



ISSN 1710-9477

Legislative Assembly
of Ontario
Second Session, 38th Parliament

Assemblée législative
de l'Ontario
Deuxième session, 38^e législature

Official Report of Debates (Hansard)

Tuesday 16 May 2006

Journal des débats (Hansard)

Mardi 16 mai 2006

**Standing committee on
social policy**

Education Statute Law
Amendment Act
(Student Performance), 2006

**Comité permanent de
la politique sociale**

Loi de 2006 modifiant des lois
en ce qui concerne l'éducation
(rendement des élèves)

Chair: Shafiq Qadri
Clerk: Trevor Day

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Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
SOCIAL POLICY**

**COMITÉ PERMANENT DE
LA POLITIQUE SOCIALE**

Tuesday 16 May 2006

Mardi 16 mai 2006

The committee met at 1558 in committee room 1.

EDUCATION STATUTE LAW
AMENDMENT ACT
(STUDENT PERFORMANCE), 2006
LOI DE 2006 MODIFIANT DES LOIS
EN CE QUI CONCERNE L'ÉDUCATION
(RENDEMENT DES ÉLÈVES)

Consideration of Bill 78, An Act to amend the Education Act, the Ontario College of Teachers Act, 1996 and certain other statutes relating to education / Projet de loi 78, Loi modifiant la Loi sur l'éducation, la Loi de 1996 sur l'Ordre des enseignantes et des enseignants de l'Ontario et certaines autres lois se rapportant à l'éducation.

The Chair (Mr. Shafiq Qaadri): Thank you, colleagues. As you know, we're here for clause-by-clause for the Education Act, Bill 78. If there are no immediate comments from the committee, we'll begin immediately.

We have, with reference to section 1, PC section labelled 0.1, and I give the floor to Mr. Klees.

Mr. Frank Klees (Oak Ridges): I will just move this motion.

I move that the definition of "principal" in subsection 1(1) of the Education Act be repealed and the following substituted:

"'principal' means a teacher appointed by a board to perform, in respect of one or more schools, subjects or programs or in respect of any combination of them, the duties of a principal under this act and the regulations;"

This expansion of the definition is there to broaden the definition and for clarity. I would ask that the committee consider it.

The Chair: Thank you, Mr. Klees. I'm informed by legislative counsel that this particular motion that you've just read is out of order. I would, with the committee's indulgence, offer the floor to legislative counsel Cornelia Schuh to give an explanation. Part of the reason for that is that I understand we have a number of motions that fall under this same category.

Ms. Cornelia Schuh: In traditional parliamentary procedure, a motion that seeks to deal with a section of the act that isn't already open in the bill is out of order unless it's essential to correct a mistake, an inconsistency. It can be introduced with unanimous consent.

Mr. Klees: I would ask, then, for unanimous consent by the committee to deal with this.

The Chair: Do I have unanimous consent?

Mr. Khalil Ramal (London–Fanshawe): No.

The Chair: Seeing that I do not have unanimous consent, I continue to rule this section out of order. We proceed now to the next page, which is, as you can see, government section motion 1. I would invite one of the government members to please propose this formally to the committee.

Mr. Ted McMeekin (Ancaster–Dundas–Flamborough–Aldershot): I move that section 1 of the bill be struck out and the following substituted:

"1. The Education Act is amended by adding the following section:

"Collection and use of personal information

"8.1(1) The minister may collect personal information, directly or indirectly, for purposes related to the following matters, and may use it for those purposes:

"1. Administering this act and the regulations, and implementing the policies and guidelines made under this act.

"2. Ensuring compliance with this act, the regulations, and the policies and guidelines made under this act.

"3. Planning or delivering programs or services that the ministry provides or funds, in whole or in part, allocating resources to any of them, evaluating or monitoring any of them or detecting, monitoring and preventing fraud or any unauthorized receipt of services or benefits related to any of them.

"4. Risk management, error management or activities to improve or maintain the quality of the programs or services that the ministry provides or funds, in whole or in part.

"5. Research and statistical activities that relate to education and are conducted by or on behalf of the ministry.

"Limits on collection and use

"(2) The minister shall not collect or use personal information if other information will serve the purpose of the collection or use.

"Same

"(3) The minister shall not collect or use more personal information than is reasonably necessary to meet the purpose of the collection or use.

"Collection and use of personal information for research

"(4) The collection or use of personal information for purposes related to research activities mentioned in

paragraph 5 of subsection (1) is subject to any requirements and restrictions that may be prescribed.

“Disclosure by educational and training institutions, etc.

“(5) The minister may require any of the following to disclose to him or her such personal information as is reasonably necessary for the purposes described in subsection (1):

“1. Educational and training institutions that are prescribed for the purposes of sections 266.2 to 266.5.

“2. Persons and entities that are prescribed for the purposes of subsection 266.3(3).

“Same

“(6) The minister may specify the time at which, and the form in which, the information must be provided.

“Notice required by s.39(2) of FIPPA

“(7) If the minister collects personal information indirectly under subsection (1), the notice required by subsection 39(2) of the Freedom of Information and Protection of Privacy Act is given by,

“(a) a public notice posted on the ministry’s website; or

“(b) any other method that may be prescribed.

“Regulations

“(8) The Lieutenant Governor in Council may make regulations for the purposes of this section,

“(a) prescribing requirements and restrictions for the purposes of subsection (4);

“(b) prescribing methods of giving the notice required by subsection 39(2) of the Freedom of Information and Protection of Privacy Act.”

That’s the motion. This motion would ensure that the sections in the act related to the collection and use of personal information are in compliance with all of the privacy requirements as set out in provincial and federal privacy legislation. This motion, I should note, reflects directly discussions and agreement around said information with the information and privacy commission.

The Chair: Thank you, Mr. McMeekin. The floor is open for debate, questions and comments.

Mr. Klees: Do we have something in writing from the privacy commissioner confirming her endorsement of this section, specifically the wording?

Mr. McMeekin: I can’t answer that. I can say that we have had direct consultation and that the motion I just took some considerable time to read is a reflection of those consultations and reflects the advice we received from the privacy commissioner.

Mr. Klees: With all respect, the current Minister of Education, in her capacity as the Minister of Community and Social Services, told us time and time again of her consultations with the privacy commissioner relating to the adoption bill. Lo and behold, when the privacy commissioner appeared before committee, she opposed and made it very clear that she had not endorsed and in fact was strongly opposed to sections of that bill for the purpose of privacy. So it’s not comforting at all to hear from you that consultations have taken—why would we

not have something in writing from the privacy commissioner on this?

The Chair: Also, on behalf of the committee, I as Chair would like to know, do we have ministry staff who are prepared to address these issues or these questions, these types of intricacies?

Mr. McMeekin: In a word, yes.

The Chair: If so, would they please come forward and identify themselves?

Mr. McMeekin: Let me just say, while we’re doing that, that we approached the privacy commission. It wasn’t that the privacy commission had any concerns at all about this. In fact, in the process of preparing the legislation, as you might expect with any government that wants to do it right, there were those obvious discussions that took place. If my honourable friend would like us to undertake to obtain some covenant of this from the commission, I’m sure we could do that.

The Chair: Thank you. Welcome and please identify yourself.

Mr. Michael Riley: My name is Mike Riley. I’m with the legal branch of the Ministry of Education. I don’t have any such documentary evidence with me. I do understand, however, from my colleagues that there were extensive and quite thorough consultations with the Information and Privacy Commissioner on this matter, but I do not have any form of written confirmation.

Mr. Klees: I would request that we receive, as was volunteered by the parliamentary assistant, some documentary evidence of that.

Mr. McMeekin: Request noted.

Mr. Klees: I have another question, and I’m looking at these proposed amendments. In the past we’ve had some assistance, especially when there’s an extensive amendment, indicating which parts of the original bill are being amended. This is going to be a difficult process for us here, trying to figure out what’s out and what’s in. I’m just wondering, is there some other documentation that the government has that’s going to make it a little easier for us here, or is the parliamentary assistant simply willing to take me through this line by line to show me what’s replaced by what? I’m happy for that.

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Mr. McMeekin: I can’t comment on the specific comments; I wasn’t part of the actual consultations with the commission. I would note that it’s also customary for all amendments to legislation to be presented well in advance of discussion. We have several that have appeared today where that hasn’t happened. I don’t want to get rudimentary about this—it’s in the member’s hands; he can do what he wants—but this is the amendment and it captures, as we were requested to capture, any changes or improvements that the privacy office would suggest. That’s what we’ve done.

Mr. Klees: Perhaps I can help, Chair. If the parliamentary assistant can advise me if there are any changes in the section entitled, “Collection of personal information,” (2)(a), (b), (c), (d) and (e)? Are there any changes to that?

Mr. McMeekin: What we have are the changes that are being proposed.

Mr. Klees: If that's how we're going to proceed, Chair, we're going to be here a very long time. Are you saying the parliamentary assistant can't point me to where those changes are?

Mr. McMeekin: If you want to go through the bill line by line, we can do that, Mr. Klees. What is in the bill is there; the amendment is here. That information is available to you. The amendment that we're proposing is there. It has been brought forward in good faith, based on the discussions we've had. The commas, the i's and t's and the the's: I haven't prepped to that extent around every sentence change, grammatical change and slight enhancement that the consultation has led us to at this point.

The Chair: As Chair, I would simply say once again that to facilitate the answer to Mr. Klees's question, it be provided by either government members or by ministry staff, or at least an undertaking by some group to offer that information. Otherwise, we don't move on.

Mr. McMeekin: There's a generic reference throughout many of the lines to adding regulations, because we wanted to ensure that we were inclusive, both in the statutory requirements and the regulations, that we were honouring the privacy concerns. Respectfully, Mr. Klees, that was a change that we've incorporated, as you'll note, in several places.

Mr. Klees: I understand that. I'm not trying to be difficult; I'm trying to do my job here conscientiously. For me to have to go through line by line and word for word to find out where the changes are if I'm going to express an opinion or cast a vote on this amendment—I'm just saying that it would be extremely helpful for us to know where the changes are.

The Chair: With your indulgence, Mr. Marchese. Ms.—

Interjection.

The Chair: All right, fine. Mr. Marchese.

Mr. Rosario Marchese (Trinity–Spadina): Just to be frank and fair, no government has ever provided us with a list of changes that have been made. The Tories didn't do it, we didn't do it and the Liberals are not doing it. It leaves us with the job of having to look at the original bill and look at the additions. That being said, if there is a ministry official who's here who has knowledge of this and wants to help the member with the additions, it might help. Otherwise, the member could ask questions on every section and say, "Is this new? What does this mean?" He could, and it will slow down the process. You might want to find a way to be helpful.

The Chair: Ms. Wynne.

Ms. Kathleen O. Wynne (Don Valley West): I just wanted to comment. I've spent a lot of the last two and a half years in committee hearings. I'm sure that the member has his copy of the bill, with his highlighted places where people have made comments, and I'm sure that, as I am, he's able to follow along in the bill, because he's been sitting in on all of the hearings. I've been in

many bills now, and I've never, ever seen that kind of tracking. I've got my highlighted copy. If he'd like to see where the amendments are, I'd be happy to lend it to him, but other than that, it would be really unusual to expect that kind of tracking.

Mr. Marchese: Mr. Chair, I was indicating that the member could slow the whole process down, as he indicated, to ask questions on every section. That's not helpful. Is that what you—

Ms. Wynne: He could choose to do that.

Mr. Marchese: Mr. Klees, then it's up to you to decide how to proceed.

Ms. Wynne: Or he can borrow my bill.

The Chair: Hopefully, as Chair, I'm attempting to facilitate this, so I would invite ministry staff, if they are able to comment on these issues, to please come forward and, by the way, remain forward until that particular section is dealt with.

Having said that, I will ask legislative counsel to weigh in on this issue as well. Madam Schuh.

Ms. Schuh: Mr. Marchese is right. There isn't a practice of providing a road map, as it were, but I'd be very happy to explain to anyone who wants where individual motions will fit in the printed bill. I think we can deal with it in a pretty straightforward way.

The Chair: Is that satisfactory, Mr. Klees?

Mr. Klees: I think I just heard Ms. Wynne say that she has a highlighted copy.

Ms. Wynne: Sure, my copy of the bill. I'm sure you've got one too.

Mr. Klees: And if in fact she has a highlighted copy, my first question is, why would I not have a copy of it and—

Ms. Wynne: Because it's mine.

Mr. Klees: She's offered to give it to me.

Ms. Wynne: It's my highlight.

Mr. Klees: She has offered it; I accept it. It will certainly—

Ms. Wynne: I'll make a copy of it for you.

Mr. Klees: Wonderful. It certainly will help.

Ms. Wynne: Great.

The Chair: Do I take it, committee, that we are ready to—Mr. Marchese?

Mr. Marchese: In the meantime, I have questions.

The Chair: Then please proceed.

Mr. Marchese: To the parliamentary assistant or any government member, and then I'll get to legislative counsel for a question or comment—maybe the government wants to answer: The problem I have with this section is that none of you explained why we need to do this, and it would be useful to hear why. You explained that it's in compliance with the privacy requirements, but you have not once offered why we need to do this.

Secondly, we haven't heard what kind of information you're looking for. Is it on students, is it on teachers? How will this information be stored? Where will it be stored? Who will it be made available to? Will the private operators have any access to this information?

Will parents and teachers have to sign release forms? Can they refuse to have the information collected?

They're questions I want anyone to answer to make me feel better, and then I've got a few questions on some of the legislative legal changes in terms of—you might want to respond, but the government can respond as well. But if I get those answered, then I can move on to two other sections of the new additions that I have questions to.

Mr. McMeekin: We'll have to go to the staff for those answers.

The Chair: Thank you, Mr. Marchese.

Mr. Marchese: If staff is here, ready to deal with that, that's great. If not, I'll ask my other questions.

The Chair: The Chair turns this question and others to the government side and/or staff and would invite them to comply. Please come forward.

Mr. Riley: I'm sorry. How can I help?

The Chair: Mr. Marchese.

Mr. Marchese: I have some questions. I'll just repeat them, because what we haven't heard is a rationale for having this section. So my question was, why do we need to collect this information, and, secondly, what kind of information is it that you're looking for? Is it on students? Is it on teachers? How will this information be stored? Where will it be stored? Who will it be made available to? Will private operators have access? Will parents and teachers have to sign release forms? Can they refuse to have the information collected?

1620

Mr. Riley: I'm sure I cannot answer all those questions. I do know that the information is not collected just with respect to pupils or just with respect to teachers. That is about all I know as to the questions you've asked. I'm sorry.

The Chair: The Chair offers to Mr. Marchese that if you're satisfied with that answer or an undertaking to provide you with that information at a later date, we'll accept that. If not, then the floor is yours.

Mr. Marchese: The sad thing, when we're dealing with a bill, is to have to get this information after the bill gets passed. We are referring it for third reading after today. Do you understand how sad it is not to be able to have a rationale for this? If he can't answer it, it speaks badly of the government not to be able to have a rationale while we collect the information.

Ms. Elisabeth Scarff: I'm Elisabeth Scarff, with the legal services branch of the ministry. We apologize. We're trying to track down our colleague who was working on this section. She wasn't available, but we are trying to track her down to see if we can get her here this afternoon.

Mr. McMeekin: Why don't we stand this down until that staff person is here to answer those kinds of questions?

The Chair: Is that acceptable, Mr. Marchese?

Mr. Marchese: Yes, it is. Thank you.

The Chair: Fair enough. We're bypassing consideration of that particular government motion. We'll now move to the next item, PC section 1, labelled 1.1.

Mr. Klees: I will stand this down as well until we get the staff in.

The Chair: Thank you, Mr. Klees. May I take it as the will of the committee to consider sections 2 and 3 en bloc?

Mr. Marchese: What did you just ask?

The Chair: Could we consider and vote on sections 2 and 3, seeing there are no amendments proposed so far?

Mr. Marchese: Sections 2 and 3.

The Chair: We've essentially deferred consideration of section 1 for now.

Mr. Marchese: The whole section?

The Chair: Yes.

Mr. Marchese: Section 2 is the next motion we're dealing with here.

The Chair: There are no amendments proposed so far.

Mr. Marchese: Very good. Go ahead.

The Chair: Taking it as the will of the committee, shall sections 2 and 3 carry? Carried.

We'll now proceed to consideration of section 4, the government section labelled number 2. I invite one of the government members—Mr. McMeekin.

Mr. McMeekin: I'll go as long as my voice holds out, and then I'll yield to one of my colleagues, probably Ms. Wynne.

I move that section 11.1 of the Education Act, as set out in section 4 of the bill, be amended by adding the following subsections:

“Consultation

“(1.1) Before the Lieutenant Governor in Council makes a regulation under subsection (1), the minister shall consult with,

“(a) the Ontario Public School Boards' Association;

“(b) the Ontario Catholic School Trustees' Association;

“(c) l'Association des conseillères et des conseillers des écoles publiques de l'Ontario;

“(d) l'Association franco-ontarienne des conseils scolaires catholiques; and

“(e) any other persons and entities that, in the minister's opinion, have an interest in the proposed regulation.

“Notice

“(1.2) The minister shall give the persons and entities listed in subsection (1.1) and members of the public notice of the proposed regulation, in the manner he or she considers appropriate, at least 60 days before the regulation is filed with the registrar of regulations.

“Same

“(1.3) The notice need not contain a draft of the proposed regulation, but shall summarize its content and intended effect.

“Exception

“(1.4) Subsections (1.1), (1.2) and (1.3) do not apply if the regulation, in the minister's opinion,

“(a) is needed to deal with an urgent situation;

“(b) is needed only to clarify the intent or operation of the act or regulations; or

“(c) is of a minor or technical nature.”

This was in response to the government’s repeated assertion that we were going to consult and some of the stakeholders essentially saying, “Prove it.” So we’ve come to the table with this amendment, which we think is in keeping with the spirit of the approach this government is taking. We have tried, in good faith, to be as definitive with respect to this as we can.

The Chair: The floor is open for debate, questions or comments. Mr. Klees.

Mr. Klees: I’ll let Mr. Marchese go ahead.

The Chair: Mr. Marchese.

Mr. Marchese: I’m going to speak against the whole section, when we get to the bill in terms of debate on every section. But as it relates to the changes that have been made, “shall consult with” means nothing to me, and I suspect it ought to mean nothing to boards. It’s true that some boards said, “Please consult us,” and so it’s a good thing that you put it in, but it means nothing to me. In terms of consulting, what does that mean? “Hello, Frank, it’s nice to chat with you. By the way, we’re proposing to make these changes. I know you might not like them, but let’s talk.” So you talk, or you might have a meeting. I don’t know what kind of meeting you might have with the trustees, boards or associations. We don’t have any sense of what those consultations are going to be. Once you’ve made up your mind about what changes you want, the fact that you consult them makes no difference in terms of the effect it will have on changing the direction of the government. So it is of little purpose, to me.

Of interest to me is that you didn’t include any of the teachers’ federations in these discussions. It was important for you to put in that you would consult with boards, but you don’t want to consult with the teachers’ federations. I found that, perhaps, an oversight.

On the other page, you talk about:

“Exception

“Subsections ... do not apply if the regulation, in the minister’s opinion,

“(a) is needed to deal with an urgent situation.”

So consultation will not apply if there’s an urgent situation. I don’t know what that means, but maybe you do, maybe the government does, maybe the minister does, maybe the staff know. I don’t know.

“(b) is needed only to clarify the intent or operation of the act or regulations.”

The minister defines what that might be. Maybe ministry staff people know; I don’t have a clue. And they don’t need to consult if it’s “of a minor or technical nature,” meaning that you define what is “minor” and of a “technical nature.” So you’ve got “shall consult,” but the next page says there are exceptions. So they’ll be able to do a whole lot of things without having to consult you, and if they consult you, it means nothing because you can’t effect any change on their direction.

I speak against this amendment, and I’m going to speak against the whole section when we get to it. I’ll give reasons then.

Mr. Klees: I have a question for the parliamentary assistant. Subsection (1.3) refers to the fact that “the notice need not contain a draft of the proposed regulation, but shall summarize its content and intended effect.” I don’t understand: If the consultation is related to the proposed regulation, why would the actual proposed regulation not be made available for that discussion? What is the purpose of this section?

Mr. McMeekin: The purpose of the entire amendment reflects what we like to think is a relationship of trust in motive. The government has come to the table and said, “We want to be consultative and collaborative.” This is a big improvement, I would say, with respect to the original proposal where it would just be done without any consultation. We’re trying to put a process in place where there is notice, 60 days given, of the intent of a regulation. Obviously you want to be consultative about that. You want to be open to suggestions about the actual wording of the regulations. It would seem to be potentially time-wasteful and perhaps counterintuitive to be doing each and every regulation with a 60-day waiting period. We could go on forever.

We’re trying to come to the table with something that works and that is consistent with our commitment and, frankly, a tremendous enhancement thanks to the stakeholder input that we received from the original proposal. It gives it some real meat.

1630

The Chair: Any further questions or comments on this particular item? No. I’ll proceed to the vote. All those in favour of this particular motion on page 2? All opposed? Motion carried.

We’ll proceed now to the next motion, labelled 2.1, PC.

Mr. Klees: I move that subsection 11.1(2) of the Education Act, as set out in section 4 of the bill, be amended by striking out clause (b).

The Chair: The floor is open for questions or comments. Seeing none, we’ll proceed to the vote if that’s the will of the committee. All those in favour of PC motion 2.1? All opposed? I declared the motion lost.

We’ll move to the next motion, 2.2, PC.

Mr. Klees: I move that subsection 11.1(2) of the Education Act, as set out in section 4 of the bill, be amended by adding the following clause:

“(h) adopt and implement measures to protect the instructional time of pupils.”

The Chair: Questions, comment? Seeing none, we’ll proceed to the vote. All those in favour of PC motion 2.2? All those opposed? I declare that motion lost.

Next motion, 2.3.

Mr. Klees: I move that section 11.1 of the Education Act, as set out in section 4 of the bill, be amended by striking out subsection (3).

The Chair: Any questions, comments, debate? Seeing none, we’ll proceed to the vote. All those in favour of PC motion 2.3? All those opposed? I declare the motion lost.

I now move to government motion 3.

Ms. Wynne: I move that section 11.1 of the Education Act, as set out in section 4 of the bill, be amended by adding the following subsection:

“General or particular

“(4) A regulation made under subsection (1) may be general or particular.”

The Chair: Questions, comments?

Mr. Marchese: Could legislative counsel explain the addition? I think the addition is “particular.” Is that correct?

Ms. Schuh: “Particular,” yes.

Mr. Marchese: And could you explain the need for the word “particular”?

Ms. Schuh: This is the conventional provision that you’ll see in a lot of statutes that authorizes categorizing people and things in the regulation, and dealing with different categories in different ways, so the regulation doesn’t have to treat the entire province in the same way. It’s possible to make distinctions.

Mr. Marchese: If the word “particular” were not there, what would the effect of that be? What could happen? If the word “particular” were absent, what might arise that would be of concern to us?

Ms. Schuh: I’m really not sure of a specific example here. Perhaps ministry staff can speak to that.

Mr. Marchese: Does any ministry staff know? If not, they don’t have to come forward.

Mr. Imants Abols: My name is Imants Abols. I’m legal counsel with the Ministry of Education. The first name is Imants. Abols is the surname.

I’m not sure I understand your question. Are you saying that if you didn’t have the word “particular,” how would this section apply?

Mr. Marchese: “Particular” is an addition. Is that correct?

Mr. Abols: Yes.

Mr. Marchese: Why was it added? What would the effect of not having “particular” be on this legislation?

Mr. Abols: The effect of not having “particular”: As leg. counsel pointed out, this is a sort of standard boilerplate provision that allows you to make regulations that say this regulation applies to group A as opposed to simply applying to everybody in the province. If you took out the word “particular,” the section doesn’t make any sense; you don’t need the section at all. So “particular” is really the essence of the section.

Mr. Marchese: So the word “particular” was an oversight in terms of the initial—

Mr. Abols: This whole section wasn’t there in the original bill.

Mr. Marchese: The whole section wasn’t there but “general” was there.

Mr. Abols: Yes.

Mr. Klees: So this relates or is limited to regulations relating to the duties of the boards. Is that correct?

Mr. Abols: It relates to those new provisions under what is called the provincial interest in education, those reg.-making powers under that section. That’s right.

Mr. Klees: Thank you.

The Chair: Thank you. If there are no further questions and comments, we’ll proceed to the vote. All those in favour of government motion 3? All those opposed? I declare the motion carried.

We’ll now proceed to NDP motion 4.

Mr. Marchese: I understand that moving such a motion would be out of order but I will speak against this section. My attempt here was simply to try to delete, expunge, get rid of this total section, that I will vote against it and speak against it when the time comes.

The Chair: Mr. Marchese, yes, you’re correct that this particular motion, proposal, is out of order. If you need leg. counsel to explain that again, I will offer the floor to her. If not, we’ll proceed to the next item.

Interjection.

The Chair: Proceeding to the next item, PC motion 4.1.

Mr. Klees: It’s item 5.

The Chair: PC item 4.1.

Mr. Klees: Same motion as Mr. Marchese with regard to this matter.

The Chair: Thank you. That is also out of order.

We shall now proceed to the consideration of section 4. All those in favour of section 4, as amended? All those opposed? I declare section 4, as amended, to have carried.

May I take the will of the committee to be to move directly to the vote for section 5, seeing as there are no amendments so far received or proposed? All those in favour of section 5?

Yes, Ms. Wynne?

Ms. Wynne: So we’re voting on section 5?

The Chair: We’re now voting on section 5. All those in favour of section 5? All those opposed? I declare section 5 to have carried.

We’ll now proceed, in section 6, to government motion number 5.

One of the government members.

Mr. McMeekin: I move that subsections 55(8) to (12) of the Education Act, as set out in section 6 of the bill, be struck out and the following substituted:

“Honorarium

“(8) A student trustee is entitled to receive an honorarium from the board in accordance with the regulations, if the specified conditions are satisfied.

“Regulations

“(9) Without limiting the generality of subsection (1), a regulation under that subsection may,

“(a) provide for and govern the student trustee election process, which may be direct or indirect;

“(b) specify qualifications for electors of student trustees;

“(c) specify qualifications for student trustees and the consequences of becoming disqualified;

“(d) govern the number of student trustees who may sit on a board;

“(e) govern student trustees’ terms of office;

“(f) authorize boards to reimburse student trustees for all or part of the out-of-pocket expenses reasonably

incurred in connection with carrying out their responsibilities, subject to such limitations or conditions as may be specified in the regulation;

“(g) provide for transitional matters that, in the minister’s opinion, are necessary or desirable in connection with the implementation of section 6 of the Education Statute Law Amendment Act (Student Performance), 2006.

“Same

“(10) Without limiting the generality of subsection (1), a regulation under that subsection dealing with the honorarium described in subsection (8) may,

“(a) specify a method for calculating the amount of the honorarium;

“(b) specify conditions for the purposes of subsection (8);

“(c) provide that the honorarium for a student trustee who serves two or more terms shall be multiplied by the number of terms served or increased in some other way;

“(d) relate the amount of the honorarium to the honoraria received by members of the board;

“(e) govern the manner and timing of payment of the honorarium;

“(f) provide for the payment of the honorarium to a third party on the former student trustee’s behalf;

“(g) prescribe classes of student trustees or former student trustees and treat the members of different classes differently.

“Same

“(11) Without limiting the generality of clause (9)(a), a regulation under subsection (1) may provide for and govern,

“(a) student trustee elections at different times in the school year; and

“(b) by-elections to fill vacancies.

“Same

“(12) In a regulation under subsection (1), the minister may provide for any matter by authorizing a board to develop and implement a policy with respect to the matter, and may require that the policy comply with policies and guidelines established under paragraph 3.5 of subsection 8(1).”

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The motion substitutes the word “honorarium” for “scholarship” where it appears in this section. You may recall that we heard some stakeholder comment on that. The motion also clarifies that regulations could govern the application and the timing of payment of that honorarium on behalf of the student trustee.

The new section on student trustees in Bill 78 gives the minister the authority to establish regulations authorizing boards to develop and implement a specific policy regarding student trustees, and may require boards to comply with guidelines established by the minister, pursuant to the minister’s general powers under section 8 of the Education Act. As that provision under the general powers section refers to both policies and guidelines, the word “policies” is being added to this section by this motion.

That’s it.

The Chair: Thank you, Mr. McMeekin. The floor is open for questions and comments.

Mr. Marchese: I support this, but have two questions. I suspect the kind of honorarium the government might be contemplating is not going to break the bank or break the backs of school boards, but does the government contemplate giving money for any extra remuneration that might be going to the trustees, given that so many boards are strapped for cash? That’s my first question.

Mr. McMeekin: To the student trustees?

Mr. Marchese: This is going to cost money to boards. We don’t know how much. It may not break the bank, but is the government contemplating giving some extra money that this might entail to boards directly, or will the boards have to find money from whatever sources they’ve got?

Ms. Margot Trevelyan: This is being discussed as part of the grants for student needs process.

The Chair: Could I ask staff to identify themselves just before they begin to speak, please?

Ms. Trevelyan: I’m sorry. Margot Trevelyan at the ministry, director of governance.

Mr. Marchese: So Margot, you said you are discussing—

Ms. Trevelyan: The ministry is discussing the financing of boards as part of the grants process.

Mr. Marchese: On page 2, (10)(d) says “relate the amount of the honorarium to the honoraria received by members of the board.” Can someone explain what that means in terms of how the honorarium is going to be determined?

Ms. Trevelyan: Yes. It says it “may” be determined in that way. The way it will be determined will be established in the regulation, which is still under consultation, but the bill says that, yes, it might be connected with the trustee honorarium. For example, it could be a percentage of what the trustees get or the average or something like that, or it could be something that’s totally unrelated to what the trustees receive as—

Mr. Marchese: Would not (a) have covered that, where it says, “specify a method for calculating the amount of the honorarium”?

Ms. Trevelyan: I don’t know. I can just give you the policy directive. You’d have to ask the lawyers about that.

Mr. Riley: I think it’s just put in for additional specificity, that it might be done by way of a reference rather than specifying it separately.

Mr. Marchese: Not a problem. I think it’s a good thing. That’s fine. Thank you.

The Chair: Thank you. Are there any further questions or comments?

Mr. Klees: Under section 8, what was left out here by way of this amendment is the original reference to the fact that the scholarship, as it was called then, would be paid on completion of his or her term of office. So that no longer appears here. Could you explain the reason for that?

Mr. McMeekin: It’s implied. There was no intent to exclude that. The intent was to clarify the very real

possibility that not all students will go on to post-secondary education.

Mr. Marchese: I think that was the idea.

Ms. Trevelyan: May I add to that?

Mr. McMeekin: Please.

Ms. Trevelyan: The bill says that how the honorarium will be specified will be done in regulation, so that does leave open the possibility of having one of the specifications be a scholarship for attending a university. So the regulation could say, for example, and it has yet to be established, that a student would have to provide one of the following: show acceptance to a post-secondary university, show a business plan for starting a new business—that kind of thing. The word “honorarium” is just used to be more inclusive.

Mr. Klees: Okay. I understand that.

With regard to when it's to be paid, the original intent was that it would be paid on completion of the term. Are you providing some flexibility here? Is it the intent that if someone doesn't complete a term, they would still get an honorarium calculated based on the formula?

Ms. Trevelyan: It will be established in the regulation, but the proposals that have been made to us consistently by the trustee associations and the students have been that if a student has to vacate their seat for whatever reason, their honorarium, whether it's in the form of a scholarship or some other form, would be prorated.

Mr. Klees: With regard to (10)(f), it refers to payment being made “to a third party on the former student trustee's behalf...” Could you explain that, and under what circumstances that might happen?

Ms. Trevelyan: An example of that would be, if it were in the form of a scholarship, the money would perhaps go to a university or a college.

Mr. Klees: And “(g) prescribe classes of student trustees or former student trustees and treat the members of different classes differently.” What do you have in mind there?

Mr. Riley: I think that is just added so that we are sure we have the ability to perhaps make a distinction among former student trustees who proceed to a university setting, others who may go to a college setting, and others who may proceed to some other form of activity or endeavour after the completion of their term. It allows flexibility.

Mr. Klees: I certainly support this amendment.

The Chair: If there are no further questions, comments, issues for debate, we'll proceed to the vote. All those in favour of government motion 5 on section 6? All those opposed? I declare that motion carried.

We now proceed to the vote on section 6. Shall section 6, as amended, carry? Any opposed? I declare that section 6, as amended, has carried.

May I now take it as the will of the committee to consider sections 7 to 9 inclusive, seeing as no amendments or proposed items have been received so far? Yes. We'll move now to consideration of sections 7, 8 and 9 inclusive. All those in favour? All those opposed? I declare those sections carried.

I now proceed to section 10. Government motion 6: a government member?

Mr. McMeekin: Mr. Chair, let me just say for the record that I think you're doing a wonderful job there. You're keeping us right on track. I don't know how you do it. Even those of us who have studied this inside out are having trouble following all the specific numbers, and you just seem to keep us so much on track. So thank you for that. That's probably the last nice thing I'll say about anybody today.

I move that section 10 of the bill be struck out and the following substituted:

“10. Section 170.1 of the act is repealed and the following substituted:

“Class size

“Regulations

“170.1(1) The Lieutenant Governor in Council may make regulations,

“(a) governing class size in schools of a board;

“(b) establishing the methods to be used by a board in determining class size for the purposes of this section;

“(c) requiring boards to,

“(i) prepare reports and plans containing the specified information relating to class size,

“(ii) make the reports and plans available to the public in the specified manner, and

“(iii) submit the reports and plans required to the minister in the specified manner;

“(d) defining terms used in this section for the purposes of a regulation made under this section.

“General or particular

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

“Board duties

“(3) Every board shall ensure that class size in its schools conforms to the requirements set out in the regulations made under clause (1)(a).

“Transition

“(4) A resolution or part of a resolution passed under subsection (4) of this section as it read before the coming into force of section 10 of the Education Statute Law Amendment Act (Student Performance), 2006 has no effect with respect to any school year after the 2005-2006 school year.”

1650

Simply put, this motion would eliminate the board's ability to pass any sort of resolution permitting them to exceed the prescribed class sizes.

The Chair: Any questions, comments or issues for debate or consideration?

Mr. Marchese: If the parliamentary assistant or some staff could speak to “transition”: What does it mean?

The Chair: The floor is open for reply.

Mr. McMeekin: What's the question?

Mr. Marchese: Page 2: the word “transition.”

Ms. Wynne: When there's a new law coming into effect, Mr. Marchese, there need to be transitional sections while the school boards switch to the new regime.

That's what this is about. It's after the 2005-06 school year, right?

Mr. Marchese: So on the matter of class size, it says the following: "A resolution or part of a resolution passed under subsection (4) of this section as it read before the coming into force of section 10 ... has no effect with respect to any school year after the 2005"—not before, but after. It's just not clear to me.

The Chair: Ministry staff.

Mr. Abols: Perhaps I could assist with this. There's a current regulation that governs board resolutions on class size. In that regulation, which will of course be repealed once we repeal these provisions in the act, there's a possibility of boards passing resolutions that apply to more than two school years. So it really would not be appropriate to have a resolution that applies to 2006-07 which may be in conflict to the new regulations governing class size. This provision basically just says, if you have a resolution that applies to 2006-07, it's in effect of no force. I mean, 2005-06 is sort of academic; the school year's going to be over in a matter of weeks. This really deals with 2006-07.

The Chair: Any further questions or comments? Seeing none, we'll proceed to the vote. All those in favour of government motion 6, section 10? All those opposed? I declare that motion carried.

Shall section 10, as amended, carry? All those in—

Mr. Marchese: Chair, on that.

The Chair: Yes, Mr. Marchese.

Mr. Marchese: I realize I should be speaking to the section now as we're doing it. Otherwise, I will have to include all of my comments at the end.

The Chair: The floor is yours, sir.

Mr. Marchese: I had a concern around this, which I raised in committee. The question I asked of the deputy minister was, are class sizes going to be determined by grade, by division, by school, by board or by whatever method will provide us with a clear picture of what's going on? My sense is that the government is obviously going to create the method that will be most flattering or most propitious for them, so I was concerned about how they're going to determine class size. Actually, it's going to be left to regulation; we won't have a clue until that time comes. I was concerned about the fact that they don't mention any caps in this section, that they talk about maximum class size, which isn't defined.

I don't know where the government is going with this. I know they obviously have concerns around what the caps have caused school boards, in terms of consequences for some school boards around space. I don't know why they haven't talked about caps in the bill. If it's something they're proud of, they should include it or at least mention it or at least talk about caps in this section, and there's no mention of it. So I don't know what the intent of all that is.

I often hear the Premier and the former minister talk about caps and talk about reduction of class sizes, and they use it interchangeably. I know that the Premier understands the difference, because his wife is a teacher

or because he has taken an interest in education, but we all know there is a difference between capping and reduction of class sizes.

I have concerns around what the government is trying to do with this whole section around class size, and I'm concerned about how they're going to define it when the time comes for regulations to deal with it. I wanted to express my concern around this whole section and I wanted to do it now.

The Chair: Are there any further questions or comments on section 10 before the vote? Seeing none, we will proceed.

Shall section 10, as amended, carry? All those in favour? All those opposed? I declare section 10 to have carried.

May I take it the will of the committee that we consider sections 11 to 17 en bloc? If there's any comment on individual sections, that is also welcome at this time. Is that agreeable, Mr. Marchese?

Mr. Marchese: I beg your pardon? I didn't—

The Chair: May I take it the will of the committee that we consider sections 11 to 17 en bloc, seeing as no amendments, proposals or items have come forward?

Mr. Marchese: Yes.

The Chair: Seeing no objection to that, may I ask for consideration of: Shall sections 11 to 17, inclusive, carry? All those in favour? All those opposed? I declare sections 11 to 17, inclusive, to have carried.

We'll now move to consideration of a new section, 17.1, also a government motion, page 7.

Mr. McMeekin: I move that the bill be amended by adding the following section:

"17.1 Subsection 208.1(3) of the act is amended by striking out 'pupil representatives' and substituting 'student trustees.'"

That replaces reference to student representatives, assuring consistency of language. That's all it does.

The Chair: Any further questions, comments, debate or issues for consideration?

Seeing none, shall section 17.1, a new section just proposed by the government under motion 7, carry? All those in favour? All those opposed? I declare that new section, 17.1, to have carried.

Section 18, for which we have received no amendments or proposals to date: If there is no further comment on that section, we can proceed to the vote. Fine.

Shall section 18 carry? All those in favour? All those opposed? I declare section 18 to have carried.

We now move to section 19, NDP motion 8. The NDP has the floor.

Mr. Marchese: I move that clause 230(a) of the Education Act, as set out in section 19 of the bill, be amended by striking out "section 11.1 or 170.1" and substituting "section 170.1."

The Chair: Are there any further comments, questions or debate from any other side? Seeing none, we'll proceed to the vote.

All those in favour of NDP motion 8 for section 19? All those in favour? Mr. Marchese, I respectfully ask, are you in favour of your own motion?

Mr. Marchese: Yes, since I moved it.

The Chair: All those in favour of NDP motion 8? All those opposed? I declare that motion to have been lost.

We'll now move to the next item, PC notice 8.1.

Ms. Wynne: Mr. Chair, I believe that's the same motion.

The Chair: Thank you. That's also out of order.

Shall section 19—

Mr. Klees: It's not out of order.

1700

The Chair: Both: duplicate and out of order.

We'll now proceed to consideration of section 19. Those in favour of section 19? Any opposed? Section 19 has been carried.

May I take it the will of the committee to consider sections 20 to 33 en bloc for a whole consideration? If there are any comments on individual sections, that is also welcome at this time. May we consider sections 20 to 33 en bloc?

Mr. Marchese: Sorry.

The Chair: Yes, Mr. Marchese

Mr. Marchese: On 22—sorry. You've got to pay attention here. It's so good to have staff.

The Chair: Fair enough.

Mr. Marchese: A lot of staff.

The Chair: I'll intervene there, Mr. Marchese. I'll give you the floor for section 22.

May we then consider sections 20 to 21 en bloc? Seeing as that's the will of the committee, all those in favour of sections 20 to 21? All opposed? Sections 20 and 21 carry.

Mr. Marchese, you have the floor for section 22.

Mr. Marchese: This is the personal liability of members' boards, which I wanted to speak against. This is something that has concerned me in the hearings. It is an issue that the Tories introduced, in terms of personal liability. The government claims that they have a new relationship of respect with teachers and trustees. This particular motion undermines that relationship.

So I wanted to speak against this section as something that does not respect trustees or their decision-making powers. We MPPs are not liable for the same kind of actions. City councillors are not liable in the same way, that I'm aware of—maybe a city councillor might speak to that—but trustees are personally liable, or liable as a board. I wanted to simply say that in that section I was a bit offended that the Liberals have kept it rather than dropping it.

The Chair: Ms. Wynne.

Ms. Wynne: As I said in one of the sessions with a delegate, I did ask this question of legal counsel, and my understanding, Mr. Marchese, is that the bill, as it stands now, would leave school trustees exactly as liable as city councillors. That was the question I asked of legal, and that was the advice that I've been given. So it's the same personal liability as municipal councillors. As a former trustee, I was very concerned that school trustees not be more liable than city councillors.

Mr. Marchese: Oh, I see. Just in response to that, the fact that city councillors are liable, I didn't know that, but the fact that they are equally liable is something that I object to, because so much of what city councillors do depends on provincial obligations or transfers or downloading that has been imposed on city councillors.

Interjection.

Mr. Marchese: Yes, I know, but the Liberals have kept those downloads onto the backs of the municipalities. For them to be held liable for about a couple of billion dollars worth of provincial responsibilities that they have maintained on city councillors and the fact that we're making trustees liable for so much of what ought to be provincially dealt with by adequate funds, to simply say to boards, "Unless you comply by making sure that you have a balanced budget and unless you cut necessary programs"—because that's what it implies, as the Peel Catholic has done—to force them to do that when their obligation is to serve their boards—students, teachers and parents—where some trustees argue that they cannot balance the budget because to do so would be to cut essential programs to those students, when they decide to do that, if they decide to do that, they're liable.

What we're saying to trustees is "Too bad, so sad. You've got to balance your books no matter what. We may not be giving you enough money, but that's not our problem. You'll simply have to do your duty to obey the provincial interest."

It surprises me that we would defend that. We wouldn't have defended that as trustees when we were at the Toronto board. I certainly would never have defended such a thing. I think it's wrong. I think trustees have a duty to be able to say, "We will not make cuts that involve programs, because we do not get enough money from the province." I find this section offensive. I found it offensive when the Tories did it as a way of forcing boards and trustees to comply, and I find it offensive while the Liberals are doing it, for the record.

The Chair: Thank you, Mr. Marchese. Are there any further questions, comments, issues for consideration? I'll move to the vote, then.

All those in favour of section 22? Any opposed? I declare section 22 to have carried.

May I take it as the will of the committee that we consider for block consideration sections 23 to 33 inclusive? Any comments on individual sections are now welcome at this time. I'm taking that as a yes. We'll proceed to the vote.

Shall sections 23 to 33, en bloc, carry? All those in favour? All opposed? Those sections so named have now carried.

I now proceed to section 34, government motion 9.

Mr. McMeekin: I move that section 34 of the bill be amended by adding the following subsections:

"(1.1) Clause 266(2)(a) of the act is amended by striking out 'subsections (2.1), (3) and (5)'" and substituting 'subsections (2.1), (3), (5), (5.1), (5.2) and (5.3).

“(1.2) Clause 266(2)(b) of the act is amended by striking out ‘subsection (5)’ and substituting ‘subsections (5), (5.1), (5.2) and (5.3).’”

Subsection 266(2) on privilege of pupil records references further subsections in the provision. The proposed amendment includes proposed new subsections in cross-references. The proposed motion would provide consistency with the proposed new provision on pupil records.

The Chair: Questions and comments?

Mr. Marchese: Just to state an objection, it says here, “Exception:

“(5.3) The designated person may refuse to hold a hearing if,

“(a) in his or her opinion, the request is trivial, frivolous or vexatious....”

I’m concerned about that because the board controls the entire process. At the very least, the hearing should be compulsory to guarantee fairness. The request might still be refused, but the parents would still have a right to be heard. This presents a problem inasmuch as someone can decide that in his or her opinion, the request is trivial, frivolous or vexatious. I consider that to be a problem. Those of us who have been trustees and active parents know what this implies in terms of being a pest, often, sometimes to teachers, sometimes to principals, sometimes trustees. But many of these people are very dedicated and they spend a great deal of energy, sometimes, to seek out justice or to seek out what, in their mind, is the right thing. This simply says that that hearing may or may not happen. I think it’s a mistake, by the way. I wanted to state it for the record.

The Chair: Any further comments? Seeing none, we’ll proceed to the vote. All those in favour of government motion 9, section 34? All opposed? I declare that motion to have carried.

Shall section 34, as amended, carry? All those in favour? All those opposed? Section 34 is carried.

May I now take it as the will of the committee that we consider sections 35 and 36 together? Are there any comments, please? Seeing none, we’ll now consider those sections.

Shall sections 35 and 36 carry? All those in favour? All opposed? I declare sections 35 and 36 to have carried.

We’ll now move to government motion 10, section 37.

Ms. Wynne: I move that section 267 of the Education Act, as set out in section 37 of the bill, be amended by adding the following subsection:

“Same

“(5) For greater certainty, a teacher does not have more than one new teaching period.”

In the bill as it stands, in the new teacher induction program the new teaching period is designated as potentially two years, and what this says is that there can’t be a series of two new teaching periods, so that can’t be four years.

1710

The Chair: Further comments, questions on any side? Seeing none, we’ll proceed to the vote.

Those in favour of government motion 10 of section 37? All opposed? I declare that motion to have carried.

Shall section 37, as amended, carry? All in favour? All opposed? I declare that section to have carried.

May I ask now for block consideration of sections 38 to 40, inclusive? Any comments on any of those sections are welcome now.

Seeing none, may I ask: Shall sections 38, 39 and 40 carry? All in favour? All opposed? Sections 38 to 40 carry.

We now move to section 41: government motion 11.

Ms. Wynne: I move that section 277.29 of the Education Act, as set out in section 41 of the bill, be amended by adding the following subsection:

“Extension of time

“(6) If the board extends the teacher’s new teaching period in accordance with the regulations, the extension also applies to the period of 120 school days within which an appraisal mentioned in paragraphs 1, 2 or 3, as the case may be, of subsection (2) must be scheduled.”

What the bill currently proposes is that if a new teacher doesn’t successfully complete the new teacher induction program in the first 12-month period, then the teacher has to be scheduled for additional appraisals and all of those appraisals have to be completed within the 24-month new teaching period, which I just referenced in my last comments. But what this amendment says is that an additional 120 days as an extension could be provided if there were some reason for that—if the teacher was going to a new school and needed another opportunity to complete that new teacher induction program.

The Chair: Any further questions, comments on government motion 11? Seeing none, we’ll proceed to the vote.

All those in favour of government motion 11 of section 41? All in favour? All opposed? I declare that motion to have carried.

Shall section 41, as amended, carry? All in favour? All opposed? That section—

Mr. Marchese: Mr. Chair, I know you like to go fast. I’m trying to desperately follow the speed of the process here and I’m trying to find 38 and 39 on all these pages. I realize I’ve got to move fast, right? So I wanted to say at some point here—and I forget where this motion is, but 38, 39, 40—we’re getting there to the principal, 41. Where are you now? Sorry.

The Chair: We are now considering section 41, government motion 11. The clerk will actually give you the motion if you don’t have it already, and the floor is yours.

Mr. Marchese: Okay. I wanted to simply say here that the Ontario College of Teachers—yeah, I’m there now. I just needed to flip the pages.

Since the college of teachers used to oversee the new-teacher test, why does the college not oversee this new teacher induction process? That’s the question I had of the government.

Ms. Wynne: You know what? I don’t know if you’re asking a legal question or a policy question.

Mr. Marchese: It's a political one, yes.

Ms. Wynne: Okay. What I can tell you, Mr. Marchese, is that there has been a long and full process with the federations at a working table, with boards, with all the people involved, with the principals and the teachers, developing the parameters of the new teacher induction program. So this is the model that was struck by that working table. If there's more to that, then I'll ask staff to come and fill it in, but that's the model that has been settled upon.

Mr. Marchese: I just find it a bit strange. The college of teachers is normally this body that would be doing this—they had control of the so-called teacher test, and this new teacher induction program is something that I would think falls under their jurisdiction. Why doesn't it fall under them, is a question that boggles. What you're saying is, there was a group that—

Ms. Wynne: You're questioning the role of the principal—

Mr. Marchese: I'm questioning why the ministry's doing this and not the college of teachers.

Ms. Wynne: Why the ministry's doing it? Okay. I'm going to ask staff to answer that question.

Ms. Scarff: Elisabeth Scarff from legal. Just as a clarification, the college actually did not administer or control the qualifying test. It was the minister. It was an outside body that did it on behalf of the minister. The college just recorded or noted if the test was successfully completed. The induction program is being administered by the boards and employers themselves.

Mr. Marchese: Is there a reason why the College of Teachers wouldn't be doing this?

Ms. Scarff: I think that's more a policy question but I think the point is, because it's part of the induction of a new teacher in their new employment circumstance, it is the employer, particularly the principals, who would have the day-to-day or routine, ongoing—

Ms. Wynne: I obviously didn't do it very well, but that's the point I was trying to make, Mr. Marchese, that the discussion that's gone on with the sector about how teachers need to be supported, especially in that first year when they come into the system, the policy decision is that they're best supported by the system that they're working in.

Mr. Marchese: Not a problem. Thank you.

Ms. Wynne: I would think you would agree with that.

Mr. Marchese: Yes.

Ms. Wynne: Yes. Thank you.

The Chair: Thank you. Are there any further questions?

Mr. Marchese: Yes. On this section still, I remember raising a number of times in the hearings that principals are the ones who oversee the induction programs of teachers, and there's nothing in this section that talks about who does the induction process for new principals, who does the oversight for principals. Why wouldn't the government deem it fit to, in this section, talk about having principals whose appraisal would be done by

superintendents? Why isn't it stated in the bill? Why wouldn't you do that?

Ms. Wynne: What I can tell you, Mr. Marchese, is that there is a discussion with the principals around the review of their performance. Are you asking about initial training? I mean, there already are qualifying courses that principals have to take.

Mr. Marchese: I understand, but teachers go through the college like everybody else, and then they have an induction program. If a new principal gets into a classroom, there is no induction program for new principals. Do you think that's not something they need?

Ms. Wynne: That's not how the process has evolved. I think the issue was that, with the new teachers, we were looking for a way of retaining and supporting new teachers in the system. Principals are at a completely different stage in their career; they've gone through a different process. The issue of review of principals is one that is under consideration, but the issue of induction has to do with the new teachers.

Mr. Marchese: I just want, for the record, to simply say that I think it's a mistake for the government not to have an induction process for new principals. The fact that they've been around doesn't mean that they know how to be good principals. In the same way that we're getting rid of a teacher qualifying test with induction programs to help teachers, we should have an induction process for new principals to help principals. A peer review, in my view, is simply not the right way to go, which is I think the kind of discussions you might be having with principals. I think principals should be appraised by superintendents and not by a peer body, and it should be stated in this bill. I'm disappointed it's not here.

The Chair: Thank you. Are there any further questions and comments on that?

Mr. Klees: With regard to the consultations that took place with the sector relating to this, was the college of teachers consulted?

The Chair: The question is before the floor.

Ms. Wynne: Was the college consulted on—sorry?

Mr. Klees: You mentioned that there was a broad consultation with the sector relating to this teacher induction program. Was the college consulted?

Ms. Wynne: Are you asking whether the college was on the working table? Yes, the college was part of that discussion.

The Chair: If there's no further discussion, I remind the committee we've already carried motion 11. We now proceed to the vote.

Shall section 41, as amended, carry? All those in favour? All opposed? I declare section 41, as amended, to have carried.

At a slower pace, I ask once again if it be the will of the committee that sections 42 to 49, inclusive, be considered for block vote. Any comments on any of those sections are now welcome at this time: 42 to 49.

May we proceed to that, Mr. Marchese?

1720

Mr. Marchese: Yes, go ahead.

The Chair: I will now ask for a vote: Shall sections 42 to 49, inclusive, for which we have received no amendments or items or proposals, carry? All those in favour? All those opposed? I declare those sections to have carried.

We'll now proceed to consideration of section 50, a PC motion, 11.1.

Mr. Klees: My intention was to invite the committee to strike down this entire section but I know that wouldn't happen, unfortunately. So I'll move this motion.

I move that section 50 of the bill be struck out and the following substituted:

"50. Section 4 of the Ontario College of Teachers Act, 1996 is amended by adding the following subsection:

"Same

"(2.1) At least two members of the council shall be school administrators."

The Chair: Questions or comments? Seeing none, we'll proceed to the vote on PC motion 11.1 for section 50. All those in favour? All those opposed? I declare that motion to have been lost.

We proceed to the next item, which is a PC notice, 11.2. You have the floor, Mr. Klees.

Mr. Klees: I think I have made it very clear, and there have been many submissions in the course of committee hearings related to this section of the bill, that I believe, along with many stakeholders—we had very broad submissions, four former Ministers of Education and two former registrars. There were many concerns expressed about what the government is doing, what this section represents. It strips the Ontario College of Teachers of its independence. It gives absolute control to the teacher unions with regard to the functioning of the college of teachers. It was never the intention that the college of teachers be controlled by teacher unions. There was always the intention that there be public appointees that would be meaningful to represent the public interest.

This entire section I believe reveals, first of all, that this government is prepared to turn its back on the need for an independent regulatory body to oversee this important profession and is clearly a follow-through on an election promise that I believe was ill-conceived in the first place. The fact that the government has gone to the extent of making additional appointments to the council of so-called classroom teachers—and through submissions over the course of the hearings, we have heard what that definition represents.

We have heard submissions from former registrars who spoke very openly about caucusing that takes place prior to council meetings, which certainly was never the intent and should not be how this council functions. Nevertheless, the government chose to acquiesce to the demands of the teachers' unions to change the structure of this council. Concerned, no doubt, about the perception that the public will have about this structure, they then go to the extent of including in this section a public interest committee.

What is confusing even the teachers' unions is why the government and why the minister feel it necessary to put in place this public interest committee. There are public appointments that are going to still be made to the council. If, in fact, there is not a concern that those classroom teachers would control this council, then surely the public appointees to the council would ensure that there isn't a conflict and would ensure that the public interest is served.

It's very obvious that even the minister and the government don't trust that process, and so they overlay the regulatory council with this additional bureaucratic structure that now is going to be of some other ilk of public appointment, who then have the responsibility to ensure that the public interest is served. On the one hand, the government denies that there is any control on the part of a specific group, namely, the teachers' unions, here; on the other hand, they don't trust themselves even in that and so they put in place this public interest committee.

I have to say, on behalf of who I believe is the vast majority of Ontarians who would disagree and do disagree with the government's initiative here on this bill, that we are strongly opposed to it. I believe the government will regret their actions on this. I think it's bad public policy. I don't believe it will serve the public interest. We, of course, will be voting against this section. I believe the government will, as I said before, live to regret the stripping of the independence of the college of teachers through this section.

The Chair: Further questions?

Mr. McMeekin: Just a comment in response to my friend opposite, who I think is insisting on too strict a paradox. On the one hand, he talks about not wanting to see a majority of the members, the "working teachers," and makes that point rather eloquently, and then decides to also critique a provision which he then went on to explain was, in his opinion, put in place to counter the very earlier argument he made. So it just strikes me as passing strange.

I suppose it would be appropriate to make a couple of other passing references: first, to the oath of office that's required. By the way, the research has shown that many of the regulatory bodies require it, including the Queen's Park oath of office to protect the public interest.

I think it also needs to be said that there is a certain sense in some quarters that we're in a transition period from the very poisoned atmosphere that was present, specifically with the previous government, and that in the context of that transition, this is something that we feel, in addition to precluding certain officials who may have another interest from standing for office, the oath and the public interest research committee, that this just makes a lot of sense, particularly as we try to get through the bumps that have been put there historically.

Mr. Klees makes reference to the vast majority of Ontarians supporting his position. I would dispute that. I think the vast majority of Ontarians, particularly those who monitor and take a real interest in public education, have got a lot more trust for teachers than they generally

do governments. That has been my experience in my community and I think of some of the stakeholders here. But I can tell you that the vast majority of Ontarians made it very clear in the last provincial election that they sure as sure as heck didn't like what the previous government was doing to public education in Ontario. So if we want to talk about the vast majority, I think we need to put that on the record as well.

1730

The Chair: Are there any further questions and comments on this PC notice 11.2?

Mr. Marchese: I just wanted to defend the teachers in this regard—

Mr. McMeekin: Good for you.

Mr. Marchese:—rather than the government. I voted for the college of teachers a long time ago, just for the purposes of those Liberals who don't know that. I'm not a big fan of the college of teachers, I have to admit. They have a useful role, I will grant, inasmuch as they administer or supervise the oath. They obviously give the teaching certificate and/or take it away. They're a disciplinary body for those teachers who obviously are a problem for a variety of reasons, either because it's a competency issue or a sexual abuse issue—whatever it is. In this regard, they play a useful role. I think it's a huge administration to do these things that I don't believe we need. On the other hand, one reason to have it is so that if a teacher does get fired, for whatever reason, they're not able to move around from one board to the other undetected. The college of teachers would simply be able to provide that role. In that regard, they're useful. But other than that, I've got to tell you that this huge bureaucracy is sometimes, in my view, a whole waste of pecunia.

But I wanted to defend the fact that teachers were attacked by a number of deputants and they were referred to as unions, so they were synonymous: If you're a teacher, you're a union. It was unbelievable to me that someone could make that claim, particularly coming from those who were formerly teachers. Teachers go there with the intent to serve, with the objectives that are set out for the college of teachers. It's inconceivable to me that a teacher is going to go there and not protect the interest of the community. It's inconceivable that a teacher is going to go there and say, "Ah, this teacher is incompetent, but because he or she is a teacher, I'm going to protect them." I've never heard of a case, anywhere, where a teacher is going to protect an incompetent teacher, where it affects their own reputation and it affects the reputation of teachers in general.

I just don't understand how the Tories and others could make these claims, these incredible claims, notwithstanding that I have no love for the college of teachers.

The attack on teachers as being unions is just so totally wrong and indefensible that I wanted to put that on the record. I believe the teachers who go there will simply represent students, will represent teachers, will represent parents fairly, and then, when there's abuse, my feeling is they will all act in the best interests of students.

The Chair: Mr. McMeekin.

Mr. McMeekin: For the record, I agree with what Mr. Marchese said.

The Chair: Mr. Klees?

Mr. Klees: I would like to respond to Mr. McMeekin's comments and also Mr. Marchese's.

I find it passing strange that because teachers are referred to as union members that somehow is an attack on teachers.

Mr. Marchese: What do you mean—it wasn't said politely and nicely? Is that what you're thinking?

Mr. Klees: It was never said in any other way, Mr. Marchese. The reality is—let's put it this way—that most teachers in this province are in fact union members.

Mr. Marchese: But they don't go there to represent the union.

Mr. McMeekin: That was something—

Mr. Klees: Chair, I respected Mr. McMeekin when he was making a statement. I respected Mr. Marchese. I would ask the same from them.

The Chair: The Chair agrees. The floor is Mr. Klees's, please.

Mr. Marchese: Go ahead, Frank.

Mr. McMeekin: Just be straight with us, Frank.

Mr. Klees: I expected more of you, Mr. McMeekin.

The point I was making is that to refer to teachers as union members was not intended, and isn't intended, by anyone, to be disparaging. It's simply a reality.

Over the course of the hearings we have heard from people of all political stripes, former teachers, current teachers, who happen to have a different opinion from Mr. McMeekin and his Liberal Party and Mr. Marchese. It's interesting how, in the discussions around these issues, anyone who has a different opinion is somehow an underclass in this province and somehow doesn't have the authority or the right to express their opinion. I find that very interesting and, in fact, to some people it's intimidating.

The truth is that the former Liberal education minister made the same statement. Sean Conway, very publicly, on a TVO program said the following: "The college of teachers already has a majority of the profession on the council. The difference is that this omnibus bill now says we're going to add five more from the unions." Shame on Mr. Conway, isn't it, that he would refer to these people as union members, but he does: "Add five more from the unions, which will now give a majority of the unions on the council, which is a completely different concept." Interesting.

Bette Stephenson, on the same program, made this statement: "Far too many under the influence of the federation of teachers." Former NDP minister—Mr. Marchese, do you remember Dave Cooke?

Mr. Marchese: I do know him very well

Mr. Klees: Interesting. Here's what Dave Cooke had to say on that program: "There are discipline hearings. When a discipline hearing happens, right now a majority of the federation—there is not a majority of the federation on the discipline panel but there's a majority of

teachers. It might be a director and so forth. At the same panel, there will be a lawyer hired by the federation to protect the teacher. So now you're going to have a majority of people from the federation passing judgment on a discipline hearing that their federation is fighting. It doesn't make sense." That was the NDP education minister. Disparaging comments towards teachers and union members? I don't think so. He expressed his professional opinion in the interest of ensuring that there is independence and objectivity at the college of teachers.

Sean Conway: "Well, I'm a former Minister of Education, and I believe very strongly, as the son and grandson of teachers, that it is a professional calling and I expect professionals to behave professionally, particularly when it concerns the public interest. I expect them to have strong organizations to protect their occupational interests, but the public interest is not necessarily the same thing." The point that Sean Conway, the former Liberal education minister, is making is that there is a difference between looking after the professional interests of teachers and looking after the public interest in the broader context. Sean Conway, the former Liberal Minister of Education, strongly opposes what this government is doing. The former NDP Minister of Education, Dave Cooke, strongly opposes what this government is doing, and we strongly oppose what this government is doing.

1740

The Chair: If there be no further questions, comments on PC notice 11.2, I inform the committee that that notice is, in fact, out of order, so we'll not be voting on it.

We'll now proceed to consideration of section 50. Shall section 50 carry? All those in favour? All those opposed? I declare section 50 to have carried.

We will now consider section 51, for which no amendments or proposals have so far been received. If there are no comments on it, we'll proceed to the vote. Shall section 51 carry? All those in favour? All those opposed? I declare section 51 to have carried.

We'll now move to consideration of section 52, government motion 12, Mr. McMeekin.

Mr. McMeekin: I move that subsection 52(1) of the bill be amended by striking out "six" and substituting "seven."

By way of a very quick explanation, there is a provision in regulation for a specific extension of one year. This just makes it all consistent with what had previously been put in place.

The Chair: Are there any comments, questions, considerations on that? No. We'll proceed to the vote. All those in favour of government motion 12? All opposed? Government motion 12 has carried.

Government motion 13, Mr. McMeekin.

Mr. McMeekin: I move that subsection 5(3) of the Ontario College of Teachers Act, 1996, as set out in subsection 52(2) of the bill, be amended by striking out "six" and substituting "seven."

Remarks: ditto the previous remarks.

The Chair: I will proceed to the vote. All those in favour of government motion 13? All those opposed? I declare government motion 13 of section 52 to have carried.

We now have the next item, PC notice 13.1. The floor is yours, Mr. Klees.

Mr. Klees: I withdraw.

The Chair: We'll now proceed to the consideration of section 52, as amended. All those in favour? All those opposed? I declare section 52, as amended, to have carried.

We have a proposal for a new section, 52.1, government motion 14.

Ms. Wynne: I believe that this motion may be out of order. Could we have a ruling on it?

The Chair: It is out of order, Ms. Wynne.

Ms. Wynne: Okay. We withdraw this motion.

The Chair: We'll now proceed to section 53, an NDP motion, which I respectfully remind this committee also is out of order, notice 15, but the floor is yours, Mr. Marchese.

Mr. Marchese: I want to get back to section 1, so I want to leave as much time as we can to get back to that section. I'll simply speak to section 17.1 as we get to it, and that will take care of my motion that's there.

The Chair: Do I take it that you have withdrawn?

Mr. Marchese: Withdrawn, yes.

The Chair: We'll proceed to the next item, which is PC notice 15.1. I respectfully remind the committee that's also out of order, but the floor is yours.

Mr. Klees: It's withdrawn.

The Chair: It's withdrawn. Shall section 53 carry? All those in favour?

Mr. Marchese: That's what I want to speak to.

The Chair: The floor is yours, Mr. Marchese.

Mr. Marchese: For the record, I want to say that I was offended by this particular establishment of a public interest committee. I'm so upset that I'll speak to it when we get to third reading; I'll speak to it wherever I go. I think this is an egregious waste of money. The government is somehow—I don't want to justify for them why they're doing it. It's incomprehensible to me.

This section is not needed. We don't need another oversight committee of the college of teachers; we simply don't. You're going to establish a committee of three or five well-paid individuals who are going to need staff to help them. To do what, is the question. They're going to oversee the oath, they're going to oversee whatever it is that the college of teachers is doing, and they're going to give them advice on God knows what; I don't know.

It simply says that the college of teachers is not to be trusted, that we're afraid of what the college of teachers might do. And I don't know what they would be afraid of. I don't know what these people are going to be doing. It's going to cost a whole lot of money. I hope the government will tell us how much these people are going to cost us.

The government is broke. They don't finance boards of education adequately. The Conservative funding formula is still in place. The Dufferin Catholic board proved to us—at least the investigative report proved—that we're short of money. How they can find money to have a new public interest committee to oversee a college of teachers is beyond me. I hope the government is going to find spokespeople to go and defend this special public interest committee, but I'm going to be attacking them from here until this government is in place, and the next government, if they're re-elected. So they'll be hearing from me.

The Chair: Any further questions and comments? Seeing none, we'll proceed to the vote. I remind the committee there were no amendments.

Mr. Marchese: Can we have a recorded vote on this one, please?

Ayes

Balkissoon, Leal, McMeekin, Ramal, Wynne.

Nays

Klees, Marchese.

The Chair: I declare section 53 to have carried.

May I take it as the will of the committee to consider sections 54, 55 and 56 en bloc for the vote? If there are any comments on any of those individual sections, those are welcome right now as well. We'll proceed to the vote.

Mr. Klees: Recorded vote.

Ayes

Balkissoon, Leal, McMeekin, Ramal, Wynne.

Nays

Klees.

The Chair: I declare sections 54, 55 and 56 inclusive to have carried.

We'll now proceed to a new section proposal, section 56.1, PC motion 15.2. I respectfully remind the committee that that notice is out of order, but the floor is yours, Mr. Klees.

Mr. Klees: I'll withdraw.

The Chair: Thank you, Mr. Klees.

Ms. Wynne.

Ms. Wynne: Mr. Chair, I have a motion, of which I have copies. It's an amendment to 57(7). I'm just wondering if this is the appropriate time to introduce it.

The Chair: Yes. Perhaps we'll consider the NDP and PC, and then we'll move to the government motion that you are now providing us with.

Mr. Marchese: I withdraw all of the amendments that I have put forth—because they're redundant now—so

that we don't have to repeat each in its time and can get to the other matters that have not been dealt with.

The Chair: That's for all the sections that are remaining?

Mr. Marchese: Yes, all of them.

The Chair: Thank you, Mr. Marchese.

Mr. Klees: Chair, in the interest of time, I will do the same.

The Chair: Thank you for that, Mr. Klees.

The floor is now open for government motion 16.2, section 57. The floor is the government's.

Mr. McMeekin: I move that subsection 57(7) of the bill be struck out and the following substituted:

“(7) Subsection 40(1) of the act is amended by adding the following paragraphs:

“14.1 prescribing additional duties of the public interest committee;

“14.2 requiring that a panel established to hear or review a matter relating to a principal or vice-principal must include a principal or vice-principal.”

Paragraph 14.1 is not new; 14.2 is.

The Chair: We're deeming this motion government motion 16.2. Are there any further questions and comments on this motion? Seeing none, we'll proceed to the vote. All those in favour of government motion 16.2? All those opposed? I declare this to have carried.

With the withdrawal of NDP and PC motions for section 58, we'll proceed directly to the vote. All those in favour of section 58?

Interjection.

The Chair: I'm sorry. All those in favour of section 57, as amended? All opposed? I declare that carried.

We'll now consider section 58 with the withdrawal of motions. All those in favour of section 58? All those opposed? I declare section 58 to have carried.

House division bells were heard to ring.

The Chair: Seeing as we are now in the middle of a vote, I'll take direction from the committee. We can resume immediately after the vote, if that is the will of the committee.

Mr. Marchese: We just have to do the first section. So if we could get some answers to the questions I had asked with a quick comment, we might be able to end it before the vote.

Ms. Wynne: But can we move all these amendments? We've got four more amendments to section 59.

Mr. Ramal: Can we move them en bloc?

Mr. Marchese: Move them en bloc, please.

Mr. McMeekin: Motions 19 to 22 moved en bloc, Mr. Chair.

The Chair: Government motion 19 of section 59—and we're mindful of the vote time as well.

Mr. McMeekin: I move that subsections 59(2) and (3) of the bill be struck out and the following substituted:

“(2) Clauses 42(1)(c) and (d) of the act are repealed.

“(3) Subsections 42(2) and (3) of the act are repealed.”

The Chair: All those in favour of government motion 19? All those opposed? I declare that motion to have carried.

Shall section 59, as amended, carry? Carried.

Government motion 20 is out of order. I respectfully request them to withdraw.

Mr. McMeekin: Okay.

The Chair: Shall section 60 carry? All those in favour? All those opposed? Section 60 is carried.

Block consideration of 61 to 64.

Mr. McMeekin: Carried.

The Chair: Any opposed? None. Carried.

Section 65: government motion 21.

Mr. McMeekin: I move that subsections 65(1), (2) and (3) of the bill be struck out and the following substituted:

“65. (1) Section 2 of The Upper Canada College Act, being chapter 373 of the Revised Statutes of Ontario, 1937, is amended by striking out ‘seventeen’ and substituting ‘fifteen.’

“(2) Clause 3(1)(a) of the act is amended by striking out ‘six’ in the portion before subclause (i) and substituting ‘four.’

“(3) Subclauses 3(1)(a)(ii) and (v) of the act are repealed.”

We have brought agreement on all of that from the parties involved.

The Chair: Proceeding directly to the vote, all those in favour? All those opposed? I declare government motion 21 to have carried.

Shall section 65, as amended, carry? All those in favour? All opposed? Carried.

Shall section 66 carry? All those in favour? All opposed? Carried.

Section 67: government motion 22.

Mr. McMeekin: I move that subsection 67(2) of the bill be struck out and the following substituted:

“(2) Sections 2, 6, 16, 17.1, 37, 39 to 45, 47, 55 and 56 come into force on a day to be named by proclamation of the Lieutenant Governor.”

The Chair: All those in favour of government motion 22? All opposed? That’s carried.

Shall section 67, as amended, carry? All those in favour? All those opposed? Carried, as amended.

Shall section 68 carry? All in favour? Opposed? Carried.

We now move to the deferred item on section 1. Ministry staff, the floor is yours.

Ms. Fran Rowe: My name is Fran Rowe, and I’m counsel to the education ministry.

Mr. Don Young: Don Young, from the information management branch at the ministry.

Ms. Rowe: We have here four questions generally. I think I’ll start with the most important one first of all, and that is whether the Information and Privacy Commissioner agrees with this.

We met with the assistant commissioner for privacy, Ken Anderson, and one of his staff on two different

occasions to come to these amendments. They were interested in making sure there was some tweaking that they felt was necessary to protect privacy. In particular, they didn’t think that saying we would be able to collect and use information “reasonably necessary” for these purposes—they wanted to make sure it was—

Mr. Marchese: That wasn’t my question; that was somebody else’s. My question is, why are we doing this? What kind of information are you collecting? Is it on students? On teachers? How will this information be stored? Where will it be stored? To whom will it be made available? Will the private operators have access? Those kinds of questions were the questions I asked you. Do you have any sense of why we’re doing this?

Mr. Young: Yes. We’re doing this basically just to provide better information on which to make decisions at all levels. So we will be collecting information on students, teachers, courses, classes—that sort of thing. In essence, it’s to allow us to better support allocation of resources in a sensible way, development and monitoring of policy initiatives as well as statistical research.

Mr. Marchese: Can I ask you, are boards collecting this kind of—

The Chair: Mr. Marchese, I’d just respectfully remind you that we now have four minutes, 18 seconds to the vote.

Mr. Marchese: Yes, I know. Can boards collect information now? Are they doing it now?

Mr. Young: Yes. In fact, the boards—

Mr. Marchese: So what’s different from what you’re doing and what they’re doing?

Mr. Young: What we’re doing is collecting information province-wide, and we’re able to store that and provide longitudinal knowledge.

Mr. Marchese: Mr. Chair, we don’t have enough time, but just for the record, I am very wary of this section, in the same way that I wanted to oppose section 4, which centralizes power in the ministries as it relates to special ed, as it relates to outcomes. In essence, the province is going to be able to control everything centrally; there’s very little role for the boards. I wanted to oppose it before when we were doing it, and for the record, I want to say that I am opposing it now and will do so when we get to debate on the bill.

The Chair: Thank you. Government motion 1: All in favour? All opposed? I declare it carried.

Shall section 1, as amended, carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 78, as amended, carry?

Interjections: Carried.

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

Thank you. Committee adjourned.

The committee adjourned at 1754.

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