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Thursday 3 May 2012

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Jeudi 3 mai 2012

**Standing Committee on
Justice Policy**

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

**Comité permanent
de la justice**

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

Chair: Laura Albanese
Clerk: William Short

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
JUSTICE POLICY**

**COMITÉ PERMANENT
DE LA JUSTICE**

Thursday 3 May 2012

Jeudi 3 mai 2012

The committee met at 0907 in committee room 1.

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

Consideration of the following bill:

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

The Chair (Mrs. Laura Albanese): Good morning, everyone. We're calling the Standing Committee on Justice Policy to order. Today we have the clause-by-clause consideration of Bill 34, An Act to repeal the Public Works Protection Act, amend the Police Services Act with respect to court security and enact the Security for Electricity Generating Facilities and Nuclear Facilities Act, 2012.

Before we proceed, all the members have on their desk a document prepared by the research officer in regard to a motion that was presented last week. Any discussion on that? Mr. Yakabuski?

Mr. John Yakabuski: Pardon me, I was reading something. I'm sorry, Madam Chair. I should be paying attention.

The Chair (Mrs. Laura Albanese): Each member has a document on their desk prepared by the research officer. It was requested by the committee last week in regard to a motion that was moved on the independence of the judiciary in the bill. So it's in front of everyone's desk. Any discussion on that? Ms. Wong?

Ms. Soo Wong: Thank you, Madam Chair. I just want to seek some clarification on the motion that was submitted by Mr. Hillier last week, because the motion was really explicit. Last week, when we moved a motion—

The Chair (Mrs. Laura Albanese): Ms. Wong, just one moment. I just want to specify that the clerk is distributing a copy of the motion just to refresh everyone's memory. Thank you.

You may continue.

Ms. Soo Wong: The motion that was submitted by Mr. Hillier said, "I move that we adjourn the Standing Committee on Justice Policy from clause-by-clause consideration of Bill 34 until this committee has deliberated on whether this legislation breaches the independence of the judiciary."

I just want to get some clarification, first of all, Madam Chair, because, as we know, Bill 34, in section 140(1) it's clearly stated—I'm not sure if people have it front of them—"Nothing in this part derogates from or replaces the power of a judge or judicial officer to control court proceedings."

So given that this is already set out in the bill, Madam Chair, I just need some more clarification on how we dispense this particular motion, and if Mr. Hillier is going to submit another motion today, that kind of stuff. I just want some clarification before we move on. I wanted that conversation first, Madam Chair.

The Chair (Mrs. Laura Albanese): The information has been provided.

Yes, MPP Yakabuski.

Mr. John Yakabuski: Thank you, Madam Chair. In response to my colleague on the government side, section 140 doesn't explicitly deal with the independence of the judiciary; it says clearly, "Nothing in this part derogates from or replaces the power of a judge or judicial officer to control court proceedings." The motion clearly was with respect to the independence of the judiciary.

While I have every confidence in the document prepared by Ms. Hindle in the research office, the motion further states that until this committee has deliberated—now, "deliberated" means that we've had the time to. We received the information now. That does not give us the time for deliberation.

With that in mind, I would move that we adjourn until members of the committee have the time to review and digest this research report, which is quite extensive and probably has some legal language in it. I would move that the committee adjourn until next Thursday so that each member of this committee has the opportunity to digest this report with also their own legal staff and advisers.

The Chair (Mrs. Laura Albanese): Mr. Yakabuski has moved that the committee adjourn until next Thursday. Any debate? MPP Miller.

Mr. Paul Miller: Madam Chair, I'll just tell you that we're not happy about this. I mean, you've had plenty of time to do your amendments. You've had plenty of time to prepare. These constant holdups are not very pleasant, to say the least, and we are expressing our disdain for what's going on.

We want to move ahead with this—it's very important to the people of Ontario—and we're getting held back. We probably won't support this.

The Chair (Mrs. Laura Albanese): Ms. Wong.

Ms. Soo Wong: While I appreciate Mr. Miller's comments, this committee also, late last night, received amendments from the NDP. With due respect, Mr. Miller, your party also submitted five new additional amendments. I just read them late, late last night. So we do respect Mr. Yakabuski's motion of asking for timely process so that all of us can review everything. I want to be very clear.

The other thing here: If we are going to be adjourning until next Thursday, at which time we will be resuming the clause-by-clause—I have no problem adjourning, Madam Chair, but I want to make sure that we will be going to clause-by-clause for sure next Thursday, in terms of this piece.

The Chair (Mrs. Laura Albanese): That would be up to the will of the committee.

Mr. John Yakabuski: I won't predict what happens next Thursday. But Ms. Wong has said the third party introduced five new amendments yesterday. I have yet to see those new amendments, which would—if they're on the desk here, this will be the first. I haven't even had a chance to go through all the papers.

But speaking to the original motion, it was very clear that the committee have time to deliberate on the effect that it has on the independence of the judiciary. This is the report. It doesn't mean that we've read it, absorbed it, digested it and determined our own conclusions as to how it may or may not affect the independence of the judiciary. With respect to Mr. Miller's concern, and I understand that, the motion was clear. We were supposed

to have time to deliberate on this issue, and I think that in fairness we have to be given that. We did, in fact, pass the motion.

The Chair (Mrs. Laura Albanese): Before we move to Mr. Singh, I just wanted to specify that the amendments were emailed yesterday evening. They should have gone to all members. We'll double-check the distribution list, to make sure that everyone is included. We all should have received it.

Mr. Singh.

Mr. Jagmeet Singh: Yes, in fairness—I'll address both Ms. Wong and Mr. Yakabuski, both their concerns. Ms. Wong is absolutely correct that there were some amendments that were sent late. I understand that both parties want to review those.

Just to clarify, those amendments aren't substantially different. They are what we had already proposed, but just clarifications, some modifications, some corrections that we had caught when I sat down with legal counsel. So they're essentially in the same spirit that had been initially presented, just some modification in terms of language. But I still recognize and understand that both parties would need to review that. That's very reasonable.

With respect to Mr. Yakabuski's motion and argument, in terms of the actual motion that was passed, in fairness, it is correct that it does suggest that we should deliberate. In that fashion, reviewing the material that's presented before us and then deliberating does make sense, because it is what the spirit of that motion was as well: that we will review the material and then debate it.

I can also further add that, in fact, that issue is clearly addressed in two amendments that I've proposed, where we support the independence of the judiciary in the NDP motion. So it's there, and I ask both parties to look at that as potential ways of remedying this issue.

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

Mr. Yakabuski has moved adjournment of the committee until next Thursday at 9 a.m. All those in favour? Opposed? Carried.

The committee adjourned at 0917.

CONTENTS

Thursday 3 May 2012

Security for Courts, Electricity Generating Facilities and Nuclear Facilities Act, 2012,
Bill 34, Mrs. Meilleur / Loi de 2012 sur la sécurité des tribunaux, des centrales
électriques et des installations nucléaires, projet de loi 34, Mme Meilleur JP-49

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