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Wednesday 31 May 2006

Journal des débats (Hansard)

Mercredi 31 mai 2006

**Standing committee on
justice policy**

Emergency Management Statute
Law Amendment Act, 2006

**Comité permanent
de la justice**

Loi de 2006 modifiant des lois
en ce qui a trait à la gestion
des situations d'urgence

Chair: Vic Dhillon
Clerk: Anne Stokes

Président : Vic Dhillon
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
JUSTICE POLICY**

**COMITÉ PERMANENT
DE LA JUSTICE**

Wednesday 31 May 2006

Mercredi 31 mai 2006

The committee met at 1004 in room 228.

**EMERGENCY MANAGEMENT STATUTE
LAW AMENDMENT ACT, 2006**

**LOI DE 2006 MODIFIANT DES LOIS
EN CE QUI A TRAIT À LA GESTION
DES SITUATIONS D'URGENCE**

Consideration of Bill 56, An Act to amend the Emergency Management Act, the Employment Standards Act, 2000 and the Workplace Safety and Insurance Act, 1997 / Projet de loi 56, Loi modifiant la Loi sur la gestion des situations d'urgence, la Loi de 2000 sur les normes d'emploi et la Loi de 1997 sur la sécurité professionnelle et l'assurance contre les accidents du travail.

The Vice-Chair (Mrs. Maria Van Bommel): Good morning and welcome to the meeting of the standing committee on justice policy. The order of business today is Bill 56, An Act to amend the Emergency Management Act, the Employment Standards Act, 2000 and the Workplace Safety and Insurance Act, 1997.

SUBCOMMITTEE REPORT

The Vice-Chair: Our first order of business is the motion for the adoption of a subcommittee report, and I would ask that someone read the report into the record and move its adoption.

Mr. Jeff Leal (Peterborough): It says:

Your subcommittee considered on Thursday, May 18, and Friday, May 19, 2006, the method of proceeding on Bill 56, An Act to amend the Emergency Management Act, the Employment Standards Act, 2000 and the Workplace Safety and Insurance Act, 1997, and recommends the following:

1. That the committee meet for clause-by-clause consideration of Bill 56 on Wednesday, May 31, and Thursday, June 1, 2006.
2. That clause-by-clause consideration on May 31 commence after a presentation by the Ontario Association of Fire Chiefs on Bill 56.
3. That amendments to Bill 56 should be received by the clerk of the committee by 12 noon on Monday, May 29, 2006.
4. That the clerk of the committee, in consultation with the Chair, is authorized immediately to commence

making any preliminary arrangements necessary to facilitate the committee's proceedings.

The Vice-Chair: Is there any debate? I put the question: All those in favour? Thank you very much. The motion is carried.

ONTARIO ASSOCIATION OF FIRE CHIEFS

The Vice-Chair: We will now hear from the Ontario Association of Fire Chiefs. Welcome to the committee, and if you would come forward, please. Please introduce yourselves for the record. You have 20 minutes for your presentation. You may use all of that time, or, if there is any remaining time, there will be an opportunity for members of the committee to ask questions or make comment. Please go ahead.

Ms. Cynthia Ross-Tustin: Thank you, Madam Chair, and thank you to the members of Parliament and the rest of the committee for affording us this opportunity this morning to come and speak to you about Bill 56 and some of our concerns.

I'll just take a moment to introduce our group. This is President Lee Grant. He's the fire chief of Peterborough and is the president of the Ontario Association of Fire Chiefs. To my right is the first vice-president of the Ontario Association of Fire Chiefs, Fire Chief Richard Boyes from Oakville, Ontario. I'm the chair of the legislative committee. My name is Cynthia Ross-Tustin, and I am the deputy fire chief from the town of Bradford West Gwillimbury.

Sorry. I hope you can hear me, because I've lost my voice recently.

First of all, I'd like to point out maybe something just a little bit ironic. We're speaking to you about Bill 56, and today is the 21st anniversary of the tornado in the city of Barrie. So today is an emergency service milestone for many of us who are working in emergency services. Having been through many disasters, both of my colleagues have experience in disaster management and perhaps can answer some of your questions afterwards.

What we'd like to do today is bring our support to you for Bill 56. We do have some concerns and some questions, but generally we feel this is a strong piece of legislation. Emergency management in disasters needs strong legislation, and this legislation is the appropriate tool for us to get many of the things done that need to be done in

very short order. The province itself needs to do things in short order when they have provincial emergencies.

We represent all the fire chiefs in the province of Ontario, and as such, we also represent our municipalities and the life safety interests of our community. Most of us have more than one role. As the fire chiefs of our communities, we're in charge of the standing army. We can mobilize the most trained people with the most resources in the shortest period of time, and we do that on a routine basis.

The other thing we are, though, is our community's CEMC. That's based on the legislation from the Emergency Management Act, and that has to do with being the community emergency management coordinator. So we're sending our resources to the emergencies, but if you declare a provincial emergency, we're also the people who are going to be responsible for sending them elsewhere if you decide to take them from our communities.

We support the spirit and intent of this particular piece of legislation, and we believe it could be very valuable with certain enhancements or when certain questions are answered. We have a concern that some of the roles maybe are not as clear as they could be. We believe the province's role, generally speaking, is that of support and that of training and coordination.

In this province, we have always built our emergency management from the bottom up. We train people to have a disaster-resilient community; then the fire service or the local responses go; and then, and only then, when the municipality can no longer handle it, the municipalities call on the province. This legislation is the complete opposite of how the system is currently designed to work in this province, so we feel there should be some more stakeholder consultation to answer such questions as: If you're going to take our resources from our community, what's going to be left behind? The families of the people are counting on their husbands and wives on a day-to-day basis, but if that emergency responder leaves the community to go help elsewhere, what happens to them and how are they looked after? Emergency responders who look after our community have legislated duties on a day-to-day basis. Business must still get done. If you're taking our resources, whether it's the roads department or the fire department, who decides who stays back, and if we can't do our day-to-day business of fire protection—emergency response and fire prevention—in our community, what are the ramifications of not being able to do day-to-day business?

1010

What are the costs associated with that? Is the provincial government going to fund the movement of resources? For example, my community is a volunteer community. So if you need firefighters, we're happy to help. But in a duration event, the people we're sending are volunteer firefighters. How are you going to reimburse the firefighters? Are you going to reimburse the municipality for the stipend they get paid as volunteers, or are you going to look after these people at the real

wages they are giving up in their day-to-day jobs to go and assist their neighbours because the province has declared an emergency?

Has the province considered contracting-out legislation that's involved in the full-time fire service? Most collective agreements in the full-time fire service have contracting-out clauses, and if you're going to send firefighters from London to assist firefighters in Toronto or Kingston, you're going to have ramifications with full-time firefighters and contracting out.

No firefighter in this province would decline to help a brother firefighter; that's not going to happen. But we're talking about duration events, not a one-time, one-day let's go help. Duration events like the event in Peterborough went on for weeks. Who is going to fund those costs? Who's going to look after the people at home? These are issues that we have.

I guess one of our other biggest issues is, how are we going to help all these people play together? The province has backed away from certain infrastructure items. The interoperability of our radios: I can talk to my neighbouring municipalities, but I can't talk to Mississauga. I can't talk to the police. Our radios are not interoperable. They do not work. So if you would like all of us to come and help you as the province because you have declared an emergency, we have no resources to do that, and neither do you. There are no systems in place. My SCBA—self-contained breathing apparatus—will not work with the SCBA in a distant part of the province.

There are some flies in this ointment that need to be remedied before we can do what you need us to do. We need some more open stakeholder consultation, and we need to be part of the solution. We're not here to tell you that it won't work; we're here to tell you we want to help you make it work.

We would like to see emergency management put back on the rails for the incident management system that they have. That has fallen off. We do not have an integrated management system that would help all agencies that you require in a provincial emergency to work together. That has not happened. There are small things that need to be done, but they can all work together.

We would ask questions about occupational health and safety. If a municipality is responsible for their workers but they're sent elsewhere or relocated to assist with an emergency, do we have to send our supervisory staff or are they going to go and work for the supervisory staff in another municipality? An unknown and possibly untrained supervisor of my workers has ramifications for occupational health and safety. People will be asking questions.

Many of us have worked together as our CEMC—community emergency management coordinators—and done the steps that are required under the basic or essential level of emergency management developed risk analysis and the different systems that we have within our own municipality. Who is going to share those? How do they get coordinated so we can all work together in a bigger picture? Who is going to have control over those, and can they be shared?

Again, we go back to the basic premise that emergencies are best handled at home. Many examples have been learned from FEMA. We don't want another FEMA. We want to work collectively and co-operatively.

The penalties associated with this legislation are appropriate. It's the stick. You need a stick. If there's no stick, there's no point. But if there's no stick, there's also no carrot. There's not a lot here to help municipalities want to partner with you, because that's what you need. The province does not have the resources to handle a provincial emergency. They need our resources. There is no carrot. If you want to use our resources to handle your emergency, we need some assistance to be able to do that.

We would like to be your equal partner, not the people you go to just to take the resources from, and we would like to see that consultation in place so that we can assist you in the province to handle provincial emergencies as appropriately as possible.

I think those are our basic comments. We have clause-by-clause for you, and our points are outlined, but what we'd like to do is answer questions for you, because all of us have experience at various levels in handling emergencies throughout the province over the years.

The Vice-Chair: Thank you very much for your presentation. That leaves about 12 minutes for questions—four minutes for each party. Garfield, would you like to start, please?

Mr. Garfield Dunlop (Simcoe North): For clarification, could I just get one question to the clerk: If there are any amendments that came out of the deputation we just heard, would they be acceptable today?

The Clerk of the Committee (Ms. Anne Stokes): Anything can be tabled as we deal with this.

Mr. Dunlop: Thank you for that.

I don't really have a lot of questions. I appreciate the fact that you've come here today and taken an interest at the last moment—we're starting clause-by-clause in 12 minutes. A lot of the things you addressed today were addressed by the emergency managers' association—I forget the gentleman's name, but he was here a couple of weeks back and made a number of those requests for some changes, so some of these amendments are coming forward here.

I'm curious: Where we've had past emergencies that took place, can you give us some examples of how municipalities may or may not have been compensated for some of the costs when they actually went into another territory and provided their services?

Mr. Lee Grant: There are a number of mechanisms for compensation, but the most common one is that in addition to declaring an emergency, if it is a significant event, usually it is also declared a disaster from the provincial level, at which point you can start to recover your costs through ODRAP. In an ODRAP application, you normally build a very small business case, submit it to MMAH for approval and then, based on that business case, move your municipal resources to another community. For example, when we had the flooding in Peter-

borough and we needed multiple refuse trucks, we were able to get them from Toronto, but before those trucks left the city of Toronto, we had negotiated a fee-for-service basis that was covered through an ODRAP agreement.

It's a little more difficult if you have only declared a state of emergency. The funding mechanisms are far sketchier and you may find yourself with no recourse to collect costs in that case, unless one municipality is directly prepared to pay the other.

Mr. Dunlop: So you have to declare a disaster, not an emergency? Is that what you're saying?

Mr. Grant: The easiest way to flow funding in a significant event is if it's a disaster area in addition to being an emergency.

Mr. Dunlop: Okay. Just so I'm clear on this, who declares that? The local mayor?

Mr. Grant: No. The Premier, in the end, has to declare an area a disaster area based on a proposal and details and a case of facts put forward to the Minister of Municipal Affairs and Housing.

Mr. Dunlop: Okay.

The Vice-Chair: Mr. Kormos, please.

Mr. Peter Kormos (Niagara Centre): Thank you, all of you, for joining us.

One observation that's been made, most recently by Osprey reporter Jamie Wallace in a province-wide column, is that the level of preparedness—not in terms of planning, because municipalities have complied with the law in terms of planning. Especially in small-town and smaller-town Ontario, like where I come from and where some of you come from, it's done at a disproportionate cost to the municipality—but the level of resourcing is of concern.

You, dare I say it, fight with your councils on an annual basis for a labour-intensive, high-cost service; you and police services are the two big-ticket items. My concern is about the level of preparedness. I suppose the other question is, do we prepare for a 110% response or a 100% response to the worst-case scenario, or are we pragmatic and prepare for an 80% response to the worst-case scenario? Just anecdotally, for instance, people in the health services have told me that if there were a dramatic disaster at Pearson—a couple of big planes and their passengers—we simply don't have the emergency room capacity in the GTA to accommodate that. It simply wouldn't happen.

Can you comment on those things: assessing the worst-case scenario and the ideal level of preparedness if it's not 100%, and then talking especially about how smaller-town Ontario copes with resourcing and giving itself the tools?

1020

Mr. Richard Boyes: It is a real concern that, as fire chiefs, we appear before our councils to do our budget submissions and we have to make business cases as to where our funding is applied. Seeing that a lot of it is equipment-intensive for major emergencies, it becomes a competing event versus our day-day-day activities. Mr.

Kormos is quite right: It's a challenge, because usually when you get yourself into a state of emergency, it is almost 100%. I know that in Halton region, we are looking at the pandemic, and we simply do not have enough hospital beds to even start to look at not even the worst-case scenario but just some sort of scenario as to the number of people coming out. So overcapacity is an issue. The staffing we would send to an emergency can probably be drawn from other resources, but again, how are the municipalities left to work with it? So it is a very real challenge.

If there is something that comes out—JEPP is out there, which helps us with issues, but it's also based on the fact that it's a percentage, and if you have done something else in your community and do not apply again for JEPP funding. Something like the fire services grant, which was given again, should give us the assistance to help us do specific emergency management issues. There should be some sort of funding, whether it's interoperability for radios, SCBA or command centres, but we do need to grow it because most municipalities in Ontario do need that assistance.

The Vice-Chair: Thank you very much. From the government side, Mr. Leal.

Mr. Leal: It's a pleasure to have Chief Grant here from Peterborough because, on July 15, 2004, we went through a real-life emergency, a major flood. Within hours, the Minister of Municipal Affairs and Housing declared a disaster area in Peterborough.

Mr. Kormos talked about fire chiefs fighting for budgets at city council. Indeed, our experience in Peterborough when Chief Grant would come forward was that we used to approve his budget. We used to set aside those dollars for emergency planning, and because of that, we were very successful in meeting the challenge on July 14, 2004. There was no loss of life and there were no major injuries. In fact, the devastation was in the neighbourhood of about \$60 million in damage. I want to compliment the chief because he played a critical role in coordinating the fire services in the whole area to re-deploy their resources into the Peterborough area to meet the challenge and successfully prevent loss of life and major injuries. Chief, I just want to compliment you for all your good work almost two years ago now.

Mr. Grant: Thank you, Mr. Leal.

The Vice-Chair: Any further questions? I want to thank the Ontario Association of Fire Chiefs for coming in to see us this morning and making your presentation.

We will now commence clause-by-clause consideration of Bill 56.

Mr. Kormos: At the outset, Chair, I express my gratitude to Mr. Nigro for his capable help in drafting any number of amendments, and to Ms. Stokes for her ever-present patience and capacity to accommodate.

The Vice-Chair: The committee is certainly privileged to have such good staff.

Committee members should by now have received a revised package of motions. Are there any comments,

questions or other amendments that are coming forward at this stage?

Mr. Kormos: I just want to check. I've got 5b and 5c. They're loose.

The Vice-Chair: Yes, 5b and 5c have been added. Are there any further?

Mr. Kormos: No, thank you.

The Vice-Chair: We will start on section 1. Are there any comments, questions or amendments?

Mr. Bas Balkissoon (Scarborough–Rouge River): I move that section 7 of the Emergency Management Act, as set out in subsection 1(4) of the bill, be amended by adding the following definition:

“‘animal’ means a domestic animal or bird or an animal or bird that is wild by nature that is in captivity; (‘animal’).”

This amendment provides that the evacuation orders could deal with animals and birds. This wording is consistent with and supported by the OSPCA and addresses the concern that they presented.

The Vice-Chair: Is there any debate on the motion?

Mr. Kormos: I understand the motion. I understand that it's responding to the interest expressed by the OSPCA. But I was curious when I saw this. Is a bird not an animal?

Mr. Balkissoon: I suppose in legal terms it's not.

Mr. Kormos: I don't know.

Mr. Dunlop: A bird's a bird.

Mr. Kormos: Well, humans are animals.

Interjection: Humans are mammals—

Mr. Kormos: Mammals are animals. So are turtles animals.

Interjection: But—

Mr. Kormos: But what? Mineral, animal, vegetable. I'm serious. What is going on here? Of course a bird's an animal. It's not a mineral; it's not a vegetable or vegetation.

Mr. Balkissoon: The wording is consistent with the act that governs the OSPCA. I believe they're in agreement with this wording.

The Vice-Chair: Any further debate?

Mr. Kormos: I just wondered if we're excluding, by virtue of this definition—Mr. Berardinetti would know the legal term—reptiles or fish. I don't know. I'm going to support the motion. I just find this interesting.

The Vice-Chair: Thank you, Mr. Kormos. Any further debate? I'm going to put the question. All those in favour? Opposed? The motion is carried.

We move to the second motion.

Mr. Balkissoon: I move that the definition of “municipality” in section 7 of the Emergency Management Act, as set out in subsection 1(4) of the bill, be struck out and the following substituted:

“‘municipality’ includes a local board of a municipality, a district social services administration board and, despite subsection 6(2) of the Northern Services Board Act, a local services board; (‘municipalité’).”

This amendment is necessary to resolve the conflict in the existing EMA and the Northern Services Board Act and Bill 56, so it's technical in nature, in a sense.

The Vice-Chair: Is there any debate on this motion? I will now put the question. Shall the motion carry? The motion is carried.

We move to number 3. Mr. Dunlop, please.

Mr. Dunlop: Any of the amendments we've presented today, we've discussed with the stakeholders. In this case, it was the Ontario Medical Association. We also have a couple of other amendments from the emergency managers and from the OSPCA. I'm not going to go into long detail every time we present a motion. There is a total of eight PC motions here today. This motion is based on our correspondence with the Ontario Medical Association.

The Vice-Chair: Would you read it into the record for me?

Mr. Dunlop: I move that the definition of "necessary goods, services and resources" in section 7 of the Emergency Management Act, as set out in subsection 1(4) of the bill, be struck out and the following substituted:

"necessary goods, services and resources" includes food, water, electricity, fossil fuels, clothing, equipment, transportation and medical services and supplies, but does not include the human resources associated with the goods or services; ('denrées, services et ressources nécessaires')."

1030

The Vice-Chair: Is there any debate on this motion?

Mr. Kormos: I understand the intent of the motion and the submissions that it responds to. It would, as I understand it, permit the procurement, the seizure, of items, but not of humans and their services. The New Democratic Party supports the amendment.

Mr. Dunlop: Thank you.

Mr. Balkissoon: The government does not support this motion, and I'll tell you why. If you follow through, you will see that government motion number 5 has been rewritten to remove the concerns that were expressed about these issues. If you look at the motion itself, it does not make much sense and may be problematic to the government if it wants to regulate the use of goods, services and resources, such as distribution, availability, etc. The revision of paragraphs 9 and 10, and if the government wants to fix prices for them as per paragraph 11—those powers would not work very well if the definition excludes human resources associated with the goods. It is unclear why the exclusion for human resources is necessary. The definition would be in the context of an order to limit access to the public for medical and transportation services.

If you read the new paragraph 9, you would see that we've clarified using the necessary goods and we've added distribution, which was somewhere else in the bill before, to provide clarity. Paragraph 10 presently reads, "The procurement of necessary goods" and services, which is the government's ability to procure but not

follow the rules and regulations that will probably tie the government's hands in the case of an emergency.

The Vice-Chair: Further debate?

Mr. Kormos: It's regrettable that the government takes this position because I think, by inference, it becomes clear then that it's the government's intention that this bill permit the seconding or pressing into service of humans, people. The reference to the government's amendment number 5, paragraphs 9 and 10—once again, Mr. Fenson gave us very able advice on the word "procuring," and the word "procuring" in legal definition can also mean pressing into service, forcing into service. As well, when you add paragraph 11 of what will be the government amendment, similar to the existing one, "fixing prices" means that the government will determine what the people providing those services will be paid. So I understand where the government's coming from, but I find it regrettable because it confirms our fears from the very beginning.

The Vice-Chair: Further debate?

Mr. Dunlop: Madam Chair, if I could, just a quick comment. I felt that in the case of an emergency, the one group of people we should be listening to are our doctors. When the doctors come forward with some recommendations that they think would be worthwhile to have in the legislation, I think we should listen. That's why we've presented this amendment. If the government doesn't see fit to support it, so be it.

I'll be asking for a recorded vote on it as well, Madam Chair.

The Vice-Chair: Further debate? I shall now put the question. We've had a request for a recorded vote.

Ayes

Dunlop, Elliott, Kormos.

Nays

Arthurs, Balkissoon, Berardinetti, Leal, Oraziotti.

The Vice-Chair: The motion is lost.

We move on to the next motion for amendment.

Mr. Kormos: I move that section 7.0.1 of the Emergency Management Act, as set out in subsection 1(4) of the bill, be amended by adding the following subsection:

"Person or entity in charge

"(4) In making an order declaring an emergency, the Lieutenant Governor in Council or the Premier, as the case may be, shall specify the person or entity that is to assume responsibility to provide direction during the emergency and shall publicize the name of the person or entity with the order declaring the emergency."

The motions being presented by the New Democratic Party as amendments to this bill are in response to the submissions made by ONA, the Ontario Nurses' Association, and OPSEU, the Ontario Public Service Employees Union. I leave it at that.

The Vice-Chair: Any debate?

Mr. Balkissoon: The government does not support this amendment. The bill is very clear about who can exercise emergency powers during a provincially declared emergency. The order-making powers are conferred on cabinet. However, cabinet may delegate the power to the minister or to the Commissioner of Emergency Management. Under the proposed subsection 7.0.4(3) of the bill, it requires the person making the order to take all steps reasonably possible to bring the order to the attention of the persons affected, pending their publication. The bill also includes an express requirement for the Premier or the delegated minister to make regular reports about the emergency to the public during the emergency period.

This particular amendment could possibly cause conflict with the emergency plans of the individual municipalities, boards or institutions, causing further confusion, so we're not prepared to support it.

The Vice-Chair: Any further debate?

Mr. Dunlop: Can we record that vote as well, Madam Chair?

The Vice-Chair: Certainly. I'm now going to put the question, and we've had a request for a recorded vote.

Ayes

Dunlop, Elliott, Kormos.

Nays

Arthurs, Balkissoon, Berardinetti, Leal, Orazietti.

The Vice-Chair: The motion is lost.

The next motion for amendment: Mr. Dunlop, would you like to read this one into the record, please?

Mr. Dunlop: I move that subsection 1(4) of the bill be amended by adding the following section:

"Essential employees

"7.0.1.1 In the event of a declaration of emergency under subsection 7.0.1(1), the determination of which employees are considered to be essential in an emergency,

"(a) shall be made by every municipality in accordance with the municipality's emergency plan required under section 3;

"(b) shall be by each minister of the crown in accordance with the minister's emergency plan required under section 6; and

"(c) shall be made by each agency, commission or other branch of government designated by the Lieutenant Governor in Council that is required to formulate an emergency plan under section 6 in accordance with its plan."

Again, Madam Chair, if I may, this is based on comments made by the emergency management association of Ontario. We felt they had some strong points of view, particularly around the issues of municipalities, and that's why we've presented this amendment.

The Vice-Chair: Is there any debate?

Mr. Balkissoon: The government finds this particular amendment a little problematic or confusing, because the designation of an employee as essential has no effect in this bill or the Emergency Management Act because there's no scheme under the act to deal with essential employees. In the absence of any legislative basis of what "essential" may mean, it doesn't appear that the motion really does anything; therefore, it would have no real effect. Furthermore, it is not clear what the purpose would be of designating someone as essential. So for those reasons, the government cannot support this particular amendment.

The Vice-Chair: Further debate?

Mr. Kormos: I regret the position that the New Democrats have to take on this amendment, and our opposition to it in no way indicates that we agree with the government's analysis of it, by any stretch of the imagination.

Mr. Leal: No, you could never do that.

Mr. Kormos: Look, I understand what the proposal was and what was attempting to be addressed, but it's our position that determination of essential workers should be the result of discussions between workers, their unions and their employers and that it should be a collectively bargained issue, not one that's dictated by legislation, because we have concerns further on down the bill about the impact the bill has with respect to collective bargaining agreements. So it's with regret that, while I appreciate the intent of the amendment—I think I understand what "essential worker" means in the context of labour relations. I have concerns about the manner in which the determination of who's an essential worker is going to be done should the motion pass.

The Vice-Chair: Any further debate? No. I shall now put the question.

1040

Mr. Dunlop: I'll record that as well.

Ayes

Dunlop, Elliott.

Nays

Arthurs, Balkissoon, Berardinetti, Kormos, Leal, Orazietti.

The Vice-Chair: The motion is lost.

We move on to amendment number 5.

Mr. Balkissoon: I move that section 7.0.2 of the Emergency Management Act, as set out in subsection 1(4) of the bill, be struck out and the following substituted:

"Emergency powers and orders

"Purpose

"7.0.2(1) The purpose of making orders under this section is to promote the public good by protecting the health, safety and welfare of the people of Ontario in

times of declared emergencies in a manner that is subject to the Canadian Charter of Rights and Freedoms.

“Criteria for emergency orders

“(2) During a declared emergency, the Lieutenant Governor in Council may make orders that the Lieutenant Governor in Council believes are necessary and essential in the circumstances to prevent, reduce or mitigate serious harm to persons or substantial damage to property, if in the opinion of the Lieutenant Governor in Council it is reasonable to believe that,

“(a) the harm or damage will be alleviated by an order; and

“(b) making an order is a reasonable alternative to other measures that might be taken to address the emergency.

“Limitations on emergency order

“(3) Orders made under this section are subject to the following limitations:

“1. The actions authorized by an order shall be exercised in a manner which, consistent with the objectives of the order, limits their intrusiveness.

“2. An order shall only apply to the areas of the province where it is necessary.

“3. Subject to section 7.0.10, an order shall be effective only for as long as is necessary.

“Emergency orders

“(4) In accordance with subsection (2) and subject to the limitations in subsection (3), the Lieutenant Governor in Council may make orders in respect of the following:

“1. Implementing any emergency plans formulated under sections 3, 6, 8 or 8.1.

“2. Regulating or prohibiting travel or movement to, from or within any specified area.

“3. Evacuating individuals and animals and removing personal property from any specified area and making arrangements for the adequate care and protection of individuals and property.

“4. Establishing facilities for the care, welfare, safety and shelter of individuals, including emergency shelters and hospitals.

“5. Closing any place, whether public or private, including any business, office, school, hospital or other establishment or institution.

“6. To prevent, respond to or alleviate the effects of the emergency, constructing works, restoring necessary facilities and appropriating, using, destroying, removing or disposing of property.

“7. Collecting, transporting, storing, processing and disposing of any type of waste.

“8. Authorizing facilities, including electrical generating facilities, to operate as is necessary to respond to or alleviate the effects of the emergency.

“9. Using any necessary goods, services and resources within any part of Ontario, distributing, and making available necessary goods, services and resources and establishing centres for their distribution.

“10. Procuring necessary goods, services and resources.

“11. Fixing prices for necessary goods, services and resources and prohibiting charging unconscionable prices in respect of necessary goods, services and resources.

“12. Authorizing, but not requiring, any person, or any person of a class of persons, to render services of a type that that person, or a person of that class, is reasonably qualified to provide.

“13. Subject to subsection (7), requiring that any person collect, use or disclose information that in the opinion of the Lieutenant Governor in Council may be necessary in order to prevent, respond to or alleviate the effects of the emergency.

“14. Consistent with the powers authorized in this subsection, taking such other actions or implementing such other measures as the Lieutenant Governor in Council considers necessary in order to prevent, respond to or alleviate the effects of the emergency.

“Terms and conditions for services

“(5) An order under paragraph 12 of subsection (4) may provide for terms and conditions of service for persons providing and receiving services under that paragraph, including the payment of compensation to the person providing services.

“Employment protected

“(6) The employment of a person providing services under an order made under paragraph 12 of subsection (4) shall not be terminated because the person is providing those services.

“Disclosure of information

“(7) The following rules apply with respect to an order under paragraph 13 of subsection (4):

“1. Information that is subject to the order must be used to prevent, respond to or alleviate the effects of the emergency and for no other purpose.

“2. Information that is subject to the order that is personal information within the meaning of the Freedom of Information and Protection of Privacy Act is subject to any law with respect to the privacy and confidentiality of personal information when the declared emergency is terminated.

“Exception

“(8) Paragraph 2 of subsection (7) does not prohibit the use of data that is collected as a result of an order to disclose information under paragraph 13 of subsection (4) for research purposes if,

“(a) information that could be used to identify a specific individual is removed from the data; or

“(b) the individual to whom the information relates consents to its use.

“Authorization to render information anonymous

“(9) A person who has collected or used information as the result of an order under paragraph 13 of subsection (4) may remove information that could be used to identify a specific individual from the data for the purpose of clause (8)(a).

“Powers of the Premier

“Powers delegated to Premier

“7.0.2.1(1) If an order is made under section 7.0.1, the Premier may exercise any power or perform any duty

conferred upon a minister of the crown or a crown employee by or under an act of the Legislature.

“Powers of Premier, municipal powers

“(2) If an order is made under section 7.0.1 and the emergency area or any part of it is within the jurisdiction of a municipality, the Premier, where he or she considers it necessary, may by order made under this section,

“(a) direct and control the administration, facilities and equipment of the municipality in the emergency area, and, without restricting the generality of the foregoing, the exercise by the municipality of its powers and duties in the emergency area, whether under an emergency plan or otherwise, is subject to the direction and control of the Premier; and

“(b) require any municipality to provide such assistance as he or she considers necessary to an emergency area or any part of the emergency area that is not within the jurisdiction of the municipality and direct and control the provision of such assistance.

“Bylaw not necessary

“(3) Despite subsection 5(3) of the Municipal Act, 2001, a municipality is authorized to exercise a municipal power in response to an order of the Premier or his or her delegate made under subsection (2) without a bylaw.”

This is a complete rewrite of section 7. The main points of it are to add the phrase “or movement” in paragraph 2, which deals with the orders restricting commercial transport, which could include the transportation of livestock.

In clause 2 we added the reference to animals, as previously discussed, because of the concerns expressed by the OSPCA. It specifically deals with the evacuation of animals.

1050

Clause 3: we replaced the word “requisition” in paragraph 6 with the word “appropriating.” This would be to clarify the government’s ability to obtain property without consent.

Clause 4 was a grammatical change in the form of the wording. It was recommended that this change be made by legislative counsel and, as such, we did.

Clause number 5: We rewrote 9 and 10, as I spoke to previously. This would address the concerns that were brought up with the words “using” and “procurement.”

Clause 6: We added the reference to “privacy” as a result of concerns issued by the Information and Privacy Commissioner. “Privacy” is a term that more clearly captures what is necessary here, and it complements the existing term “confidentiality.”

Clause number 7: The Premier’s powers are moved into this area specifically so that you could differentiate between the Premier’s powers and cabinet powers, further clarifying the bill.

With that, I’d move that this motion be supported.

The Vice-Chair: Is there any debate?

Mr. Kormos: Far from a total rewrite, let me just make some obvious observations. Subsection (4), paragraph 12: a very interesting addition, because the original paragraph 12 said, “The authorization of any person, or

any person of a class of persons, to render services of a type that that person, or a person of that class, is reasonably qualified to provide.” Look at what the amendment does, “authorizing, but not requiring,” and while I respect that with respect to the, by fiat, licensing of people to do things that they’re not otherwise licensed—you’re not going to require them to do those services even though they’re being authorized.

By virtue of putting “but not requiring” in this paragraph but not putting “but not requiring” in the procurement paragraph, that, by implication, again confirms that the government very much wants to maintain the power to press people into service, and not just press them into service but then to fix the price to be paid for that service.

By adding “but not requiring” here, they very uniquely in paragraph 12 say, “but not requiring,” and by failing to insert it in any other, the inference to be drawn there, in my view, and other people smarter than I am may well comment on this, is that you are required with respect to other sections.

I find it interesting that paragraph 3 in subsection (4) says, “evacuating individuals and animals”—I appreciate the addition of “and animals”; that’s consistent with what the SPCA sought—“and removing personal property,” but it then goes on: “and making arrangements for the adequate care and protection of individuals and property,” but not animals.

Do you see the omission there, Chair? There’s a problem. The government responded to the SPCA’s concern about animals being left behind, be they household pets or, perhaps on a more dramatic scale, livestock, farm animals, horses, amongst other things. So, very specifically and very clearly the government omits the power to make arrangements for the adequate care and protection of animals. I think that’s a very serious omission. The government may want to address that.

The other interesting thing is the lack of parallelism in this particular paragraph, because they talk about “evacuating individuals and animals and removing personal property.” Mr. Nigro might help in this regard. I think that means “chattels.” But the care and protection is of “individuals and property.” I see one of the reasons people don’t leave their homes, and we saw this dramatically through CNN and various news reports of the tragedy in New Orleans and area, is because they’re afraid of looting. Right? They don’t want to leave their home behind, unprotected.

So is the paragraph designed to give the government power to provide protection for that real property that’s left behind—in other words, because you can’t evacuate it, right? You can’t move the house. You can move the chattels, which include animals, personal property. I’m unclear. I think this is problematic.

Clearly, the paragraph doesn’t provide for the care of animals that have been evacuated. And when it says that the government shall make arrangements for the care of property, are they talking about arrangements for the care of the real property that’s been abandoned because you

can't evacuate it, or are they talking about provisions for the care and protection of the chattels, or is it meant to be all-inclusive, or is it meant to include all forms of property? I don't know. If it's all-inclusive, then arguably it could include animals as well because animals are personal property, right? They're chattels, the animals that are being contemplated. As a matter of fact the SPCA, when they proposed language, talked about the definition in terms of animals that are owned as compared to wild animals.

This is what happens, because here you've got one amendment alone that is four pages long, and the problem when you start—it's like getting a suit tailored and then putting on weight. Has this ever happened to you? It's happened to me—putting on weight from when you first got fitted for the suit to when you go to pick it up, and no matter what they do, they can never quite get the suit to fit right again. It hasn't happened to you. It's only happened to me. But this is the problem when you do this sort of piecemeal and major addressing.

I'm not going to support this anyway, and let me tell you why very quickly. I don't want to belabour the point.

Look, "regulating or prohibiting travel to" or from: the authorities already have that power. We can shut down airports, we can close highways, put up roadblocks, block off towns; we do it all the time. Up on the TransCanada, when the road gets washed out from time to time, the OPP puts up the blockades. They shut that roadway and you can't use it. They prohibit travel to those areas. So that happens all the time. You don't need the Emergency Management Act.

"Evacuating individuals and animals": We already heard from the bureaucrats when—what does that mean? It means, at the end of the day, merely ordering the evacuation, with no power to go in there because you don't have the resources, for Pete's sakes. You're dealing with a major flood, a major disaster. You haven't got resources to start carting people away. You make the evacuation order, so it's a power without any real teeth to it. Do we want to have teeth to it? Do we want scarce emergency personnel occupying themselves with one or two individuals who are ornery or just plain stubborn or whatever their perspective might be? We see this in day-to-day life.

"Establishing facilities for the care, welfare"—the government already has the authority to do that.

"Closing any place, whether public or private"—I suggest to you that for public places we certainly have the authority to do that. Once again, in terms of closing a private place, what's the enforcement? What are we going to do? Send the OPP into Tsang's corner store at the corner of Denistoun and West Main by my house? Are we going to go and tell Tsang and Monica to shut their corner store "or else we're going to arrest you"? Of course not. Again, there's purported power here that the government would say fills a vacuum, and I say, on the contrary.

You can go on and on: "collecting," "storing," "disposing," "waste." Of course the government has that

power. "Procuring": Why do we need an emergency power to procure? Does it mean precisely what we've been suggesting it means, and that is to confiscate or press into service? The government doesn't need an emergency power to contract for, does it? It doesn't need that power set out in the Emergency Management Act. The government can buy anything it wants, any time it wants, and it does, with our money, with our constituents' money.

"Fixing prices": I say to you that if it were only a restriction on unconscionable pricing, it would be far more palatable. But when it talks about "fixing prices for necessary goods, services," we're talking about setting the rate for professional services as well at an arbitrary level with no appeal right.

One of the things that concerned me, when I heard from the fire chiefs earlier today, that's consistent with what other people have said, is that nowhere in this bill—because the Lieutenant Governor in Council "may" compensate, and they will determine the level of compensation. There's no arbitration process. There's no appeal process for a person who has provided a service, provided goods or had them confiscated for them to appeal the arbitrary level of compensation that's been determined by the Lieutenant Governor in Council.

We're not going to support the amendment, because we don't support the section that it amends, but I do raise some concerns. In terms of being helpful where I probably shouldn't be helpful because I don't support the amendment, I'm interested in what the government says about paragraph 3 on the care of animals once they are evacuated.

1100

Mr. Balkissoon: I just wish to add, about the government requiring the word "procuring," that if you recall, during SARS there was a need to obtain a mask and gloves and whatever. If we were to follow the normal procurement process of issuing a tender and waiting for the tender to be bid on, etc.—in an emergency, you can't do that. So the whole idea of clause 10 is to be able to procure goods without going through the normal process that governments have in place. That's the government's position.

The Vice-Chair: Any further debate? I will now put the question.

Mr. Kormos: Recorded vote.

Ayes

Arthurs, Balkissoon, Berardinetti, Leal, Oraziotti.

Nays

Dunlop, Elliott, Kormos.

The Vice-Chair: The motion carries.

We move on to motion 5a. Mr. Kormos.

Mr. Kormos: I move that subsection 7.0.2(3) of the Emergency Management Act, as set out in subsection

1(4) of the bill, be amended by adding the following paragraph:

“4. An order shall take into account, to the fullest extent possible, the terms of employment set out in a collective agreement that applies to a workplace affected by the order.”

Very briefly, if I may, again this speaks for itself. It protects the collective bargaining agreements of workers, but it doesn't prohibit the government from making an order, which is what should make the amendment that much more palatable to the government members here; they should be eager to support it.

It says “take into account,” but if it had merely said “take into account”—here's where the skills of legislative counsel are displayed—it could just be a cursory consideration. But legislative counsel has understood the goal of our request for the amendment, based on submissions made by public sector health workers: “to the fullest extent possible.” In other words, you'll abide by the collective bargaining agreement but for the most extraordinary of circumstances when it could be argued it would be impossible, or close to impossible, to abide by the collective bargaining agreement.

That's why we did that. This is a compromise on our part. I want the government to understand that. It's designed to make it possible for government members to vote for this amendment, if they really mean what they say about not pressing health professionals and health workers, among others, into service and arbitrarily determining how much they're going to be paid and/or how many hours they're going to work and/or whether or not they're going to have a meaningful right to refuse unsafe work and/or, more importantly, whether or not they're going to have real access to the protective devices, which we learned—Mr. Dunlop, remember the Police Association of Ontario? We still don't have every cruiser in Ontario equipped with that \$10 package of safety equipment: the gloves, the face mask and the very, very basic sort of stuff that protects police officers, who might have to respond to circumstances where you've got bio-hazards.

There we are. I look forward to this passing and becoming a part of this bill. I welcome the opportunity to have assisted the government in demonstrating that it is not going to be abusive arbitrarily and confiscatory with this bill.

Mr. Balkissoon: Because the government can't predict the next emergency and who would be involved or where it will take place, in which sector, we find that this particular motion would be extremely impractical, to take into account all existing collective agreements across the entire province, in a situation where an order could affect a large number of workplaces and these collective agreements all have distinct, unique clauses in them.

We believe that emergency planning has taken a whole different turn in recent times. This type of language would be better in collective agreements and the emergency plans of the local institutions and stake-

holders who are involved in emergency planning, such as municipalities etc.

As result of that position, we don't believe we can support this motion. We would support the bill as it's written.

Mr. Kormos: The next crisis might be unpredictable, but the Liberals are certainly predictable in their response to these modest proposals. But that's precisely the point. New Democrats believe, as do health workers, among others, that emergency protocols should be built into collective bargaining agreements. They've all indicated they're ready to sit down with employers and begin negotiating these now, hopefully well in advance of the next crisis. You work with people, not against them. Workers in the emergency response field have indicated an eagerness to sit down and negotiate terms of a collective bargaining agreement that deal with extraordinary circumstances as well as their own health and safety and the health and safety of their families.

I'm just so disappointed in the government and its response to this modest proposal.

Mr. Balkissoon: I would just like to say that the McGuinty government has worked really hard at building relationships with all the unions across all sectors. I would think that in an emergency situation we would continue to work with the co-operation that has taken place.

I would also say that the fact that emergency plans are being updated right now and are sort of fluid—as a government, we would continue to work with the stakeholders to improve their emergency plans, to deal with their collective bargaining agreements and to ensure there's full co-operation to serve the best interests of Ontarians in the next emergency. I think we take that position pretty strongly.

The Vice-Chair: Further debate? I will now put the question.

Mr. Kormos: Recorded vote, please.

Ayes

Dunlop, Elliott, Kormos.

Nays

Arthurs, Balkissoon, Berardinetti, Leal, Oraziotti.

The Vice-Chair: The motion is lost.

We move on to motion 5b. Mr. Dunlop.

Mr. Dunlop: I move that paragraph 3 of subsection 7.0.2(4) of the Emergency Management Act, as set out in subsection 1(4) of the bill, be struck out and the following substituted:

“3. Evacuating individuals and removing personal property, including animals, from any specified area and making arrangements for the adequate care and protection of individuals and property.”

That's very similar to what the government presented, but we have an additional motion on top of that after this.

The Vice-Chair: Further discussion?

Mr. Kormos: With respect to Mr. Dunlop, it's not similar at all; it's far superior to what the government proposed. This addresses the problem that we saw in their paragraph 3, where they excluded the care of animals. What you have done is make it very clear that you can evacuate individuals and personal property, including animals as personal property, and then you provide for "the adequate care and protection of individuals and property," implicitly that same personal property, to wit, the animals. You've provided language here that's far clearer and far more certain than the Liberals' paragraph 3, because you provide some certainty as to the care of animals once those animals—domestic or captive animals; private property animals as compared to wild animals—are evacuated. You have provided some certainty.

I think the government should just acknowledge that this is better wording and that it serves the intent that they claim they have in a preferable way. I'm going to be supporting this.

1110

Mr. Balkissoon: The government takes the position that we can't support this particular motion, and I'll tell you why. We see the emergency plan as a bit of a pyramid in that the province is the higher level plan. The bill that we're proposing has to deal with all situations. Because the care for animals can vary in various municipalities—as an example, Toronto may not have a farm, but they have a zoo; or you go to Guelph and you have a lot of farms, and you may have livestock. Our belief is that our bill should be at the higher level, and this type of plan should be specified in the local municipal plans and the institutions and stakeholders in that area in whatever plan they have in place. This is better dealt with at the front line and at the lower level.

Mr. Dunlop: What we were trying to do, after listening to the comments made by the OSPCA—and I agree with them—they wanted a bill that would give some powers to the government that would be passed on to the municipalities at the time of an emergency. What we're trying to say, both in this motion and in the one following it, is that it's far more complete and it does in fact address an emergency if there are animals that have to be relocated, taken to a clinic or whatever it may be. We want to address that in the bill. We don't think your amendment does that, and our particular motions do look after animals in a far more responsible manner.

Mr. Kormos: Mr. Balkissoon is doing so much sucking and blowing that I'm going to start calling him Mr. Hoover. On the one hand, he says that the government wants to occupy this emergency management field with extraordinary powers, but then he says, "Oh, but that one's better left to municipalities." And in terms of relationships with emergency workers: "That one's better left to municipalities."

Where are you on this one? To listen to you guys is like trying to pick up mercury out of a broken thermometer: You think you've got it in your grasp, but then it

slips away and slides somewhere else. I guess it's a very Liberal approach to the matter. Thank you, Mr. Hoover.

Mr. Balkissoon: I'll just repeat—I think the fire-fighters came in here this morning basically saying that they see the province at a higher level of oversight and that the front-line people are better equipped to do the job, and that's how we feel. In this particular case, livestock, farms and zoos are better dealt with by the front-line people and not us, and that's why our bill is not as specific as this is.

The Vice-Chair: Further debate? I will now put the question.

Mr. Kormos: A recorded vote, please.

The Vice-Chair: Shall motion 5b carry? This is a recorded vote.

Ayes

Dunlop, Elliott, Kormos.

Nays

Arthurs, Balkissoon, Berardinetti, Leal, Oraziotti.

The Vice-Chair: The motion is lost.

We will now move to motion 5c. Mr. Dunlop.

Mr. Dunlop: I move that paragraph 4 of subsection 7.0.2(4) of the Emergency Management Act, as set out in subsection 1(4) of the bill, be struck out and the following substituted:

"4. Establishing facilities for the care, welfare, safety and shelter of individuals and of animals, including emergency shelters and hospitals."

That's one of the recommendations that the OSPCA talked to the ministry about, and they felt that you were going to include this in your amendments as well.

Mr. Kormos: I support this amendment. Once again, without in any way altering the basic language of paragraph 4, the Conservatives, through Mr. Dunlop, have simply added the word "animals"—in other words, making certain that animals are going to be provided for, cared for, once they're evacuated.

So, the government is interested enough in animals that it wants the power to evacuate them, but not interested enough in animals that it wants the power to care for them once they're evacuated; you're going to leave that up to the municipalities. Well, if you're going to leave the care of the evacuated animal up to the municipality, why don't you leave the evacuation of the animal up to the individual municipality, because all municipalities are different. Some are rural, with a lot of horses and livestock; some, like the city of Toronto, have zoos.

Once again, why not, then, make municipalities—because it's the front-line services, Mr. Balkissoon will tell us, as fire chiefs did, that deal with these things municipal. Well, we knew that. That's been our commentary on this whole issue from the get-go, from day one: that if you're talking about beefing up emergency management, you beef up those front-line services.

I made reference to the McMurtry report, post-Mississauga train derailment, which predates even the—

jeez, there are at least a couple of you who are old enough to remember the Barrie tornado, never mind Mississauga. Well, you were two years old at the time, Mr. Berardinetti.

Mr. Lorenzo Berardinetti (Scarborough Southwest): I remember.

Mr. Balkissoon: He remembers.

Mr. Kormos: He remembers. It was one of those early childhood memories.

In any event, it's front-line emergency personnel who deal with these things, always, forever and ever. The province doesn't have on-the-ground emergency personnel throughout the province. The province has highly specialized, regionalized emergency teams, and far more limited in numbers, minuscule numbers, as compared to what's out there in the municipalities.

It just boggles the mind. I thought I had reached the point where nothing surprises me anymore around here, but it boggles the mind to see the Liberals entrench themselves and, just out of spite—out of pure spite and stubbornness, and I suppose because it's Mr. Dunlop's idea rather than theirs—not accept this motion.

The Vice-Chair: Further debate?

Mr. Balkissoon: Similar to motion 5b, we take the same position that to better manage emergency, the front-line people are better equipped and that the municipal plans should really be dealing with their geographical area.

The Vice-Chair: Further debate? I will now put the question.

Mr. Kormos: A recorded vote, please.

The Vice-Chair: Shall this motion carry?

Ayes

Dunlop, Elliott, Kormos.

Nays

Arthurs, Balkissoon, Berardinetti, Leal, Oraziatti.

The Vice-Chair: The motion is lost.

We move now to motion 6. Mr. Dunlop, please.

Mr. Dunlop: Thanks again, Madam Chair. I guess the remainder of our motions will be comments made by the emergency managers. We wanted to act in their best interests because they are front-line people as well.

I move that section 7.0.2 of the Emergency Management Act, as set out in subsection 1(4) of the bill, be amended by adding the following subsection:

“Exception, emergency plan in place

“(6.1) Despite subsection (5), if a municipality has an emergency plan formulated, the municipality may follow its emergency plan rather than an order made under subsection (4) or (5).”

The Vice-Chair: Do you want to add any comment to that, Mr. Dunlop? No further comment?

Mr. Dunlop: No.

The Vice-Chair: Okay. Is there any debate on this motion?

Mr. Kormos: I defer to Mr. Balkissoon.

Mr. Balkissoon: Under the existing EMA, all municipalities are required to have an emergency plan, so the statement in here, “if a municipality has an emergency plan,” is totally inappropriate. This motion would permit municipalities to follow their own emergency plan rather than a Premier or cabinet order. The Premier's powers to direct municipalities only apply once an emergency declaration is made. This power may be required if there is a provincial emergency, which is not necessarily addressed in a municipal plan, and it could go across boundaries of municipalities. In that case, we would need a coordinated approach. As the firefighters clearly stated earlier today, when you need a coordinated approach across boundaries, then it's better in the hands of the province. So the government cannot support this motion.

The Vice-Chair: Any further debate?

1120

Mr. Kormos: I find myself confused by Mr. Balkissoon, because over the course of the last half-hour he has argued for municipalities to have an overriding jurisdiction in response to emergencies. He was so persistent that I was able to make the argument for him in advance of his making the argument last go-round.

Now, all of a sudden it's a 180-degree reversal. One amendment he's over here; next amendment he's over there. One of the nice things about being a Liberal is that you don't always have to be a Liberal, and that's being illustrated today. They can be anything they want to be, any time they want to be. On one amendment or two amendments or three amendments Mr. Balkissoon says, “No, government can't support that because it's up to the municipalities.”

Now, when Mr. Dunlop wants to recognize that maybe, just maybe, and people like Mr. Arthurs and Mr. Leal and Mr. Berardinetti—everybody here has been on municipal councils of one sort or another, or darn near everybody. Maybe, just maybe Mr. Dunlop is of the view that people down there in the municipality have a better understanding of what's going on as compared to the folks here in the Pink Palace. Is there a little bit of Toronto-centric attitude prevailing?

I suppose my only concern would be, if and when municipalities would override the provincial emergency powers—and this may assist Mr. Balkissoon—that they may then not avail themselves of the resources that the province would make available. But I say that's a different issue. I think, yes, municipalities out there, especially when you talk about most of Ontario, the remote parts of Ontario—once again I encourage you people. I know we have time constraints. Michael Prue mentioned just the other day in the House about having been up with Gilles Bisson in Timmins–James Bay, in places like Attawapiskat, Peawanuk and Kashechewan. I've had the opportunity to travel some of those places with Bisson as well, he being their MPP.

I invite any and all of you—and Bisson would love to take any and all of you up there—to visit some of those

places in Ontario. Some of you from the north understand perhaps better than southerners do. Some of these parts of Ontario are so remote, so removed, so isolated, so underserved, so underresourced that they don't even have broken tools. Let's look at the logistics of moving external personnel into some of these remote areas. Even with the best-made plans, you're talking about not hours but days, sometimes more than days, in terms of moving resources into some of these remote communities.

The issue is twofold. One is, yes, recognizing that local municipalities can respond more quickly, and I believe they can. I believe people on councils, especially of smaller-town Ontario, understand that. They can respond more quickly. Two, they can assess the scenario more accurately, but the problem is that they don't have, in many cases—I'm suggesting Peterborough, clearly, with its fire services was able to respond to the flooding, but who knows what level of increased flooding would have happened before those resources became strained or stretched to the point where there weren't adequate resources? That's speculation.

So I find it disturbing that the government won't give more credit to this proposition and dismisses it out of hand. Notwithstanding my concerns about perhaps conflict, I will be supporting this motion because I respect the intent of it, and it certainly warrants more consideration.

The Vice-Chair: Further debate? I will now put the question.

Mr. Dunlop: Recorded as well, please.

The Vice-Chair: Shall the motion carry?

Ayes

Dunlop, Elliot, Kormos.

Nays

Arthurs, Berardinetti, Balkissoon, Leal, Orazietti.

The Vice-Chair: The motion is lost.

We'll now move to motion number 7. Mr. Dunlop.

Mr. Dunlop: I'm getting the feeling this may not pass either.

The Vice-Chair: Don't be so presumptuous.

Mr. Dunlop: Again, following the concerns of the emergency management, who I thought spoke from a very important position: They clearly were concerned about the government interfering in an emergency strictly because of the government, not because they were really doing what was right, and that's where I felt they had some good points. I think Mr. Kormos brought it up as well here a moment ago when he talked about the size of our province and how remote some of these areas actually are, that if an organization does have a plan in place, the emergency order would not necessarily be something they'd take their advice and follow.

I move that section 7.0.2 of the Emergency Management Act, as set out in subsection 1(4) of the bill, be amended by adding the following subsection:

“Exception, deployment detrimental to municipality

“(6.2) Despite subsection (5), a municipality may refuse to comply with an order of the Premier or his or her designate that requires the deployment of municipal resources outside the jurisdiction of the municipality, if the deployment of the resources would be detrimental to the management of the emergency within the municipality's own jurisdiction.”

The Vice-Chair: Any further comment, Mr. Dunlop?

Mr. Dunlop: No comments.

The Vice-Chair: Debate?

Mr. Balkissoon: As I stated before, emergency management is done in a sort of pyramid effect. Central control and administration of functions may be necessary during a declared provincial emergency. The Premier may require the authority to issue orders of municipal emergency assistance where it's necessary. This particular motion would restrict the powers of the Premier. In that case, if you had an emergency that was cross-jurisdictional, it would prove to be an impediment for the Premier to deal with the emergency on behalf of all Ontarians.

We believe that the bill as it's written has all the accountability and responsibility—reporting to the public, to the assembly—and therefore, the way the act is constructed, it gives the Premier the power to deal with a provincial emergency. All this particular motion will do is to be an impediment in the way of the Premier dealing with that emergency.

Again, I go back. If you understand emergency management, it has to be done in a pyramid. The front line will have a plan, and when that plan fails, then the local municipality would be in touch with the emergency management office and look for assistance that could be brought in from elsewhere. A perfect example of that: I just had the opportunity to be in Cobourg, and the fire chief there was explaining that they had a fire in the plastics industry and quickly realized that they could not deal with it with the resources they had. In contact with the EMO, quickly foam was recruited from the Canadian Forces that was brought in from elsewhere. The local fire departments that surrounded this particular area were brought in to assist them, but it was all done through coordination of the province.

Again, this particular motion is very restrictive in nature. The government has trouble supporting it, so we'll be voting against it.

The Vice-Chair: Further debate? I will now put the question.

Mr. Dunlop: Recorded, please.

The Vice-Chair: Shall the motion carry?

Ayes

Dunlop, Elliot.

Nays

Arthurs, Berardinetti, Balkissoon, Leal, Orazietti.

The Vice-Chair: The motion is lost.

We will now move on to motion 7a. Mr. Kormos.

Mr. Kormos: I move that section 7.0.2 of the Emergency Management Act, as set out in subsection 1(4) of the bill, be amended by adding the following subsection:

“Same

“(8.1) The employer of a person who is providing services pursuant to an order made under paragraph 12 of subsection (4) shall reinstate the person to the position the person most recently held with the employer, if it still exists, or to a comparable position, if it does not, upon the person ceasing to provide services pursuant to the order.”

This bill establishes some statutory right to maintain your job if you left your job for the interim period for the purpose of responding to an emergency.

1130

The Vice-Chair: Debate? Mr. Balkissoon.

Mr. Balkissoon: The government believes that the existing job protection scheme under the Employment Standards Act would apply automatically to any leave entitlement under subsection 50(1). The employee’s seniority continues to accrue during leave in ESA, subsection 52(1). When the leave ends, the employee is entitled to reinstatement to the most recent position he or she held with the employer, if it still exists, or a comparable position if it does not. That’s clear in ESA, subsection 53(1). On reinstatement, the employee is entitled to a rate of pay that is the greater of (a) the rate he or she earned in the most recent position he or she held with the employer, or (b) the rate that he or she would be earning had he or she continued working in that position instead of taking leave. This is clarified in ESA, subsection 53(3).

The employee would also have the protection of subsection 74(1) of the ESA. It provides that the employer shall not “intimidate, dismiss or otherwise penalize an employee” because he or she “(a)(viii) is or will become eligible to take a leave, intends to take a leave or takes a leave under part XIV” of the ESA.

So the government feels strongly that existing legislation deals with this particular issue, and this particular amendment is not necessary. We will be voting against it.

The Vice-Chair: Further debate? I will now put the question.

Mr. Kormos: A recorded vote, please.

The Vice-Chair: Shall the motion carry? A recorded vote has been requested.

Ayes

Dunlop, Elliott, Kormos.

Nays

Arthurs, Balkissoon, Berardinetti, Leal, Oraziatti.

The Vice-Chair: The motion is lost.

Motion 7b. Mr. Kormos.

Mr. Kormos: I move that section 7.0.2 of the Emergency Management Act, as set out in subsection 1(4) of the bill, be amended by adding the following subsection:

“Reprisals prohibited

“(8.2) No employer or a person acting on behalf of an employer shall intimidate, dismiss or otherwise penalize an employee or threaten to do so because the employee raises an urgent matter relating to a public health issue or to health care patient or employee safety during an emergency.”

This is clearly whistle-blower protection. It’s in the interests of everybody that people working in the course of health care during an emergency or any other time feel free to raise concerns about the safety of people receiving treatment, people delivering the treatment or of the general public. This will provide security for the person performing that laudable act. It is in response to concerns that were expressed about some of the employer responses during, amongst other things, the SARS crisis.

The Vice-Chair: Is there any debate? Mr. Balkissoon.

Mr. Balkissoon: The government’s position is that the Occupational Health and Safety Act is fully preserved in Bill 56. This means that the Occupational Health and Safety Act and the protection it affords to the workers continues to apply to its full extent in a declared emergency. Section 50 of the act prohibits reprisals by an employer or a person acting on behalf of an employer against a worker where “the worker has acted in compliance with this act or the regulations or ... has sought the enforcement of this act or the regulations.”

Moreover, as I stated earlier, the employee has the protection of subclause 74(1)(a)(viii) of the ESA. It provides that an employer shall not “intimidate, dismiss or otherwise penalize an employee” because he or she is eligible to take a leave, etc. Whistle-blower protection is also here, such as what is contained in this motion. It can be found also in subsection 74(1) of the Employment Standards Act. This particular motion—all of its concerns are addressed in other pieces of legislation that are preserved under Bill 56. The government feels that the issue is addressed, and therefore we cannot support this amendment.

The Vice-Chair: Further debate?

Mr. Dunlop: To the parliamentary assistant, that’s not what I heard during the committee hearings. In fact, this is one of the areas I thought you would have made some major amendments to. It was my understanding—and maybe I’m incorrect in this—that particularly the Ontario Nurses’ Association and groups like that—I thought they wanted some teeth in this bill that would allow them to feel more comfortable in their positions in case an emergency was brought forward.

That being said, I thought this was one of the weaknesses we found in SARS, that there was some sort of an intimidation factor that could have taken place, that people did not feel comfortable in their jobs; they felt they had to go to work at times. I was concerned with what would happen if—if I can just ask a question,

maybe you can answer it or someone can answer it—a person refused to go to work because they felt for the safety of their family. Can you answer that question?

Mr. Balkissoon: I will answer the question this way: If you look at what happened during SARS and what was presented to us by the nurses' association and, I believe, other groups, there was a clear indication that the Ministry of Labour inspectors did not respond to complaints. The joint safety and management committees that exist under the Occupational Health and Safety Act, the preservation of the employees' rights—the Ministry of Labour was not there. We believe that at that time it was just lack of resources of inspectors.

This government has done significant work in restoring the number of inspectors that are in the Ministry of Labour. As I stated before, the government has, if I could put it, moved mountains to build relationships with unionized employees. We believe that their rights are in existing legislation and that proper enforcement is necessary. Because we have augmented the inspectors we have in the Ministry of Labour, we hope that that situation does not repeat itself.

Mr. Dunlop: If I could just make one final comment: You're saying that because there was a lack of inspectors no one arrived on the job?

Mr. Balkissoon: That's what the nurses actually said when they were here.

Mr. Dunlop: That's not what I heard. So you're telling me now that if an emergency takes place, we will see all kinds of inspectors being able to visit the hospitals or visit areas of concern?

Mr. Balkissoon: I'm saying to you that the two acts that are in place, the Employment Standards Act and the Occupational Health and Safety Act, will be enforced.

Mr. Dunlop: Okay. I'll be supporting Mr. Kormos on this one for sure.

The Vice-Chair: Any further debate? I will now put the question.

Mr. Kormos: A recorded vote, please.

The Vice-Chair: Shall the motion carry? This is a recorded vote.

Ayes

Dunlop, Elliott, Kormos.

Nays

Arthurs, Balkissoon, Berardinetti, Leal, Orazietti.

The Vice-Chair: The motion is lost.

We will now move to motion 7c. Mr. Kormos.

Mr. Kormos: Yes, ma'am. I apologize for a typo in the wording of the motion: the omission of the word "be" in the second line of the amendment. When I read the motion, I'll be reading "resources are to 'be' obtained."

I move that section 7.0.2 of the Emergency Management Act, as set out in subsection 1(4) of the bill, be amended by adding the following subsection:

"Obtaining necessary goods, services and resources

"(8.3) An order made under subsection (4) shall set out how necessary goods, services and resources are to be obtained in order to respond to the emergency and to comply with the order."

This requires the sort of specificity that has been requested with respect to the extraordinary powers being given the Lieutenant Governor in Council/Premier/emergency management czar.

1140

The Vice-Chair: Is there any debate?

Mr. Balkissoon: I believe motion 5—I stated clearly that we've revised clause 9 and clause 10 to deal with procurement and the use of goods and services. The explanation provided there serves well, and this motion just cannot be supported by the government.

The Vice-Chair: Further debate? I will now put the question.

Mr. Kormos: A recorded vote, please.

The Vice-Chair: Shall this motion carry? This is a recorded vote.

Ayes

Dunlop, Elliott, Kormos.

Nays

Arthurs, Balkissoon, Berardinetti, Leal, Orazietti.

The Vice-Chair: The motion is lost.

We'll now move to motion 7d. Mr. Kormos.

Mr. Kormos: Yes, ma'am. I move that subsection 1(4) of the bill amended by adding the following section:

"Power of the Minister of Labour

"7.0.2.1 Even after an emergency is declared under section 7.0.1 or an order is made under subsection 7.0.2(4), the Minister of Labour retains responsibility over workplace health and safety and has the power and responsibility to enforce the Occupational Health and Safety Act and the regulations made under it despite an emergency being declared or an order being made."

This provides certainty as to an active role by the Ministry of Labour with respect to workplace health and safety after an emergency has been declared or when the workplace is subject to an order having been made.

The Vice-Chair: Debate?

Mr. Balkissoon: Section 7.0.6(5) clearly states that the Occupational Health and Safety Act prevails over Bill 56. Bill 56 does not override the Occupational Health and Safety Act, and therefore we don't see that it's necessary to have this particular amendment. As such, we can't support it.

The Vice-Chair: Further debate? I will now put the question.

Mr. Kormos: A recorded vote, please.

The Vice-Chair: Shall the motion carry? This is a recorded vote.

Ayes

Dunlop, Elliott, Kormos.

Nays

Arthurs, Balkissoon, Berardinetti, Leal, Orazietti.

The Vice-Chair: The motion is lost.

We will now move to motion 7e. Mr. Kormos.

Mr. Kormos: I move that subsection 1(4) of the bill be amended by adding the following section:

“Order impacting the health and safety of employees

“7.0.2.2(1) If an order made under this act may have an impact on the health and safety of the employees of a workplace affected by the order, the order shall require that the workplace’s joint health and safety committee be convened immediately after the order is made and that the committee meet regularly during the declared emergency.

“Same

“(2) If an order made under this act may have an impact on the health and safety of the employees of a workplace affected by the order, a copy of the order shall be provided to the director appointed under the Occupational Health and Safety Act and the order shall require that the Ministry of Labour consult with the workplace’s joint health and safety committee and that the Ministry of Labour investigate any possible violation of the Occupational Health and Safety Act or of the regulations made under it.”

Once again, this provides certainty as to workers being able to have some control over their health and safety in their workplaces.

The Vice-Chair: Debate?

Mr. Balkissoon: As I previously stated, Bill 56 does not override the Occupational Health and Safety Act. As such, all the requirements of the joint health and safety committee remain in effect during a declared emergency. The government’s position on this motion is that the amendment proposes requirements that go above and beyond what is contained in the Occupational Health and Safety Act. The Occupational Health and Safety Act already addresses this situation and applies to its full extent during a declared emergency. As such, we can’t support the amendment.

The Vice-Chair: Further debate? I will now put the question.

Mr. Kormos: A recorded vote, please.

The Vice-Chair: Shall this motion carry? This is a recorded vote.

Ayes

Dunlop, Elliott, Kormos.

Nays

Arthurs, Balkissoon, Berardinetti, Leal, Orazietti.

The Vice-Chair: The motion is lost.

We will now move to motion 8. Mr. Balkissoon.

Mr. Balkissoon: I move that subsection 7.0.3(1) of the Emergency Management Act, as set out in subsection 1(4) of the bill, be amended by striking out “subsection 7.0.2(5)” and substituting “section 7.0.2.1.”

This is a bit of a technical amendment. It is one of several amendments that the government is proposing to separate the powers of the Premier.

The Vice-Chair: Debate? I will now put the question. All those in favour? Opposed? The motion carries.

We move to motion number 9.

Mr. Balkissoon: I move that subsection 7.0.3(2) of the Emergency Management Act, as set out in subsection 1(4) of the bill, be amended by striking out “subsections 7.0.2(4) and (5)” and substituting “subsection 7.0.2(4) and section 7.0.2.1.”

This is a technical amendment similar to what I said in motion number 8. It’s to separate the powers of the Premier.

The Vice-Chair: Debate? I will now put the question. All those in favour? Opposed? The motion carries.

We move to motion number 10.

Mr. Balkissoon: I move that subsection 1(4) of the bill be amended by striking out section 7.0.4 of the Emergency Management Act.

Subsection 7(1) of the existing EMA has a similar emergency order framework—

Interjection.

Mr. Balkissoon: Sorry?

Mr. Kormos: Take your victory and run.

Mr. Balkissoon: So we’re just rearranging things here to clarify it.

The Vice-Chair: I’ll now put the question. All those in favour of the motion? Opposed? The motion carries.

Motion number 11. Mr. Balkissoon.

Mr. Balkissoon: I move that subsection 1(4) of the bill be amended by striking out section 7.0.5 of the Emergency Management Act.

Same as motion number 10, same issue, and all of it is dealt with in motion 20.

The Vice-Chair: Debate? I will now put the question. All those in favour of the motion? Opposed? The motion carries.

Motion 11a. Mr. Kormos.

Mr. Kormos: I move that section 7.0.6 of the Emergency Management Act, as set out in subsection 1(4) of the bill, be amended by adding the following subsection:

“Collective agreements preserved

“(6) A collective agreement that applies to parties in a workplace that is affected by an order made under this act remains in effect despite the order made under this act.”

This provides certainty as to what the government says is its intent: It ensures that collective bargaining agreements will prevail over emergency orders.

The Vice-Chair: Debate?

Mr. Balkissoon: The government can’t support this particular motion. The issues of collective agreements, we believe, should be dealt with at the lower level,

between the institution and the bargaining unit, and the emergency plans of that particular institution.

I would reiterate that this government has worked very hard with unions and build relationships. We hope that we could continue to work with them so that we could deal with the issues of collective bargaining through the emergency planning that is currently going on.

The Vice-Chair: Further debate?

Mr. Kormos: It is oh, so clear that the government wants the negotiation of collective bargaining agreements to take place at the local level, which is of course where it does take place, but that the breaching of collective bargaining agreements will take place at the provincial level. The violation of workers' rights has become transparent and obvious to any observer of these proceedings.

The Vice-Chair: Further debate?

Mr. Kormos: I'm asking for a recorded vote, please.

The Vice-Chair: I will now put the question. This is a recorded vote.

Ayes

Dunlop, Elliott, Kormos.

Nays

Arthurs, Balkissoon, Berardinetti, Leal, Orazietti.

The Chair: The motion is lost.

We move to motion number 12. Mr. Balkissoon.

Mr. Balkissoon: I move that subsection 1(4) of the bill be amended by striking out section 7.0.6 of the Emergency Management Act.

This is similar to motions 10 and 11, that were previously moved, and it's dealt with in motion 20 as an update.

1150

The Vice-Chair: Debate? All those in favour of the motion? Opposed? The motion is carried.

We move to motion 13. Mr. Balkissoon.

Mr. Balkissoon: I move that section 7.0.7 of the Emergency Management Act, as set out in subsection 1(4) of the bill, be amended by striking out "under this act" and substituting "under subsection 7.0.2 (4)."

This amendment is necessary because it's a change to the administrative enforcement scheme in section 7.0.7 of Bill 56 to clarify that it only applies to cabinet orders and not the Premier's orders. The amendment is intended to distinguish between the Premier's powers and cabinet powers.

The Vice-Chair: Debate? All those in favour of the motion? Opposed? The motion carries.

Motion 13a. Mr. Kormos.

Mr. Kormos: I move that section 7.0.8 of the Emergency Management Act, as set out in subsection 1(4) of the bill, be amended by adding the following subsection:

"Notice to bargaining agents

"(2) During an emergency, the Premier, or a minister to whom the Premier delegates the responsibility, shall,

"(a) notify all bargaining agents that represent employees in a workplace affected by an order made under this act that the Occupational Health and Safety Act remains in effect during the emergency;

"(b) ensure that notices are posted in a workplace affected by an order made under this act informing employees that the Occupational Health and Safety Act remains in effect during the emergency; and

"(c) regularly consult with employees in a workplace affected by an order made under this act and with their bargaining agents and shall ensure that such employees and bargaining agents are able to report on their concerns during the emergency."

A right without notification as to that right becomes valueless. This ensures that there is clear notice to workers in workplaces affected by orders that the Occupational Health and Safety Act remains in effect and ensures that there are lines of communication maintained.

The Vice-Chair: Debate?

Mr. Balkissoon: The government can't support this particular amendment because Bill 56 expressly preserves the Occupational Health and Safety Act. This is one statute that is preserved in this manner. The government will work with the public and emergency workers to ensure that there's an understanding of the legislation and clear expectations of persons in an emergency, including an understanding that the Occupational Health and Safety Act is fully preserved. Clause (2)(a) would impose significant operational issues for the Premier or the minister who is delegated this power. Moreover, it only addresses unionized employees. Most employees in Ontario are non-unionized. So, being very specific, it actually creates a lot of problems for the government. Employees and employers are also encouraged to address these types of issues, as I stated previously, in their local emergency plans and in their collective bargaining process. With our track record, we hope we could work with all of them on good relations to make sure this happens.

The Vice-Chair: Further debate? Mr. Kormos.

Mr. Kormos: Are you referring to the Liberal track record of broken promises, Mr. Balkissoon?

The Vice-Chair: Further debate? I will now put the question.

Mr. Kormos: A recorded vote, please.

Ayes

Dunlop, Elliott, Kormos.

Nays

Arthurs, Balkissoon, Berardinetti, Leal, Orazietti.

The Vice-Chair: The motion is lost.

Motion 14. Mr. Berardinetti.

Mr. Berardinetti: I move that the French version of the bill be amended by making the following changes:

(1) Strike out “ou ordonnances” in subsection 7.0.10(1) of the Emergency Management Act, as set out in subsection 1(4) of the bill, and substitute “, arrêtés ou ordonnances.”

(2) Strike out “d’un décret ou d’une ordonnance” in subsection 7.0.10(3) of the Emergency Management Act, as set out in subsection 1(4) of the bill, and substitute “d’un décret, d’un arrêté ou d’une ordonnance.”

(3) Strike out “d’un décret ou d’une ordonnance” in subsection 7.0.10(4) of the Emergency Management Act, as set out in subsection 1(4) of the bill, and substitute “d’un décret, d’un arrêté ou d’une ordonnance.”

(4)(i) Strike out “à un décret ou à une ordonnance” in subsection 7.0.13(1) of the Emergency Management Act in the portion before clause (a), as set out in subsection 1(4) of the bill, and substitute “à un décret, à un arrêté ou à une ordonnance,” and

(ii) Strike out “un tel décret ou une telle ordonnance” in subsection 7.0.13(1) of the Emergency Management Act in the portion before clause (a), as set out in subsection 1(4) of the bill, and substitute “un tel décret, un tel arrêté ou une telle ordonnance.”

(5) Strike out “d’un décret ou d’une ordonnance” in subsection 13.1(3) of the Emergency Management Act, as set out in subsection 1(7) of the bill, and substitute “d’un décret, d’un arrêté ou d’une ordonnance.”

The Vice-Chair: Debate?

Mr. Kormos: Why the change of heart?

Mr. Balkissoon: I believe this was a technical change because of the French interpretation of orders. It was requested by Legislative Assembly counsel.

Mr. Kormos: I really think the public is interested in these things. Why are we adding situations? Help us with that, Mr. Balkissoon, please, as the parliamentary assistant.

Mr. Balkissoon: As I stated, I believe that this particular request was made because of the interpretation of orders in French and the words that were used in the original bill, and it was legislative counsel that suggested the changes.

The Vice-Chair: I’m going to ask legislative counsel to address this as well.

Mr. Albert Nigro: For the record, I’m Albert Nigro, from the office of legislative counsel. French, as a matter of legal language and just language in general, is much more precise than English. For the word “order,” which is a word that we use in English, there are three equivalents in French, depending on who makes the order. In the original French version of the bill, in certain places we missed one of the equivalents. All we’re doing here is basically adding the term “arrêté,” which is an order made by a minister, including the Premier.

Mr. Kormos: So it’s the addition of the ministerial order to the types of orders. Mr. Balkissoon, you needn’t have been embarrassed about that.

Mr. Balkissoon: I’m not an expert in languages, I’ll admit.

Mr. Kormos: We understand the oversight. We’re going to support this.

The Vice-Chair: Further debate? I’m now going to put the question. Shall the motion carry? All those in favour? Opposed? The motion carries.

We move on to motion number 15. Mr. Balkissoon.

Mr. Balkissoon: I move,

(a) that the English version of subsection 7.0.11(1) of the Emergency Management Act, as set out in subsection 1(4) of the bill, be amended by striking out “the declaration of a state of emergency” and substituting “the declaration of emergency”;

(b) that the English version of subsection 7.0.11(2) of the Emergency Management Act, as set out in subsection 1(4) of the bill, be amended by striking out “the declaration of a state of emergency” and substituting “the declaration of emergency”; and—here it’s going to be difficult—

(c) that the French version of subsection 7.0.11(2) of the Emergency Management Act, as set out in subsection 1(4) of the bill, be amended by striking out “tout décret ou toute ordonnance” and substituting “tout décret, tout arrêté ou toute ordonnance.”

I think I did pretty good.

The Vice-Chair: I think you did fine.

Mr. Balkissoon: This is just to have consistent language. We’re just changing “state of emergency” to read “declaration of emergency” so it’s consistent throughout the bill.

The Vice-Chair: Debate?

Mr. Kormos: I looked back at 7.0.1, Mr. Balkissoon, because there, an order declares that an emergency exists. I trust, when you talk about the effort to be consistent, that’s what you’re referring to.

Mr. Balkissoon: We’re removing the word “state.”

Mr. Kormos: I understand, because going back to 7.0.1—

Mr. Balkissoon: It’s 7.0.11.

Mr. Kormos: No, 7.0.1, subsection 1. The power of the Premier is to declare that an emergency exists.

Mr. Balkissoon: So it’s a declaration of emergency.

Mr. Kormos: To declare that an emergency exists, but once that happens, isn’t there a state of emergency? You understand what I’m saying? The state’s status flows from the declaration. I know what you’re trying to do, but when you’re disallowing, you’re terminating the state of emergency, right? I’m wondering if you really want to say “disallow the declaration of emergency,” where you disallow the declaration, or are you terminating the state of emergency?

Mr. Balkissoon: My interpretation would be that we’re terminating the declaration of the emergency—

Mr. Kormos: Okay. I’m not going to belabour the point.

Mr. Balkissoon: —but a ministry lawyer might want to clarify it. I’d be happy to bring the ministry lawyer to clarify.

The Vice-Chair: Does ministry staff want to respond to that, please? Would you please identify yourself for the record?

Mr. Jay Lipman: Jay Lipman, counsel, the Ministry of Community Safety and Correctional Services.

This is the one provision, 7.0.11, where the phrase “state of emergency” is used. In all the other sections in the bill, they refer to simply the “declaration of emergency.” The proposed motion would remove the reference to “state of emergency” and would just be talking about “declaration of emergency” as we do in all the other provisions in the legislation.

Mr. Kormos: I appreciate that and I thank you for that, but is the proper language to be used, then, once a declaration of emergency has been made—I’m being deadly serious. Are we then in a state of emergency, “state” as in status?

Mr. Lipman: Not for the purposes of this bill. Like I say, it might make sense to use that term if we used it consistently throughout the bill, but to use it simply in one section, I think, was basically an oversight.

Mr. Kormos: Or drafting by committee.

Mr. Lipman: I’m not sure what the cause was.

Mr. Kormos: Thank you.

The Vice-Chair: Further debate?

I will now put the question: Shall this motion carry? All those in favour? Opposed? The motion carries.

Seeing that it’s past noon, I want to first of all say thank you very much to all members of the committee and to the support staff. This is the first time I’ve ever chaired a clause-by-clause, and I want to recognize everyone’s kindness.

I also want to apologize to Mr. Dunlop. I used his first name when I first started, and I attribute that to my inexperience. It was not meant to be a slight or sign of disrespect.

Mr. Kormos: I attribute that to a warm relationship.

The Vice-Chair: Thank you very much, Mr. Kormos.

The committee is now adjourned.

The committee adjourned at 1204.

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Also taking part / Autres participants et participantes

Mr. Jay Lipman, legal counsel,
Ministry of Community Safety and Correctional Services

Clerk / Greffière

Ms. Anne Stokes

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