The Chair:** It's carried. This concludes the business of this committee. We're adjourned.

*The committee adjourned at 1754.*



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