LEGISLATIVE ASSEMBLY
of BRITISH COLUMBIA

Hansard Blues

Legislative Assembly

Draft Report of Debates

The Honourable Raj Chouhan, Speaker

5th Session, 42nd Parliament **Wednesday, April 10, 2024** **Afternoon Sitting**

The House met at 1:35 p.m.

[The Speaker in the chair.]

Routine Business

Prayers and reflections: N. Letnick.

Introductions by Members

Hon. A. Dix: Today is Indigenous Nurses Day. We're celebrating today. It's a day that began in 2022 through the advocacy of B.C.-based Indigenous nurses and is now spreading throughout the country. The theme for 2024 is "Transforming lives, rooted in healing, nurtured in wisdom."

To recognize and honour the contributions and achievements of Indigenous nurses to health and wellness, we're joined today by some very special guests in the gallery, just above us here. They are Tania Dick, Dion Thevarge, Danielle Kannegiesser, Nikki Rose Hunter-Porter, Kyla Elliott, Christina Anne Tsuil-Menak, Krista Allan and Sherri Kensall.

I'd like the House, all of us here, to thank them for all that they do every day and to give them a great welcome to the House today.

L. Doerkson: It is an absolute delight for me today to be able to welcome Donna Barnett to this chamber.

Donna served 17 years as mayor of 100 Mile House before becoming the MLA for Cariboo-Chilcotin in 2009 where she served for three terms as MLA of our beautiful riding. She was a very active member of this place, of course, and she served as Minister of State for Rural Economic Development, Parliamentary Secretary to the Minister of Forests, Lands and Natural Resources and of course, also Parliamentary Secretary to the Minister of Community, Tourism, Sport and Cultural Development for rural communities.

She was all things rural and was a very active member with respect to committees and other items around the Legislature, of course. Since leaving in 2020, she decided to slow down, but that hasn't worked perfectly for her. She became a district of 100 Mile House councillor in 2022. She received the lifetime achievement award in 2023. She sits as the South Cariboo Chamber president, 100 Mile and

have been her history in Rupert. It may have been her history as a broadcaster, her experience in politics. I was just talking with the Finance Minister, who remembers her fondly as the LG who came to the Interior and was as present there as she was in Victoria.

She was ahead of her time in that sense and in another sense. When she was sworn in as LG, she provided a set of remarks in Chinook, which is the trading language that was used in British Columbia between European traders and the Indigenous people in the province, as a sign of respect and an effort towards what everyone in this House is pushing for, which is reconciliation and finding ways to incorporate traditions in our province, to recognize the strong and remarkable Indigenous history in this place where we live.

She was a remarkable lady, an exceptional leader, a series of firsts. We could run them all through, but I know we need to get to question period.

I'll just say this, on behalf of the government caucus.

To the family of Iona, thank you for sharing her with the province. Thank you for sharing this remarkable lady with all of us.

[2:00 p.m.]

Introduction and First Reading of Bills

BILL 21 — LEGAL PROFESSIONS ACT

Hon. N. Sharma presented a message from Her Honour the Lieutenant-Governor: a bill intituled Legal Professions Act.

Hon. N. Sharma: I move that the bill be introduced and read a first time now.

I am pleased to introduce Bill 21, the Legal Professions Act. This bill will increase access to legal services for people in British Columbia by creating new categories of professionals who will be authorized to provide legal services to the public.

It will also establish a single regulator responsible for the oversight of lawyers, notaries, public and new category of professionals called regulated paralegals and possible new categories of professionals in the future.

This new regulator, called Legal Professions British Columbia, will have a clear mandate to regulate the professions in the public interest and will be required to consider important guiding principles in the course of its duties, including facilitating access to legal services, advancing reconciliation and removing barriers to the practice of law for those who are currently underrepresented in the practice of law.

The bill will ensure that the independence of the bar is protected and strengthened and that lawyers and other regulated legal professionals will continue to be able to provide committed representation to their clients' causes.

The Speaker: Members, the question is first reading of the bill.

Motion approved.

Hon. N. Sharma: I move that Bill 21 be placed on the orders of the day for second reading at the next sitting at the House after today.

Bill 21, Legal Professions Act, introduced, read a first time and ordered to be placed on orders of the day for second reading at the next sitting of the House after today.

BILL 22 — SAFE ACCESS TO SCHOOLS ACT

Hon. N. Sharma presented a message from Her Honour the Lieutenant-Governor: a bill intituled Safe Access to Schools Act.

[S. Chandra Herbert in the chair.]

The Deputy Speaker: All right, Members. Let's call this committee back to session. We are here with second reading.

Second Reading of Bills

BILL 21 — LEGAL PROFESSIONS ACT

Hon. N. Sharma: I move that the bill now be read a second time.

I think most members of this House are aware that hiring a lawyer is unaffordable for most people in British Columbia. While legal aid helps our lowest-income citizens, we must also think about our missing middle: the middle classes who make up the vast majority of British Columbians.

In addition, we have known for a long time that Indigenous people are disproportionately negatively impacted by the justice system. Indigenous people and other disadvantaged groups face barriers accessing legal services, as well as barriers to become a legal professional.

Also, in 2021, the Law Society commissioned an independent governance expert, Harry Cayton, to provide a review of its governance structure. Mr. Cayton found that the legal framework within which the Law Society operates is not fit for a modern regulatory body and that it hampers the Law Society's ventures in fulfilling their responsibilities.

This bill is to change the status quo. Many other jurisdictions across North America have moved to modernize legal regulation through creative solutions designed to increase access to justice and improve affordability. Ontario, for example, began regulated licensed paralegals over 15 years ago.

[4:35 p.m.]

This bill plays a vital role by putting British Columbia where it should be, as a leader in the broader movement for more equitable and affordable access to justice. The bill introduces legislation that will create a

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increase access to justice and improve affordability. Ontario, for example, began regulated licensed paralegals over 15 years ago.

This bill plays a vital role by putting British Columbia where it should be, as a leader in the broader movement for more equitable and affordable access to justice. The bill introduces legislation that will create a new legal regulator, empowered to increase access to legal services for all British Columbians. The new regulator will also further the goals of reconciliation and the Declaration Act by giving a strong voice to Indigenous peoples within the new regulator.

The new regulator, called the Legal Professions British Columbia, will replace and amalgamate the Law Society and the Society of Notaries Public. This single regulator will have a clear mandate to regulate the professions in the public's interest, not in the best interest of the profession it regulates.

To ensure improved access to justice, the new regulator will be required to consider several important guiding principles in the course of its duties, including facilitating access to legal services, advancing reconciliation and removing barriers to the practice of law for those who are currently underrepresented in the practice of law. The regulator will oversee lawyers, notaries and new categories of legal service providers — regulated paralegals.

In addition, the new regulator will have the ability to grant licences on an individual basis to those who are qualified to provide particular legal services. In the future, the new regulator will be empowered to propose new categories of legal professionals, to meet the rapidly changing needs of our society.

The government's intention is to make it easier and more affordable for the public to access legal services. The new regulator will have every tool available to change the way legal services are available to the public, in accordance with public need. The increased options for a career as a legal professional will also increase equitable participation in legal professions by members of all British Columbia's diverse communities.

Regulated paralegals will have the ability to provide specific legal services directly to the public without the supervision of a lawyer. A working group is being established to determine what services regulated paralegals will be able to provide. With an increasing number of regulated paralegals in coming years, affordable access to legal services will improve.

Lawyers, as independent members of the bar, have always played an important role in upholding our liberal democracy. It is of vital importance that lawyers continue to be able to provide legal service, legal advice and representation to their clients without fear of interference by the state that could undermine their duty of commitment to their clients' causes. This is an essential principle of our democracy and a pillar of our constitution. This bill has been carefully crafted to ensure that none of the legislative modernizations impact in any way on the independence of lawyers in their ability to fearlessly represent their clients.

How a professional regulator is governed is, of course, an important issue. Lawyers and notaries both have a long history of self-regulation. The new regulator will continue the self-regulating tradition, with a board consisting of a strong majority of both elected and appointed legal professionals. Out of 17 directors on the board, only three will be appointed by government. A majority of nine lawyer directors is required by the legislation, along with three notaries and two regulated paralegals.

In addition to being self-regulating in its governance, the new regulator will be independent from government operationally. A CEO is responsible for the administration of the regulator, pursuant to statutory powers and duties. The bill contains no provisions that give government influence over the operations of the new regulator.

In addition, the bill introduces an independent statutory tribunal, which is designed to be independent from both the government and the new regulator. The potential for conflicts of interest identified in the Cayton report has been eliminated. Clear lines are drawn between the regulator and the tribunal, ensuring that licensees faced with discipline or incompetence allegations receive a fair and impartial hearing. In accordance with the principle of self-regulation, a majority of the tribunal members will be legal professionals. Hearings will be before one's peers.

It is with great pride that I say that this bill introduces an Indigenous council as part of the governance structure of the new regulator, one of the very first of its kind in a B.C. statute. Our ministry has worked very hard with our Indigenous partners in a spirit of collaboration and reconciliation to ensure that Indigenous peoples have a strong voice in how legal professions service the public in our province, including, very importantly, Indigenous peoples.

[4:40 p.m.]

The new regulator will be positioned to adapt to the rapidly changing world, a streamlined, modern regulator empowered with the tools needed to work towards ensuring that multiple options for quality legal services are available to the majority of the public who currently have little or no help for their legal problems. The bill gives flexibility to both government and the regulator to add to the scope of practice of regulated paralegals and notaries without the need for statutory change.

Finally, this bill also introduces immediate

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quality legal services are available to the majority of the public who currently have little or no help for their legal problems. The bill gives flexibility to both government and the regulator to add to the scope of practice of regulated paralegals and notaries without the need for statutory change.

Finally, this bill also introduces immediate changes to the Legal Profession Act and the Notaries Act to allow the Law Society to begin issuing individualized licences and to expand notary scope of practice in order to improve access to legal services, pending the establishment of the new regulator.

With that, Hon. Speaker, I want to thank you and all members of this House, and I look forward to hearing from my colleagues in the continued debate today on second reading of the bill.

M. Lee: I rise to speak on behalf of the B.C. United official opposition as the designated speaker for Bill 21.

I just had to leave the committee discussion on Bill 25, and I would say that there are a number of important pieces of legislation that we've seen come in the last remaining weeks that we have in this

Legislative Assembly, the ten days that we have left.

I wasn't able to speak to Bill 23, the anti-racism bill, as the Attorney General critic when the Attorney General, of course, has introduced that bill. Of course, as the Indigenous Relations and Reconciliation critic, I'm not able to continue, at least for the next two hours, on a very important bill relating to title recognition for the Haida Nation. But I do appreciate this opportunity to speak to the bill.

I heard from the Attorney General, and there seems to be a large disconnect between the recognition of how independence of the legal profession and self-regulation of the legal profession is to continue. This is the primary concern of the B.C. United official opposition as to Bill 21.

It does fit the pattern of what we've seen from this government, which is significant government overreach. That is a dangerous pattern. It risks the politicization of another professional body. This body is important, like the others.

As I've said publicly, lawyers and our court system are there to protect fairness and justice in our province. I know our Premier, when he was Attorney General, seemed to be quite challenged with that, even though, like this Attorney General, they are charged to be the chief legal officer of our province, to provide the understanding and appreciation to the Premier at the time — Premier John Horgan; now this Premier, who has now been the former Attorney General of the province.

I spent about two and a half years, in my capacity as the Attorney General critic, debating with the Premier when he was Attorney General about the inherent conflict he had as the Attorney General and the minister responsible for ICBC, changing the rules of court and evidence in ways that were constitutionally challenged and that, ultimately, the Attorney General and this province were defeated on.

We know that as we stand here on Bill 21, this government has been put on notice by the Law Society, the Canadian Bar Association, the Trial Lawyers Association and even the B.C. Civil Liberties Association, the organization that the Premier was formally involved with, about the challenges to this bill in terms of undermining the independence of the legal profession and the concerns that would have when we're talking about the legal profession from whom lawyers are selected to serve on the bench, to serve in our courts, to protect the rule of law.

[4:45 p.m.]

Even here on second reading, hearing the current Attorney General speak on behalf of the government about how this bill

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on the bench, to serve in our courts, to protect the rule of law.

Even here on second reading, hearing the current Attorney General speak on behalf of the government about how this bill addresses independence and self-regulation for lawyers, we clearly have a disagreement about that. It's not just the Leader of the Official Opposition or myself as the Attorney General critic, but it is the associations of lawyers, the 14,000 lawyers in our province who have been speaking to government about the importance of this bill and how it does undermine the independence of lawyers in our legal profession by eliminating self-regulation.

I'll speak more to that in a moment, but just at the outset of my remarks, I want to say to the notaries that operate in our province, we are the only other province other than Quebec that has a special, separate act for notaries. This bill is taking the step, as notaries will recognize, to bring about a single regulator to advance the expansion of scope of practice for notaries, also licensed paralegals as well. I'll talk about that in a moment or later, but I do want to address the notaries, because I do know that some of you have commented on my posts or my statements. You've contacted members of our opposition caucus.

To be very clear, even as acknowledged in the statement that I put out last Thursday on behalf of the B.C. United official opposition, we recognize the importance of expanded scope of practice for paralegals, licensed, registered paralegals, notaries, and even the importance of the work that's been done with the First Nations Justice Council. I will hopefully understand that work by committee stage on this bill, schedule permitting.

That's important work, and there are important elements to this bill. Our concern, though, is certainly not in opposition to those elements of this bill. Even the legal associations that we're speaking

to, certainly in terms of expanded scope of practice for paralegals as well as notaries, they understand the importance of that as well.

This has been something that has been discussed for many, many years. I do remember the discussions that I've had with notaries and the bodies that represent notaries from the time I was first Attorney General critic between 2017 and 2020. I've had more current discussions with the leadership of bodies that represent notaries in our province as this Bill 21 was tabled by this government.

I hope that notaries, as they understand our concerns, as I will spell out again in second reading here, hopefully will understand our concerns about the legal profession and our court system and the rule of law in our province. Certainly, the bill itself has many detailed provisions — 317 clauses. I look forward to committee stage to review those clauses in detail with the Attorney General.

We know that when it came to the last example by this government to regulate the Health Professions and Occupations Act, Bill 36, that the member from Prince George–Valemount, the shadow minister of Health, did not have the opportunity to complete the review of that bill, that we only got a third through that bill. I joined her for many of the Indigenous relations and reconciliation components of the bill in terms of Indigenous peoples, the systemic racism that needed to be addressed by virtue of that bill.

[4:50 p.m.]

I recognize that, hopefully, as we get through this bill, that there will be an opportunity to review the full 317 clauses of this bill.

I would say that, again, to the Attorney General, the

That, hopefully, as we get through this bill, that there will be an opportunity to review the full 317 clauses of this bill.

I would say again to the current Attorney General, with respect, that I, certainly, would like to understand the role that she's playing in the crafting of this bill, even as she explains her view, on behalf of government, as to how this bill addresses independence and self-regulation. Because her statements seem to run quite counter, not just to what the lawyers and their legal associations are saying on their behalf, but decisions of the Supreme Court of Canada, principles that have been put out by the United Nations.

The Attorney General, in her comments just now, referred to the modernization of the legal profession, which is the subject matter of this bill, the work that has been done — including in Ontario — which we do recognize, did go to a single regulator in respect of lawyers and licensed paralegals. But that didn't take away self-regulation by lawyers. It didn't eliminate the ability of lawyers to vote for the majority of the members on the regulatory board that governs them. There's no need, in terms of many of the measures in respect of expanded scope of practice for paralegals and notaries, and even to put in place an Indigenous council, to take away self-regulation through ensuring that lawyers can continue to elect the majority of members on the regulatory board.

In fact, it has been said, certainly in Canada, if not the Commonwealth, this will actually be the first move by any Commonwealth government or provincial government in Canada, certainly, to do this — to take away self-regulation, the ability of lawyers to elect a majority on the board that represents them.

At the outset of this bill debate on second reading, it's important that we understand what this government has brought forward with less than two and a half weeks left in this legislative session, while we are debating another very important bill, the Haida Nation Recognition Amendment Act.

This is the reason why the official opposition for the B.C. United have certainly called for another pause on this bill too. We called for a pause on the Haida one — not because of the Haida, but because of the template that the Premier says it will be for First Nations. It's a fundamental change. It's a new form of title agreement or arrangement. Not a treaty, not a land claim agreement.

Here, this is a fundamental change, a fundamental change that we've not seen anywhere else in Canada or in the Commonwealth. I have seen a lot from this Premier, when he has been the Attorney General, and even as the Premier, in terms of the number of times where this Premier and the former Attorney General have been challenged by the courts and the number of times that the government has been on the losing end of constitutional challenges. This government continues to insist, under what has

been termed as, and what I refer to as the Premier as being the most activist Attorney General this province has ever seen.

And Bill 21, now with the Premier being the Premier, is just that final piece. It may well be his final piece beyond Bill 25, the Haida Nation Recognition Amendment Act.

[4:55 p.m.]

But why is this important? Because it continues this fundamental centralization of regulation of professionals in our province. We saw that with engineers in 2018, dealing with professionals.

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But why is this important? Because it continues this fundamental centralization of regulation of professionals in our province. We saw that with engineers in 2018, dealing with professional reliance.

I know, as someone who practiced law for 20 years, working with mining companies, the importance of 43-101 reports to determine the economics as well as the mineral deposits reserve and resources for a mining project — that engineers play a very important role in that determination. We've seen an overarching body, a superintendent, being put on top of the existing regulatory process that engineers had.

We've seen the self-regulation, in 2022, as I mentioned earlier, of the six government-appointed colleges for the health care professions and the elimination of elected positions that had existed under the former system and that had insured professional independence from government control.

Mr. Speaker, as you well will remember, that Bill 36 that passed, the Health Professions and Occupations Act, was highly controversial at the time it was passed. We certainly opposed that legislation. It didn't have the proper debate, and now we see the results of that with the crisis with our health care system.

We know, as well, that just a number of weeks ago the government and this Premier took a step back on Bill 12, the health care cost recovery act. That is a piece of legislation that continued former NDP governments of this province, first around cigarettes, that was determined not to be constitutional…. Another NDP government brought back legislation, which was not deemed not to be unconstitutional. Then we had the regulation of opioids, which the Premier did bring when he was Attorney General.

Bill 12 was a piece of legislation which was broad and wide-sweeping, ill-defined. Certainly, I had the opportunity to speak at length on that bill. But it's an example that there is fundamental change going on of a nature that is challenging so much of what is necessary in a free and democratic society in our province.

Then we're talking about business associations, all 24 plus, coming together to call on this government to say, "Look, we're very concerned about the expanse, the broad nature of the products and services, the lack of causation tests" — the risks associated that this government was bringing forward to put on businesses for their products and services to recover health costs. It was poorly defined. This government understood that. Finally, they heard.

Just like in Bill 21 — actually, more than just in Bill 21…. At least in this case, in Bill 21 — and we certainly will have that discussion at committee — there were some representatives of some legal associations, as I understand it. Not that I would fully understand this, because they're under non-disclosure agreements, but I've been told by them that they're under a non-disclosure agreement.

After the bill was introduced, there's been further ability to have these discussions, which is the reason why organizations representing lawyers in this province have come out to make the statements they've made, very publicly.

Of course, what needs to be recognized is the lack of consultation, lack of engagement, that there hasn't been broad consultation and engagement about what is a fundamental change to our legal system in our province.

[5:00 p.m.]

That certainly was the case in Bill 12. There weren't even NDAs, as far as I know, on that one. There was not any indication of where this government was coming from, in terms of the broad, sweeping nature of that bill.

There is a pattern here. There is a pattern under this government that has continued to want to centralize control

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There was not any indication of where this government was coming from, in terms of the broad, sweeping nature of that bill.

So there is a pattern here. There's a pattern under this government that has continued to want to centralize government control, government overreach. Just if you isolate on engineers, health professionals and now lawyers under this bill….

The reason why this is a concern — recognizing that those bills have already passed, but we're dealing with this one now — when we talk about this being the last bastion, who else but lawyers? Including in the Haida decision in 2004, who was acting on behalf of the Haida Nation to take on the government of the day around forestry tenures? Who was doing that? When you look at the importance of the legal profession and lawyers who take on government for whatever grievance, dispute they might have….

Certainly, we saw it with the Kits Coalition — just off Broadway at West 8th and Arbutus — when they brought forth concerns about the city of Vancouver's lack of public process and accountability and transparency around that B.C. Housing project, which is still in some dispute. This government brought forward legislation to quash that in the face of their challenge through the courts.

This government, time and time again, has demonstrated a failure to respect the rule of law in our province and the system that we have to hold governments, of any stripe, accountable.

That is why…. When we talk about the concern on Bill 21, it is a bill that will weaken the independence of lawyers, certainly, and enable government to have more control over the legal system. In doing so, it eliminates what is another very important check and balance against any government. I would have thought that the Attorney General of our province, as the chief legal officer for our province, would understand that.

I think it is important to understand beyond what she has said, beyond what she said to me in response to my questions about her appreciation about the importance of lawyers, to preserve their independence, during Attorney General estimates. This was at a time when Bill 21 had not yet been introduced. I had my five hours, the time that I was allotted, in early March. I think it was March 2 or 3. We had that discussion on the record. She said that she understood the importance of independence. I read out one of the important quotes that go right to that.

I would say, at the outset, the 1982 decision…. The year that the Canadian Charter of Rights and Freedoms came into force, Justice Estey, of the Supreme Court of Canada, articulated the essential importance of an independent bar. Justice Estey said:

> "The independence of the bar from the state, in all its pervasive manifestations, is one of the hallmarks of a free society. Consequently, regulation of these members of the law profession by the state must, so far as by human ingenuity, it can be so designed, be free from state interference, in the political sense, with the delivery of services to the individual citizens in the state, particularly in the fields of public and criminal law. The public interest in a free society knows no area more sensitive than the independence, impartiality and availability to the general public of the members of the bar and, through those members, legal advice and services generally."

[5:05 p.m.]

This is the statement that I read out to the Attorney General during Attorney General

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through those members, legal advice and services generally." This is the statement that I read out to the Attorney General during Attorney General estimates, and the Attorney General acknowledged and agreed with that statement.

I gather in hearing the Attorney General speak on second reading that although she understands the quote and understands the importance of it as articulated…. Where the gap is, is how the independence of the bar is preserved, or fails to be preserved, under Bill 21. Somehow, the Attorney General, as the chief legal officer of this province, recognizing that that is a duty and responsibility — to have some

degree to conduct herself and her ministry in a way that understands the importance of the rule of law to advise the executive council and the Premier, within cabinet confidentiality, of legislation as it comes through this House….

When we're talking about eliminating self-regulation, undermining the independence of lawyers, going against what the Supreme Court of Canada said was fundamental to a free society, a free and democratic society…. Somehow, there's a gap. Somehow, there is a broadening of view that's undermining this very important guidance provided by the Supreme Court of Canada, which has been applied in subsequent court decisions since the year of 1982, when the Canadian Charter of Rights and Freedoms came into place in our country.

It's very clear, including in the view of the Law Society, that Bill 21, in its current form, as tabled by the Attorney General, fails to meet the standard that I just read out. Certainly, this failure "has broad public… implications well beyond the legal profession and beyond regulatory governance structures." That is a statement made by the Law Society in their April 9, 2024, release.

When we talk about the composition of the board, we know that under clause 8 of this bill, only five of the 17-member board will be elected by and from among lawyers. Something that needs to be clearly understood by government and those who are concerned about the position of the official opposition and what they hear from the Law Society and other associations of lawyers in our province is that that is a clear change.

Today, the current composition of the board of the Law Society, which is the regulatory board of lawyers in this province…. There is a 32-member board; 25 members of this board are elected directly by lawyers in this province. That's 25 out of 32. That is a majority. Five out of 17 is not a majority.

This is, fundamentally, the point. Either government is being not transparent in the way it's presenting this bill, in a way that is not accurate…. The main point is, here: self-regulation needs to have a majority of freely elected lawyers on its regulatory board.

[5:10 p.m.]

The Attorney General in her remarks, again, has said: "Well, look. Out of 17 members on this regulatory board, nine are lawyers."

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freely elected lawyers on its regulatory board.

The Attorney General in her remarks, again, has said: "Well, look. Out of 17 members on this regulatory board, nine are lawyers." Five are elected directly by lawyers. Four are appointed; they're not elected — not by lawyers, at least. These four lawyers are appointed by the board itself. And that's under section 8(e): "5 directors appointed, after a merit-based process, by a majority of the other directors holding office, of whom 4 must be lawyers, one must be a notary public who is not also a lawyer, and at least one must be an Indigenous person." One of the five individuals could be an Indigenous lawyer or could be an Indigenous person who is a notary public.

But the point is that those other five directors, four of whom must be lawyers, are not elected directly by and from and among lawyers. That, fundamentally, is the concern, that in order to have self-regulation, even if the Attorney General says self-regulation somehow is preserved, there is a significant disagreement about that.

The opportunity, as the Law Society has when they run elections of Benchers to serve on the Law Society board, former colleagues of mine at the law firm I practised with…. There is a diversity of representation across the province, regionally, so we're talking first, geographic representation of 14,000 lawyers across this province.

We know, of course, in this chamber we are a body of 87 members directly elected to represent the constituents in the electoral districts that we are elected to represent. But we also know from this chamber the vast diversity of viewpoints and needs of our constituencies and how a representative elected body that represents the broad diversity of geography and communities in our province has a lot of strength to it when we bring across our different points of view.

That is what the Law Society does. It has regional elected lawyers on a geographic basis. They run elections. I've certainly received my ballot in the old days for the Vancouver district to vote for

nominees to represent a Vancouver-based lawyer like myself on the Law Society board. This is fundamentally an important aspect of ensuring that we continue to have an independent legal system.

I will say that I believe many of us, if not all of us, would have received, as well, from this organization called the Lawyers Rights Watch Canada their brief, which is a 16-page briefing paper dated April 17, 2024. They echo the concerns relating to the abolishment of the Law Society as a self-governing professional membership association of all lawyers who elect their governance body. They run through and acknowledge that the concern is that only five members of the 17-member regulatory board, to be called Legal Professions B.C., will be directly elected by lawyers themselves.

[5:15 p.m.]

We know that the concern that what Bill 21 does, as they've cited, is that it removes from the profession of lawyers in B.C., their right to association

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that the concern that what Bill 21 does, as they've cited, is that it removes from the profession of lawyers in B.C., their right to association for the purpose of self-governance and self-regulation, and that the lawyers' right to freedom of association would be limited to joining voluntary bar associations that have no governance or regulatory authority.

With only five elected representatives on the 17-member board, lawyers will be unable to protect the public's rights to representation by lawyers or the right of lawyers to fully discharge professional duties free from regulatory or other interference by the state or other external actors. This is on paragraph 21 on page 7 of their briefing paper.

It does raise another example that we've seen under this government. Because when we're talking about lawyers' right to freedom of association, to have the ability to join an association for the purpose of self-governance and self-regulation…. That is what this organization, Lawyers Rights Watch Canada, is underlining, that that is an important right. That's an important right in our country, the freedom of association.

We know, of course, under this government and under this Attorney General and this Premier, that when it came to the government's own lawyers, when they wanted the right to have freedom of association to form a union, that the government said: "No, you have to belong to this other union." This government quashed the right of the government's own lawyers to have some degree of choice, the choice to have freedom of association.

This is part of the pattern. The pattern continues. The pattern started in 2017, at least in an elected capacity. I know that we've talked quite a bit about the Premier's past with the Pivot Legal Society and his work to write the book on how to sue the police. I'm as focused, though, I would say, on his elected role as the Attorney General of our province, as the Premier of our province. The fact that there is a clear pattern. Now that we're in the dying days of this legislative session for this government, with less than ten days to go. We have 9½ days to go or nine days and an hour and ten minutes or something like that. This is the life of this Legislature.

And so we are seeing what is the culmination of the challenge to our free and democratic society by taking away the last bastion to protect citizens of our province, to hold our government accountable, beyond what any official opposition does in this province, in this chamber.

Certainly we saw that from my time as the Attorney General critic when the Premier, as the Attorney General, trampled all over the rights of injured British Columbians. I know that the Premier and this government has a response to that, but it's more than just about rates. It's about rights and about protecting the rights of injured British Columbians. We know when this government and this Premier as Attorney General took away those rights, that was just another example. So it's a shrinking ability to challenge any government of this land, particularly this government. There is a pattern.

[5:20 p.m.]

When the Law Society writes a letter to the Attorney General on April 26, they spell out that we, the branch of the Law Society, "are certain that the development of Bill 21 has failed to meet reasonable expectations that the public and legal professions be significantly involved in commentating and advising on the substance of the bill

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reasonable expectations that the public and legal professions be significantly involved in commentating and advising on the substance of the bill. We are also certain that the passage of Bill 21, if it passes (those are my words) will disrupt and diminish the effectiveness of legal regulation in this province. We are likewise certain that Bill 21 fails to protect the public's interest in having access to independent legal professions governed by an independent regulator which is not constrained by unnecessary government direction and intrusion.

Here, again, we have, from the current regulatory body of lawyers, the elected members of the current law society, including the president, Jeevyn Dhaliwal (K.C.), all signing this letter, expressing their concern and asking this government to pause on this process and to consult more broadly, as the CBA has called upon them. That is an important consideration. The Canadian Bar Association has also issued their statement. They've been part of other joint statements, but this is one statement, on April 10. They're concerned about the lack of transparency around Bill 21 in terms of what this government has brought forward.

The fact that the Canadian Bar Association of British Columbia has been advocating for government transparency since the idea of a single regulator was first introduced in 2022…. As I understand it, there has been limited engagement and consultation. The CBA of British Columbia is undertaking, now that the bill is out in the open…. As indicated in their letter directly to the Attorney General on April 19, they've spelled out that they have now organized, as of April 19, which is — what? Just over ten days ago — 12 days ago, 12 upcoming engagement sessions, the first of which followed the release of the details outlined in Bill 21.

With over 130 pages of legislation in the bill, including 317 clauses, as indicated, the CBA of British Columbia is asking for all lawyers to understand and have the opportunity to understand and consider the legislation while they're providing the services they're required to provide to their clients and support the administration of justice. Again, another voice, another representative body of lawyers in our province is requesting this government not to proceed to pass the legislation until it receives responses about the details of the legislation from the affected parties, including the members of the Canadian Bar Association.

In writing letters, they've chosen to use bold face as opposed to uppercase, all caps. But they've certainly highlighted to the Attorney General, if her or her team have any challenges understanding the key points of what is only a one-page letter…. It very clearly sets out that, given the significance of the extensive changes, there needs to be time. There needs to be a broader consultation. The affected parties need to be engaged with.

[5:25 p.m.]

I would say that this is, for a bill of this nature, which is so wide-sweeping in impact not just to lawyers but to British claimants that rely on lawyers to advocate for them, government should pause this bill in the way that we have called upon them as well. To be clear, the Leader of the Official Opposition and myself, as the Attorney General critic, on behalf of the B.C. United official opposition, do call on this government, as I put in my statement as well — issued last week — for government to pause this bill. The concerns around the independence and taking away self-regulation are just too fundamentally important for this bill to proceed in its current form.

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official opposition do call on this government, as I put in my statement as well, issued last week, for government to pause this bill. The concerns around the independence and taking away self-regulation are just too fundamentally important for this bill to proceed in its current form.

The lack of consultation that the CBA has highlighted in their previous release, increases the risk…. I would say here…. This is a point that the Attorney General addressed. Again, we do need to understand how marginalized communities, communities that have historically faced inequity — Indigenous and racialized lawyers, ethnocultural community–based lawyers, as well as LGBTQ2S+ members of society who have been historically facing inequity in the legal profession…. We need to have their voices heard.

In the absence of that level of consultation, the broader level of consultation, lifting the NDAs that this government has acted upon in a very secretive, non-transparent way with every single bill that

they've brought forward in this House…. On this bill, certainly, the Attorney General has a responsibility, as the chief legal officer, to ensure that broader consultation occurs.

The Attorney General has a different role, a higher duty and standard of responsibility to this province in the role that she plays. I would urge the Attorney General and her ministry team to reflect on that as we continue to debate Bill 21 on second reading.

Coming back, though, to the importance or the concern around regulatory or other interference by state or external actors, as was termed by Lawyers Rights Watch Canada, or the point the Law Society of British Columbia made in their letter of April 26, about the independent regulator not being constrained by unnecessary government direction and intrusion….

Of course, when we're talking about lawyers acting on behalf of citizens of British Columbia, whether it's a group of citizens that are challenging decisions made by the government of B.C. that affect their rights — their property rights; their rights to their community, to keep safe in their community; the location of certain government facilities in their community, concerns around that; when we're talking about the concerns around motor vehicle accidents, complex injuries, the expansion of the minor injury definition, even though the Premier had promised and had committed to brain injury and complex injury–type bodies that he would not expand the definition….

These are the areas where we need to ensure that lawyers have the ability, and free of government interference, to properly assert the rights and represent the rights of British Columbians in the court system. When we're talking about a body of 17 directors, only five of whom are elected directly by lawyers, we have the vulnerability, let's say, in the system that's being created here on the way the board will work.

We know that in the decision-making that they would have, we've talked about the decrease in regional representation. In terms of the way the board will actually operate itself, even for something as simple as quorum requirements on this board, you could have a board that operates without ensuring even participation by those elected directors. We will get into those issues.

[5:30 p.m.]

Section 17(3) of Bill 21 states that a quorum on the board is only 12 directors, which means that the board could get a quorum, out of 17 directors, if there are none of the five elected lawyers present. That means the board can

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Section 17(3) of Bill 21 states that a quorum of the board is only 12 directors, which means that the board could get a quorum, out of 17 directors, if there are none of the five elected lawyers present. That means the board can continue to operate and function without even those five elected directors—not to mention, of course, as I've been saying, they don't even represent a majority of the 17-member board.

I would say, as well, when we talk about lawyers and the reliance that the Attorney General is placing on nine out of 17 lawyers, when you look at the four directors to be appointed who are lawyers to fill out the remaining five directorships on the 17-member board…. If you look at clause 28(2)(b), the board itself, which, again, does not consist of a majority of elected lawyers, elected from lawyers themselves, can make rules establishing the process for the "screening of candidates in the election of directors."

So again, this board, which does not have a majority of elected lawyers, will establish the process for screening candidates in the election of directors. They're controlling who can be appointed to this board in terms of, presumably…. I mean, we will get into this in debate on committee stage. What is this process of screening?

This process of screening is designed by a board that has at least specified three directors appointed by the Lieutenant-Governor-in-Council. We have three members directly appointed by government who will have an influence on the way that this screening process is designed. That's the concern. This is just another example to go beyond the fundamental concern that there are only five out of 17 members of the board that will be elected by lawyers themselves.

I would also point out, as another example that we would pursue at committee stage, clause 211 of Bill 21, which provides, under general regulation-making authority by Lieutenant-Governor-in-Council, that there's further ability for government to make different regulations for different persons, but also for

different classes. Certainly, before that, in 211(3)(c), to establish and define classes of persons for the purpose of this act.

The question is, will that particular section of the bill, 211, give the government the ability to create as many new categories of legal professionals as they want by simple order-in-council, without any public debate? This is just another example of what this government is giving itself power to do in the area of legal professions.

I will say that we know that when we're talking about the importance of access to justice, certainly, the Premier is a lawyer and the Attorney General is a lawyer, as is myself, and that, hopefully, at some level, there's an understanding of the importance of the fundamentals of what I've been addressing in my second reading speech to date.

[5:35 p.m.]

But what we are seeing, what Bill 21 represents, is, certainly, fewer elected members, a minority. We're seeing more political control. We're seeing government-appointed insiders onto the board, the regulatory board. We're seeing the kind of interference

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is certainly fewer elected members, a minority. We're seeing more political control.

We're seeing government-appointed insiders onto the regulatory board. We're seeing the kind of interference that the Lawyers Rights Watch of Canada had warned against. That's the reason why they're concerned about this bill. And that in the absence…. Let me say this before I say that in the absence.

When the Attorney General is talking about the modernization of the legal profession and legal systems in our province, as is stated here, the first and foremost focus of any government must be, certainly…. I would have thought — having given so much support to adopt the UN Declaration of the Rights of Indigenous Peoples Act 4½ years ago in this chamber and the good work that continues, which is necessary, by First Nations, with any government, through the election cycles — that we will see, in terms of implementing what is set out in UNDRIP, in the ways that have been confirmed by the former Minister of Indigenous Relations and Reconciliation, that when this government recognizes UNDRIP, that, certainly, what it recognizes is basic international human rights law and standards.

I didn't have the opportunity, of course, to refer to another international standard in the Bill 23 debate, but I hope to, schedule-permitting, join other colleagues: the member from Richmond North Centre as the shadow minister for anti-racism, multiculturalism, for the B.C. United official opposition caucus. We need to ensure that we are recognizing the fight against antisemitism. Here is another international standard that needs to be addressed. That is the International Holocaust Remembrance Alliance definition. But that is a different bill, Mr. Speaker.

Deputy Speaker: Yes, I was just going to say let's stick to Bill 21.

M. Lee: I hope I will have the opportunity to speak to that. This is the only opportunity I had to make mention of that, even though I missed that opportunity because I was in the Haida Bill 25.

I think that what we will see, though, in this bill, and in the words of the Lawyers Rights Watch Canada, which is a body here in Canada that reviews and works with many bodies, internationally, to ensure that the UN basic principles, as interpreted by experts, including the special procedures on the UN Human Rights Council… That in the experience….

Paragraph 25 of their brief: "Authoritarian governments hamper effective opposition to repressive measures by creating laws that violate the independence of judges and lawyers. Laws that create non-independent regulatory bodies together with the rules made by those bodies are often misused to facilitate unwarranted vilification, discipline, suspensions, disbarments or judicial harassment of lawyers or the legal profession."

I would invite all members of this chamber to review this briefing paper at paragraph 25 on page 7. That's a very important point that this Lawyers Rights Watch Canada body is making. It goes to the heart of why it's important to maintain an independent regulatory body for lawyers, so that they aren't under the kind of ideological interference, the threat and fear of political retribution that we've pointed out in our statement. This is the reason why the independence of lawyers through a self-regulatory body is fundamental.

[5:40 p.m.]

We know we live in a free and democratic state in Canada and this province, but the pattern of the authoritarian-type legislation that's coming forward that is fundamentally changing

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And again, the pattern. We know we live in a free and democratic state in Canada and this province, but the pattern of the authoritarian-type legislation that's coming forward, that is fundamentally changing the rule of law in our province, is very, very concerning.

This Bill 21 is the last example that this Premier is bringing forward. It's the last threat to the rule of law, to the checks and balances in our province.

I will refer to the international standards that the Lawyers Rights Watch Canada is pointing out. That is where the preamble of the UN basic principle confirms that "professional associations of lawyers have a vital role to play in upholding professional standards and ethics, protecting their members from persecution and improper restrictions and infringements, providing legal services to all in need of them and cooperating with governmental and other institutions in furthering the ends of justice and public interest."

I'm going to come back to the term "public interest," because that has a particular lack of definition and application through the course of Bill 21. I will just circle that to remind myself to do that.

I think that in terms of UN basic principle 24, it also stipulates that "lawyers shall be entitled to form and join self-governing professional associations to represent their interests, promote their continuing education and training, and protect their professional integrity. The executive body of the professional associations shall be elected by its members and shall exercise its functions without external interference."

These are cited from the UN basic principles. This is the international body of law and standards that you would think the province of British Columbia, this Premier, this Attorney General, would want to adhere to.

As I say, this government has demonstrated the recognition of other international standards — basic human rights standards, the UN declaration on the rights of Indigenous peoples. Why wouldn't this government understand and recognize the importance of this basic standard as expressed under UN basic principle 24?

We know that the interests that are referred to as "their interests" in UN basic principle 24 refers to…. This is where I think even in the introductory words of the Attorney General, which are, I understand, retail in nature…. They're meant to explain to the public why this government is bringing forward this legislation. It speaks to what the Attorney General referred to as not just those who can't afford and need access to legal aid, meaning they can't afford legal services so they need to go to organizations like Access Pro Bono, which was established by the Law Society of British Columbia in the 2000 period.

It's a good example of the kind of organization that is needed to support access to justice for many British Columbians, those in particular that can't afford legal services, that need to get the kind of free legal information that I provided, even as a law student at UVic law school, back in the day here in Victoria.

When you have student legal information clinics — SLIC, as it was called, that's my recollection at UVic; I certainly was participating, like so many law students — when you have LSLAP at UBC law school, including in Chinatown in Vancouver, you have not just law students, but in this case, law students who are under supervision by practitioners in the law, lawyers are giving of their time.

[5:45 p.m.]

Access Pro Bono has been a real furtherance of the efforts of members of the bar to provide their time, their expertise, on a pro bono basis, to help give access to British Columbians for legal advice — the legal guidance that they need to deal with some of the common issues that they might be dealing with, whether it's with a landlord, with their spouse, with their

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to help give access to British Columbians for legal advice — the legal guidance that they need to deal with some of the common issues that they might be dealing with, whether it's with a landlord, with their spouse, with their business, with a dispute, with a neighbour and, obviously, other very concerning disputes that we need legal advice and guidance on.

But the Attorney General made it sound, again, even in her choice of words, on second reading…. Having heard them, there's a certain indication that somehow lawyers need to be questioned in a way that suggests that they don't have professional obligations. They do. Lawyers have a code of ethics, professional conduct rules and regulations. Lawyers are true officers of the court, of our legal system.

I know, continually, the pattern of verbiage, language use, positioning legislation that this government, and particularly this Premier, has brought forward from when we saw his time as the Attorney General to now. Because, clearly, his fingerprints are all over Bill 21. It's quite clear. They were all over Bill 12 in the broad expanse of the Health Cost Recovery Act.

The significance of the fundamental nature of change in our Legislative Assembly, we have not seen in my seven years in this chamber, other than UNDRIP, other than the proportional representation referendum when he was the Attorney General at the time…. We know, in terms of his office and how that referendum was conducted, there are serious questions about that. I was expressing concern about how the details would be worked out later after people voted. There was just so many ways that that referendum was flawed by the way this government brought it forward under the Attorney General's responsibility and leadership.

Back to Bill 21, this is the challenge when we see the lack of recognition that the legal profession themselves are professionals. They have ethics and responsibilities that are in many ways necessary to not be interfered with and questioned and threatened by ideological viewpoints of any government, whatever political stripe that's in power at the time.

There should not be that level of interference that this bill, this regulatory structure on lawyers, exposes and creates. When I'm referring to the use of the term "their interests" in UN basic principle 24, parts of which I read out, that "their interests," again, refers to the professional interest of lawyers to ensure the fundamental purpose of the legal profession is upheld. To uphold "adequate protection of the human rights and fundamental freedoms to which all persons are entitled, be they economic, social, cultural, or civil and political, requires that all persons have effective access to legal services provided by an independent legal profession."

I am taking the opportunity to continue at length to share with the Legislative Assembly why it is so important to maintain the independence of lawyers through a self-regulated regulatory body and why Bill 21 is so wrong in that particular area.

[5:50 p.m.]

These quotes that I've read out into the record, relating to the UN basic principle 24, are important as a reference point for the international standards that are important for a free and democratic society, not an authoritarian state where government controls all.

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important as a reference point for the international standards that are important for a free and democratic society, not an authoritarian state where government controls all. And again, this is what we saw, the pattern that this government has done as the Leader of the Official Opposition has talked about at length, including in the public, about the control that government has exerted over our engineering profession, our health care professional profession, and now is being attempted to be done under Bill 21.

I would say that as we look at the importance of access to legal services, I will note — and I appreciate that successive governments have not made this change — that I do think it's important to understand that the legal profession, when we're talking about access to justice, access to legal services…. And I will say that the Attorney General did note the missing…. She didn't say missing middle, I don't believe, because — that's, you know — we think about that in the housing context, certainly in Vancouver and other places in our province. But she used a concept which is very similar to that, which is individuals that probably can afford some legal services but need more options.

Again, certainly the official opposition, the B.C. United, recognize the importance of the greater use of paralegals. This is something that the Law Society had recognized as well, and they're certainly

prepared, as I understand it, to move forward with what was dealt with in 2018 — I dealt with that legislation, as well — to put in place a broader scope of practice for licensed paralegals in the area of family law.

That is an example. And I do remember, in a constructive way, the work that government is doing in the area of family law, with some of the pilot projects to expand access to legal services in the family law area, including here in Victoria. So I think in that vein, the Law Society, in terms of their task forces and other bodies that had looked at that very closely, were supportive of that initiative and are prepared still, today, to move forward with that. That's an example.

And I certainly have heard, you know, of us elected, you communicate your position and your concerns about certain pieces of legislation, and you get all sorts of comments coming back at you. Again, I recognize, as I've said throughout, there are some who see the legal profession as some sort of monopoly amongst lawyers. I'm sure that they've had their own experiences. I hope that those who are listening would understand the importance of why lawyers have to regulate themselves, free of government interference and threat.

And the recognition of notaries in terms of their scope of practice…. I know as a young lawyer, or even as a law student, when I had to deal with certain documents that needed to be notarized that, of course, you go to a notary. Even for my family, to access the purchase of a home or a sale of a home, they do the same. In many ethno-cultural communities as well, there is a great use of the notary profession. In South Vancouver, in the areas that I represent in Vancouver-Langara, in Richmond, across the Lower Mainland, I know many notaries that serve the public well. And certainly, under this bill, that is what is hopefully going to move forward with that. Again, the Law Society and these other bodies of lawyers that I'm speaking about, as I understand it, are generally supportive of that.

[5:55 p.m.]

There are questions, of course, in this bill. There are questions to be asked about, for example, what I understand in terms of indemnity. The Law Society has an indemnity fund to backstop any claims against members of the legal profession. That's important. There are times where mistakes and misconduct

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indemnity. Law Society has an indemnity fund to backstop any claims against members of the legal profession. That's important. There are times where mistakes and misconduct occur. Law Society has rigorous investigation, adjudication, and disciplinary bodies. Colleagues of mine have served on those bodies in the past.

I would say that the Attorney General mentioned the independent tribunal that will be established under this Bill 21. My recollection on review of the bill is that — and I think this is partly informed by the briefing I had from the Attorney General and the Deputy Attorney General, or at least the ministry staff — the establishment of the tribunal, including the chair of the tribunal, will be recommended or determined by the regulatory board.

Again, it comes back to even the independent tribunal that is so-called independent is established and the chair of the tribunal is established and appointed or designated by this board, the 17-member board, five of whom were directly elected by lawyers.

This does come back to, first, the concerns around the regulatory board itself, second, around the screening process for appointments to this board. The third, in respect of expanding for other bodies to be designated as legal professionals, whatever that it would look like. The tribunal itself, in terms of its establishment, being under this regulatory board, for which lawyers are not directly elected in a majority. This is the kind of government interference and overreach that lawyers will be facing.

[J. Tegart in the chair.]

I will say that the concern around independence of lawyers isn't just about lawyers themselves. I've certainly had colleagues who have been appointed to the bench in our province. Lawyers who would come over to UVic law school — I have fond memories — and coach the moot team as we competed

against UBC. They would come over from Vancouver and coach us. These individuals are now appointed to the court. They are just a demonstration of the kind of roles that lawyers play in helping to educate young law students and others in our legal profession.

But, of course, Madam Speaker — welcome to the Chair— judges, members of the judiciary, are appointed from the ranks of lawyers, lawyers that have demonstrated their understanding of the law, practise in a variety of areas, bring that expertise and life experience and reputation to the bench. But they come from the ranks of the legal profession, the lawyers themselves.

The consideration about the effect and impact on the independence of our legal system is not just about lawyers. It's about the people who are appointed to serve in the very important roles, which is truly to be recognized as independent. We know that in other authoritarian states and countries in the world where there's any indication of government interference with the judiciary in terms of decisions….

We have had challenges at times with elected officials who call up judges sitting on a case and attempt to influence them on their decision. We know, people in the public realm should know this, certainly the media recognize this, that that undermines the independence of our judiciary. That that is prohibited. That it is something that a cabinet minister or a member should resign over.

[6:00 p.m.]

But in other authoritarian states, we see a mix, a mix where courts have been questioned about the influence on those courts. This is not what we want to see in British Columbia. This is not what we want to see in Canada. This is not what I would expect to see under any government in this province.

When we're talking about eliminating self-regulation,

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about the influence on those courts. This is not what we want to see in British Columbia. This is not what we want to see in Canada. This is not what I would expect to see under any government in this province.

When we're talking about eliminating self-regulation through eliminating the ability of lawyers to elect a majority of the regulatory board directly from lawyers themselves…. That actually feeds up to the judiciary. That level of government interference over the regulation of lawyers in terms of all the licensing, the regulatory powers, the independent reviews, the authority to practice, the disciplinary proceedings…. All of these provisions that deal with lawyers themselves are now under government control.

Ultimately, when you're under government control, the judges will feel that pressure too. These are judges that will be selected, appointed, from the ranks of lawyers that are living in a system that is controlled by government — that is not independent and that is not free of government interference, government political policies, ideological viewpoints or ideological frameworks of how they see the world.

Again, I remind this chamber that we have a Premier who has been the most activist Attorney General this province has ever seen. Now, as Premier, he is bringing across legislation that will totally undermine the independence of the only body that is left to challenge government — the only body in society other than the members of the official opposition that can stand up to government to bring forward British Columbians' disputes and concerns and grievances with government. Of course, when that's brought forward in our courts, our justices have to be absolutely 100 percent free of any government interference. If they are not, we do not live in a free and democratic society.

This is what is at stake in Bill 21. This has to be very clear. This is the reason why we have called for a pause on Bill 21. We have said that this needs to go out for broader consultation, as the Law Society of British Columbia and the Canadian Bar Association has called upon through its membership. The Attorney General has heard this time and time again. Obviously, I do have a bit of passion in this area.

I will say that at a recent CBA conference, we had the Attorney General, as I understand, attend this conference. I believe it was just two weeks ago. Chief Justice Hinkson said: "An independent judiciary is dependent on an independent bar." Just to repeat: "An independent judiciary is dependent on an independent bar."

Of course, for those of you who need a little translation, "bar" is what we commonly refer to as…. When you're called to the bar, you become a lawyer. I recently put something out on social media where I was outside the law courts, the Great Hall in downtown Vancouver. This is where many, if not all, lawyers…. There are different call ceremonies in different locations around the province, but certainly, many of the Vancouver lawyers have all gone through the Great Hall.

I did that 27 years ago. I remember that day very fondly with my young family and my colleagues. That is what being called to the bar means. It means signing the Law Society roll, taking on the obligations. It means meeting with a bencher to go over your professional responsibilities and obligations. I met with Richard Peck, who is a very well-known, foremost practitioner in criminal law.

[6:05 p.m.]

I never had a criminal law practice or background, although I did do very well in criminal law, for sure — my criminal law course. But other than that, I didn't go and pursue a career in criminal law. I will say that when Chief Justice Hinkson, who is a chief justice in our province,

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criminal law practice or background, although I did do very well in criminal law, for sure criminal law, in my criminal law course. But other than that, I didn't go and pursue a career in criminal law.

I will say that when Chief Justice Hinkson, who is a chief justice in our province, underlines the point, I think this government needs to hear that point. There's a reason why he's making that point. There's a reason why in the context of discussion around the regulation of lawyers, the importance of our judicial system, our justice system, that fundamentally, in plain language and plain words, Chief Justice Hinkson is indicating to this government that we need to have an independent bar, that we need independent lawyers who have the opportunity for self-regulation, as is the case in the Law Society.

I will say that I know that I've heard also from Indigenous lawyers, friends of mine, who have been working for many years to ensure that the Law Society continues to modernize and address the importance that Indigenous people, Indigenous lawyers, legal practitioners play in our justice system. I acknowledge that work. I acknowledge that it hasn't been easy, certainly from their perspective, as I understand it.

Of the 32 current benchers of the Law Society, five are Indigenous. That's my understanding. Certainly, I know it's been an effort to ensure that there is representation, not just of Indigenous peoples and, of course, racialized and ethno-cultural peoples in our province. I think the Law Society composition…. My understanding is that it's done better in that regard too. But of course, we can always do better, and I think the Law Society would acknowledge that.

And when they had put in their mandatory Indigenous education program as well, I heard from lawyers at the bar who have gone through that course. Even those who practise in Aboriginal law or resource law found that course to be very beneficial. That's just a small example of course.

I do know, and I would hope this government recognizes through their significant discussions with the Law Society over the last seven years, that the Law Society has made significant efforts to continue to modernize and strengthen itself as a regulatory body, and that it is seen as a leading regulatory body in the country. Not to mention for a few things that I've just mentioned.

I know that there was certainly a willingness to consider the recommendations of the Cayton report to give the time and space to do so, but this government didn't really do that. Government announced that they were going to go in a different direction, this direction. The reason why that review under the Cayton report was necessary was because the Law Society itself wanted to address and assess how it could do better, how it could modernize. But this government didn't get the opportunity, even for its benchers and the Law Society itself to consider the recommendations what was addressed in that report.

We're talking in, as I understand it the month of December, over what is traditionally, at least, for some British Columbians, a holiday period. This government acted very swiftly, once that Cayton report came down, with their own plan. The Notaries Association, as I understand it, also had a different proposal to ensure that they could expand their scope of practice under their current legislation. It didn't evolve new legislation. They had another proposal. It didn't have to go this way.

This government had a plan. There is an agenda here that we've seen over the last seven years. It's an agenda that under this Premier has undermined the rule of law in our province. I've seen it time and

time again. I've voiced my concerns in this House time and time again.

[6:10 p.m.]

Even on the legislation dealing with ICBC, I've made numerous speeches in this chamber setting out my concerns about how we could have an Attorney General, this Premier, be responsible for ICBC — the chief litigant in our province, the entity that has the most litigation against itself — change the rules of court to favour itself. A clear conflict of interest. I have grave concerns

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most litigation against itself, changed the rules of court to favour itself. Clear conflict of interest.

I have grave concerns in terms of how our Premier has been conducting his perspective on the rule of law in our province. This bill, 21, only demonstrates his last piece of his agenda in the dying days of this Legislative Assembly, in the nine days that we have left. I think I would urge this government again, as I have this Premier…. On the Land Act amendments, when they put their engagement document on a website, engage.gov.bc.ca and didn't tell anybody — no consultation, no engagement….

There's been no real, true consultation on this bill. There have been some discussions with representatives and leaders of the legal profession under NDAs, with no ability to share the details other than…. I will acknowledge that there was a paper distributed and that the CBA did respond to that paper in terms of the various ways in which the legal profession could be modernized in our province. There was a what-we-heard report.

What has landed here, just like Bill 36, in terms of the Health Professions and Occupations Act, is very different from what has been presented in the past. That was the challenge. It was very different. This is fundamentally different too. As much as the Attorney General, along the way, has indicated, "Don't worry. I understand the importance of independence," and even in the last hour and a half in this chamber, literally hearing the Attorney General talk about independence and how independence is protecting us in the bill, I don't see it.

I look forward to the opportunity to have that direct conversation with the Attorney General about how myself, the Leader of Official Opposition, the Law Society, the Canadian Bar Association of British Columbia, the Trial Lawyers Association of British Columbia and the B.C. Civil Liberties Association of British Columbia — that, as I said before, the Premier had a role in, of course — all don't see it. They don't see how the independence of the lawyers is protected under this bill. It's not there. It doesn't fly. It doesn't work.

I would say that certainly, as I said with Bill 25, we have a situation here where, given the fundamental change under this bill and the effect that it's going to have on our independent justice system, as I've explained in my remarks here, this Premier doesn't have a mandate to do this. How does a Premier who is not elected, who is appointed through a flawed leadership process by his party, come forward and think he has the mandate to fundamentally change our legal system in our province under an Attorney General who is supposed to be the chief legal officer, following the example of the Premier when he was Attorney General? There's a pattern here for sure, and it all goes back to the Premier.

We know that if you're going to fundamentally change how our legal profession is governed, which will have an effect on our courts, you need a mandate to do that. At a minimum, you need to do a broader consultation, which is what the Law Society and the Canadian Bar Association of British Columbia have been asking for repeatedly. We know as well that those organizations have put on notice this government that they will challenge the constitutionality of this Bill 21. I have stood up in this chamber on many other occasions on legislation to convey that, as many members of the official opposition have said, for other organizations.

[6:15 p.m.]

In some cases, this government brings forward legislation to shut down a legal challenge, like for the KITS Coalition in Vancouver — concerns around that B.C. Housing project at 8th and Arbutus. They did that. They will bring forward legislation to shut down their own government lawyers' rights for freedom of association to form and join a union of their choice. They brought legislation forward to shut that down.

Now they're bringing forward this legislation.

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bring forward legislation to shut down their own government lawyers' rights for freedom of association to form and join a union of their choice. They brought legislation forward to shut that down. Now they're bringing forward this legislation, under this Premier's watch, and I would say, again, under his agenda.

This fundamental piece of legislation, just like Bill 25, needs more consultation, understanding and clarity. In this case, though….

By the way, I think it's pretty clear, for the reasons I've talked about here in my second reading speech, that I look forward to that discussion. I would say that the challenge, of course, in dealing with two fundamental bills like Bill 21 and Bill 25 in the last nine days of the session is that we're dealing with them at the same time, literally. I am missing the committee process right now to speak to this bill. I will join that committee process in 25 minutes or so when I'm done here.

I will say that when we have a government that purports to want to…. I recognize that we all want to ensure that British Columbians who need access to justice get that access to justice. I know that when I'm about to say will…. As I said, when I mentioned this before, we recognize that successive governments have continued what the NDP had previously started in 1992.

In 1992, the government of the day had said:

> "I am pleased to say that in this budget the government, in taking a look at some of the more affluent areas of society" — I think he's referring to lawyers — "has made a conscious decision to place a levy on the billings of lawyers. As a member of that honourable profession, I am pleased to say that it is a welcome move. The government is saying that there will be a levy on lawyers' billings because lawyers have the ability to contribute to the taxation system.
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> "As much as that measure may be seen to be tough by members of my profession, in fairness, we are also saying that we want to redirect government resources towards legal aid. The new tax on legal fees will go a long way to making sure that the working poor in this province, who have traditionally had difficulty getting access to lawyers" — that is, the affluent areas of society — "will now have a comprehensive legal aid system that will assist them in protecting their legal rights."

I think there has been mention that as Moe Sihota, the former minister of the day, had said, back on April 3, 1992, in this chamber, that there's reference…. Of course, we know that the current Health Minister was the chief of staff to former…. I guess it was former Premier Glen Clark when he was the Finance Minister when this was brought forward. So we're talking about three individuals. The Minister of Health would certainly recognize, as the chief of staff to former Finance Minister and Premier Glen Clark, that that was an effort.

Now, as I say, successive governments have not changed this. I'm only saying this as a point of reference — that there was a significant PST charge placed on legal services. Since 1992, it's been estimated…. That never, of course, went to legal aid. There was never the creation of what would be a leading legal aid system in the province. I know, through successive governments, that there has been a challenge with that, even when the Premier was Attorney General.

The Premier attempted to rectify that. But as I understand it, the additions to legal aid supports that were provided in, let's say, 2019-2020, really when you look at it, through the course of the pandemic and now, they're basically cost of living adjustments. They're not actually fundamentally pushing forward more resources towards legal aid.

[6:20 p.m.]

Again, I would recognize that successive governments have had that challenge. Today it's been estimated that the amount of money that's been collected under this PST on legal services is now $6 billion. Last year alone it was $286 million. For the last number of years, it's been $200 million annually.

I'm only saying that if this government was truly focused on increasing access to justice…. Again I appreciate the successive governments

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DRAFT SEGMENT 059

$6 billion. Last year alone it was $286 million. For the last number of years, it's been $200 million annually.

I'm only saying that if this government was truly focused on increasing access to justice… And again, I appreciate that successive governments have had some challenges in this area, that we can

always do more. I've certainly spoken about that and, certainly, as the former Attorney General critic and now current one, as well, I've certainly addressed this in ways to support the greater dedication of resources towards legal services and legal aid, because we do have a missing middle. The missing middle is not just amongst British Columbians in getting access to legal aid or legal services, but it's also amongst lawyers.

We've had this come about in 1992. We have a criminal bar, criminal lawyers that are quite senior, and some who might be junior, who are coming into the bar. But many have gone out of this practice of law. Because there aren't the kind of supports and resources available to support their practice — which is very important, as you know, to represent defendants, plaintiffs in many ways, including in the rise in the challenges around public safety, particularly in the last seven years.

So this thing is all connected, of course. I'm just speaking to the fact that the criminal defence bar even, or the prosecution side, that there are challenges there, that we have had a government, under the NDP in 1992, that created this charge and didn't dedicate the resources.

In the language that the Attorney General used, she didn't say affluent members of society or areas of society, and she didn't actually say working poor. But she said words similar to that, I think. Well, probably not the affluent part. But the point being that I've seen time and time again under this Premier's leadership, a villainization of faceless corporations, of the top 1 percent or whatever that language is. You know, the so-called class warfare and division among society.

That's just an example of the reason why lawyers need to be independent from government. Lawyers need to be free from government interference. Lawyers cannot be regulated under government control.

That is the reason why, when we talk about politics, we talk about discourse and we talk about words that I've used in this chamber that have been pushed back on me, when I talk about the silly season, when I talk about noise, I'm referring to the debate in the chamber. I'm referring to elected representatives, political candidates, leaders of other parties.

We are all engaging in the political discourse. But lawyers and our judges need to be free from that. That is something that I know and that I see this government not understanding. We will continue to pursue that in the bill debate to come.

I would know that…. I mentioned the very important term public interest in this bill, 21. We know that the Law Society of British Columbia, at present has, as one of its statutory duties under Section 3(a) of the current Legal Professions Act, not the one that is coming forward here: "to uphold and protect the public interest in the administration of justice by, 'preserving and protecting the rights and freedoms of all persons.'"

So we know that in Bill 21, we are talking about a regulatory board that no longer has the same focus around public interest.

[6:25 p.m.]

This is another area that I want to explore with the Attorney General, that we know that what is hard-wired into the regulatory body — the majority of whom, in the composition of the regulatory board are elected by lawyers themselves — has as its fundamental purpose and one of its statutory duties, to preserve and protect the rights and freedoms of all persons. To do so, clearly, as I have been asserting in my remarks here on the second reading on Bill 21

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the composition of the regulatory board as elected by lawyers themselves, has as its fundamental purpose, one of its statutory duties, to preserve and protect the rights and freedoms of all persons. To do so, clearly, as I have been asserting in my remarks here on the second reading on Bill 21, it needs to do so through an independent legal regulatory body, one that is free of government interference.

As we say, I know and I hear from members of the legal profession, lawyers themselves, that they are taking a serious look about whether they will continue their practice.

You know, we have lawyers who are practicing in other regions, like the Kootenays or the Interior or the North, lawyers that are just trying to get by based on the state of the economy in these areas. Some of these are not strictly rural communities. Some of them are vibrant towns and cities and regional districts, certainly. But in terms of some of the rural districts, when we need to have and promote access

to justice, that we have lawyers who are going to leave our province because they don't want to be under the government's thumb, that ought to be a concern. This is the reason why.

You would think you would have a broader consultation to the affected parties, as what the Canadian Bar Association has been calling upon.

I know that as we look, going forward, at this bill, that we'll want to have this government give us a fair and clear understanding as to how they have measured the impact of this bill, this change on the legal profession. Have they truly been through and assessed what will be the impact of Bill 21 on the legal profession?

Now, I have mentioned that the British Columbia Civil Liberties Association has written a letter and communicated their view directly to the Attorney General. I just want to cite and speak to a number of points that they made in their March 26, 2024, letter to the Bill 21.

I would say that the B.C. Civil Liberties Association has taken a similar view. I expressed it a little more strongly, but they did say that the intentions paper, which was entitled "Legal Professions Modernization," which was published by the Ministry of Attorney General in September 2022…. They say it appears to suggest that the government is aware of the need for an independent, self-regulating legal profession. They go on to say: "We are concerned that the province may not have fully grappled with the extent to which the independence of the bar is critical and fundamental and is a critical and fundamental aspect of a free and democratic society."

I certainly utilize similar concerns as the B.C. Civil Liberties Association. Where I think the association was giving a bit of latitude to the Attorney General is the words around "may not have fully grappled." I think we need to understand that. Have they fully grappled? Have they grappled with it, or are they just missing it completely? Or is there something else going on here?

Is it that the Premier specifically understands exactly what this government is doing? It's not a matter of grappling, that there is an agenda here to undermine the legal profession and lawyers and of the rule of law in our province, to not have that independence free from government interference. That's the agenda. It's not a matter of grappling.

You've heard me on that point. I would say that the B.C. Civil Liberties Association has said that they have concerns that a single legal regulatory model will fail to preserve this important distinction for lawyers. They go on to acknowledge the other associations that have expressed this concern.

They quote the same quote that I made, that I've quoted, that the Law Society has quoted, that I've quoted to the Attorney General, that we will again have a discussion on at committee stage.

They go on to quote that Supreme Court of Canada decision, Justice Estey, in 1982. They also quote the principles 24 and 25. And 24 was quoted by Lawyers Rights Watch of Canada, and 25 says…. I'll just say this, because I do think the B.C. Civil Liberties Association certainly would want to have a voice on this in this chamber.

[6:30 p.m.]

When they cite principle 25 of the United Nations basic principles on the role of lawyers, they cite: "Professional associations of lawyers shall cooperate with governments to ensure that everyone has effective and equal access to legal services and that lawyers are able, without improper interference, to

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when they cite principle 25 of the United Nations' *Basic Principles on the Role of Lawyers*, they cite: "Professional associations of lawyers shall cooperate with governments to ensure that everyone has effective and equal access to legal services and that lawyers are able, without improper interference, to counsel and assist their clients in accordance with the law and recognized professional standards and ethics."

I would say that the area of cooperation is addressed by the seven members of the current Law Society board, out of 22, that are appointed by government. But the point that I was making earlier is that 25 members of the Law Society board are directly elected. I would expect, and I will ask the Attorney General to confirm, that that level of cooperation is perhaps contemplated with the current composition of the Law Society.

But the emphasis ought to be placed on lawyers needing to provide effective and equal access to legal services without improper interference. I say: improper interference by government. I don't think

the B.C. Civil Liberties Association disagrees with that statement, in that they need to counsel and assist their clients in accordance with the law. Not government. The law. The rule of law.

I know that some members of government across the way, when I made the comment previously about the Premier being unelected — appointed — and not having a mandate…. We understand the way our democratic system works. We're not talking just about electoral law of how governments take shape and what the Lieutenant-Governor does and all of those things in our parliamentary process and system and traditions and protocols and conventions.

What we're talking about is the rule of law — the rule of law that is administered by the court of law. Even as we see — and we'll see this in Bill 25 — when this government puts in a clause that says…. I don't have it with me. It's in the other chamber. But the honour of the Crown. Here, we have a government saying: "We're determining what the honour of the Crown is." That's not what governments do. It's for the courts to determine whether a government of the day is acting to meet their obligations, the honour of the Crown, the fiduciary duties.

There is a blurring of the lines here, clearly, and a lack of recognition about lawyers having their own professional standards and ethics, which is what this UN principal 25 speaks to. I would say that the B.C. Civil Liberties Association is, then, making a comment relating to comments that I've raised in estimates with the Attorney General, and I know her response. I remember it well. We may have this conversation again.

But these are not my words. These are the words of the B.C. Civil Liberties Association and also the Canadian Bar Association. I know they've both written and expressed comments directly to the Attorney General about the fact that both the Premier and the Attorney General publicly criticized the conduct of defence counsel in advancing arguments on behalf of his client, in that case, and the proposed reform to the system to prevent this happening in the future.

It said here in their letter that the B.C. Civil Liberties Association is concerned that the province, which cannot regulate in the area of criminal law, will attempt to use the regulation of lawyers to limit the ability of defence counsel to advance arguments on their client's behalf or to act in accordance with their client's instructions.

This is just another recent example of the kind of government interference and influence when the Premier or the Attorney General of any government speaks in that manner. I emphasize the words "Premier" and "Attorney General" in any government. There's a distinction to be drawn here. When the Premier speaks of our province and when the Attorney General speaks of our province, that's the current government of the day.

If that government is controlling the regulation of lawyers in our province under Bill 21, it flows down to that body — the body where there's only five elected lawyers out of this board of 17. I've laid out here the reasons about how government can control this board and therefore control the legal profession.

[6:35 p.m.]

Therefore, when a Premier and Attorney General of the province makes comments like this to criticize the conduct of a defence counsel…. We may or may not agree with the conduct of that defence counsel, but that defence counsel has every right to mount that

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Therefore when a Premier and an Attorney General of the province make comments like this to criticize the conduct of a defence counsel…. Now we may or may not agree with the conduct of that defence counsel, but that defence counsel has every right to mount that defence. That is the independence of lawyers.

Certainly, of course, it's the independence of courts to make decisions in judgment on any proceeding. Certainly, that level of government control and influence is the concern that we're seeing. It's the reason why associations are lined up to take this government to court, to challenge Bill 21 as being unconstitutional.

If you look back to the quote I read out at the beginning of my remarks, it is a clear violation of that. It's a clear violation of what was stated by the Supreme Court of Canada in what has been known to be the leading statement on the importance of the independence of the bar.

This is the reason why, repeatedly, in the face of what the Attorney General has read in writing, heard directly, even as I understand it, in a pretty vigorous and strong statement made by the president of the Law Society….

And I know that in the initial statement, Law Society president Jeevyn Dhaliwal (K.C.) said — apart from reiterating the commitment, steadfast in nature, to protect the independence of the legal profession and the regulator, which they see as linked inextricably —"The example that we set here in Canada is particularly crucial in the context of increasing threats to the legal profession around the world. Independence is essential to the proper functioning of the administration of justice, and we cannot, and must not, permit its erosion."

This is what we're facing under Bill 21: the erosion of the independence and proper functioning of the administration of justice. We know that there's a very famous court decision, back in the day, certainly in terms of public administrative law. All the law students from the mid-'90s, including myself, studied the Roncarelli-Duplessis decision, in respect to what happened when Duplessis, in that case, controlled the regulation of the legal profession in Quebec, meaning if Duplessis had controlled the regulation of the legal profession in Quebec as tightly as he controlled liquor licensing…. These are the lessons that we should be learning. We should learn from what that decision meant in terms of the interference and the control that Duplessis exerted over liquor licensing in Quebec, and the challenges, which are known for that overstep, that government overreach and the misconduct by provincial elected officials, senior government employees and others.

This is the concern when you don't have that divine, defined line to preserve the independence of lawyers and the judiciary. This is the kind of misconduct and malfeasance that we're looking at, in our public bodies, in terms of the kind of chilling effect that they would have on even persons who are seeking to take legal action against the government body.

Who would step forward to represent an individual? Who wants to take that on? When they're under the thumb, the regulatory body that government controls. Who would step forward to represent a British Columbian who wants to sue the government, to make that claim?

I can tell you right now that even as we talk about bills in this House…. And I was just talking to the Minister of Indigenous Relations and Reconciliation about this. We were talking about the fact that the minister responded to my question by pulling out one of the legal bulletins. I said: "Well, I don't think we're going to do this bill debate at the committee stage by pulling out different duelling legal bulletins."

[6:40 p.m.]

But I can tell you that any lawyer, legal practitioner in our province that chooses to step and have a different view from our current government, do they have fear?

Should they be concerned? Is their viewpoint being dismissed? Clearly. But will they in the future

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legal practitioner in our province that chooses to step and have a different view from our current government…. Do they have fear? Should they be concerned? Is their viewpoint being dismissed? Well, clearly.

But will they, in the future, be undermined in their ability to have their perspective, to actually challenge, even in the public discourse on public policy, to put out an alternative view from what the government's lawyers or others who support the government's viewpoint of any government of the day…? When we have an independent voice that challenges in the public realm a different perspective, what are we going to see?

I will close on this point. I have cited in the past, in the end of my second reading speech on Bill 25, that there is, currently, one of the individuals who is leading the implementation of DRIPA in this province. That individual not only marrying up, so to speak, an opinion in terms of reconciliation, deconstructing, reconstructing society in a joint article with a special adviser in the Premier's office, but this other individual also was involved with former Justice Minister Jody Wilson-Rabould federally, relating to the justice directives.

There is definitely, for First Nations people, a recognition of the way that we need to proceed, but also a real dampening on the use of litigation on the courts. This is a continuation of that. Certainly

we've seen that under this Attorney General, the former one, as he was Premier, on the litigation directives. This is the kind of constraint that we're seeing on our legal system in this province. Bill 21 is just another example of that.

B. D'Eith: I rise today in support of Bill 22, Legal Professions Act. I did want to make a….

Deputy Speaker: Excuse me, Member. We're on Bill 21.

B. D'Eith: I apologize.

Deputy Speaker: Not a problem.

B. D'Eith: Bill 21, Legal Professions Act. I can't read my own notes. Anyway.

I just wanted to respond to a few things that the critic for the Attorney General and the MLA for Vancouver-Langara said in regards to Bill 21.

I feel very fortunate to have been appointed as King's Counsel as a lawyer. I'm also very proud to share that designation with a number of MLAs and ministers in the House. We actually, in our government caucus, have seven lawyers, five of whom are also King's Counsel and are part of government caucus.

I did want to just mention that we have a number of lawyers in our government caucus. They have had a number of different types of practice, whether that's human rights or criminal or entertainment, whether that's a prosecutor…. There are a number of different roles that they've had as lawyers, and feel very deeply, as I know we all do, that the rule of law and the independence of lawyers and the judiciary is extremely important.

Where I differ from the critic and the member is that what Bill 21 is doing is bringing about a modernization of the Legal Professions Act that has been needed for decades. Also, we have a unique situation of having notaries in British Columbia — one of only two provinces, I believe, who have notaries that are separate from lawyers but practising similar types of practices — and, of course, paralegals.

When I started as a lawyer, 34 years ago, a long time ago, we had paralegals back then. Even at that time, in the first few years of my practice, paralegals were talking about the fact that they weren't regulated and that they didn't have any rights. That has gone on for decades. There has been talk and talk and talk and talk.

Finally, we're getting to the point where this modernization, where the people that are involved with providing legal services — lawyers, paralegals, notaries — will have a consistency of rules and regulations, with one regulatory board. This is not only efficient, it's modern, and it's important.

[6:45 p.m.]

But I did want to respond to one thing that the member from the opposition brought up, and this idea of government interference with the administration of justice. One of the things that…. It's very difficult to hear that coming from the opposition, because there are few things in my life that actually prompted me to run as an

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idea of government interference with the administration of justice. One of the things that…. It's very difficult to hear that coming from the opposition, because there are a few things in my life that actually prompted me to run as an MLA. One of them was, in fact, the interference of the government and the administration of justice. And one of those was PST was put on legal fees to pay for legal aid, and that was brought in in the '90s. One of the first things that happened in the early 2000s, 2002 to 2005, is the B.C. Liberals, now B.C. United, gutted legal aid.

Now, if you want to talk about access to justice, you want to talk about the administration of justice, that was an absolutely terrible thing that happened, not just to individuals, but you think about the people in our society that are accessing legal aid. Absolutely unbelievable. In fact, I had a friend who worked for legal aid. Her job was firing 500 legal aid lawyers. That's 500 legal aid lawyers. There was a 40 percent cut to legal aid. And 85 percent of the legal aid offices were closed back then.

So if we want to talk about the United Nations, and we want to talk about declarations and access to justice, that single thing, amongst many other things — not funding the courts, you know, all the things — that the former B.C. Liberals, United now, did to basically interfere with the administration of justice, in my opinion, that was one of them. Now the member gets up and starts talking about the administration of justice. I find that really rich, really rich, because that's one of the reasons I ran in the first place.

And now we've got a situation where we are funding legal aid, where we are funding the judicial services in the courts. We are making sure that people get access to what the United Nations has said is a human right. We are committed to that. I know our Attorney General is, and I know all the lawyers in our caucus are.

The other thing I take exception to is the interpretation. I appreciate the member opposite was a lawyer and is trying to make a legal argument here, but the fact is that this well-consulted modernization was actually brought in…. And section 8 actually deals with the regulation. It's really important to note that within that, basically, lawyers will actually be the majority of the lawyers. There's 17 members on that board; nine will be lawyers. It's really important to know that five are elected by lawyers and then, two notaries are elected and two paralegals, so nine are elected.

This is where the member leaves out a very important thing. The other lawyers are appointed by the board. They're not appointed by the government. So the nine lawyers are actually all otherwise elected or appointed by the board, and they have the majority of the board. So by having the majority of the board, they control the regulatory body. Only three — only three — of the members will be appointed by the Lieutenant Governor. That is really important.

Another really important thing, if we want to talk about government interference and all those…. The Attorney General will no longer sit on that board. If you want to talk about independence, that actually creates more independence, in my humble opinion.

So I disagree fundamentally with that. I believe that the regulation will actually not only enhance our legal profession…

[Mr. Speaker in the chair.]

…will bring some certainty to the profession and actually consolidate notaries and paralegals. I support Bill 21, and I hope everyone will as well.

M. Morris: I've been listening to the discussion on Bill 21. I thought I would add my two bits' worth in.

I spent 32 years in law enforcement, starting well over 50 years ago now. I have a lot of friends that are still criminal trial lawyers. I have been involved in the process now for decades — a lot of wisdom. A few judges that I've spoken to as well, and they have the concerns that my colleague was speaking about in his opening remarks here, not too long ago.

[6:50 p.m.]

It is based on the rule of law, and it is based on the independence of the legal system in British Columbia and the judiciary and all of the components that fit within that.

There are stringent rules

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speaking about in his opening remarks here not too long ago. It is based on the rule of law, and it is based on the independence of the legal system in British Columbia and the judiciary and all of the components that fit within that.

There are stringent rules that have been developed over decades of jurisprudence that were tested in court and passed on to the legal professions in the way that they execute their responsibilities to ensure that there is that independence and to ensure that the public have confidence in the systems that we have.

I do have several things to say on this. When the Speaker feels it's time, just give me the nod in the direction here.

It was based on that, as a constable or as a corporal or as a supervisor in the RCMP, presenting evidence in court — and I have presented evidence in court hundreds of times, perhaps into the thousands; I don't know — and in other tribunals and in other forms of the legal profession in Canada here…. It gave me great confidence to do my investigations, to present evidence under the rules that have been established by the courts, by that independence, in the way that I conducted the work to ensure that I had technically elegant investigations to present to the courts.

If we didn't do that, the courts were the first ones that would take us to task. We would blow hundreds of thousands, perhaps millions of dollars of public taxpayer money on the investigations where we have made that mistake. That mistake would be clarified for us through the courts or through the lawyers.

As a police manager, I sat down often with the administrative court judges, with Provincial Court judges, Supreme Court judges, just to talk about the level of evidence and the expertise that was being exhibited by investigators across the area within my jurisdiction and responsibility. I'd hear back from them any concerns that they had. Government wasn't involved in it. It was the judiciary themselves.

One of the other issues that has been brought to my attention, and I'll get into it probably the next time I speak here, is the independence of the judiciary themselves. As my friend spoke earlier, the judiciary is…. You have to be a lawyer. You have to be a practising lawyer within British Columbia in order to be qualified as a Provincial Court judge. And you have to be a practising lawyer to be appointed as a Supreme Court judge with the federal jurisdiction for the B.C. Supreme Court. You have to exhibit that level of experience and understanding of all facets of law and how it works. All the policies, all the derivatives of that in order to fully comprehend and understand it and make those independent decisions that increase the confidence of the public in the legal system that we have.

There has been a tendency by this government, and I've witnessed it pretty much since this government took over about seven years ago, to interfere with a lot of that process. The latest example that I'll use is Bill 17, the amendment to the Police Act, where the police boards now will be looking after the operations. It says right in the act that they look after the operations. Legislation now passes to say that they are looking after the administration, the governance and the operations of the police departments under the direction of the chief. But that still opens the door to political manipulation of the police boards. The police boards are appointed by government. So that's one indication.

The other example that's taking place as we speak, and will be taking place all of the rest of this week, is the Surrey police transition fiasco that we see, where laws were made after the fact. Surrey applied to the court to assist them in their transition decision, and a week or two later there was legislation presented in this House that would stop that or try and stop that. Of course that will be part of the subjects that this particular case is looking at.

That is interference with the process. It's government interference. "If you don't do what I say, I'm going to bring in a law that's going to stop you. I'm going to appoint a board that's going to stop you and control you."

[6:55 p.m.]

That's where this Bill 21 is heading. There's a lot of concern from the Law Society. There's a lot of concern from the criminal law trial folks that I've spoken to. There's a lot of concern with some of the independent judicial bodies that we have in the province here.

I would be really curious to hear the legal members, the lawyers within the federal

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There's a lot of concern from the Law Society. There's a lot of concern from the criminal law trial folks that I've spoken to. There's a lot of concern with some of the independent judicial bodies that we have in the province here.

I would be really curious to hear the legal members, the lawyers within the government caucus, stand up and make comment on this particular bill, because I think that it's appropriate. I know there's more than the previous speaker, who is a lawyer. I know there ae other lawyers within caucus. Criminal lawyers. There are a number of disciplines that are represented by these lawyers here.

I would be curious to see what they have to say about this particular bill on the public record, before we get to the committee stage, and perhaps what kinds of comments that they've got back from their fellow legal comrades throughout the province here, with the Trial Lawyers Association or with the bar or any of the other associations that we have here. There's a lot to be said on this particular bill.

In addition to the issues around judicial independence, the issues that this bill is bringing forward, I find it quite phenomenal that a bill of this size — there's, what, 300 hundred clauses in this bill; it's quite complex; it's going to take a lot of time to go through — wasn't produced right at the very beginning of this particular legislative session, to give us the amount of time that we do need to scrutinize this bill, to make sure that we look at every single part of this bill that is causing concern to the people that speak to us.

I now know there was a limited amount of public consultation that went out on this, very limited, with respect to the type of bill that we have before the House, the complexities of the bill that we have before the House. But it should have been a little bit more in depth, and it should have been a little bit broader.

This is going to try and jam it into a corner, typical that I've seen with this government in previous sessions as well, where complex bills are put before the House and we are not given enough time, on behalf of the citizens of British Columbia, to review it and make sure that every piece of this act is brought up so that the public can comment on it to us or to government or to whoever might be involved in it before we actually get to the voting stage on the committee stage.

Noting the hour, I reserve my right to speak again and move adjournment of the debate.

M. Morris moved adjournment of debate.

Motion approved.

Committee of the Whole (Section A), having reported progress, was granted leave to sit again.

Committee of Supply (Section C), having reported progress, was granted leave to sit again.

Hon. R. Kahlon moved adjournment of the House.

Motion approved.

The Speaker: This House stands adjourned until ten tomorrow morning.

The House adjourned at 6:58 p.m.

[NaN: a.m.]

[J. Tegart in the chair.]

Second Reading of Bills

BILL 21 — LEGAL PROFESSIONS ACT
(continued)

M. Morris: I'll carry on from yesterday on the Legal Professions Act and the intrusion that it has into the independence of our legal profession right across British Columbia.

I did mention it yesterday. I do know that the government bench has a number of MLAs who are ministers and who are members of the legal profession in British Columbia. I think British Columbians and the legal profession need to hear from them as to what their comments are with respect to the provisions of this very intricate, lengthy and complex bill that is going to affect notaries. It is going to affect all aspects of the legal profession right across British Columbia.

One of the concerns…. This government has demonstrated right from the time they took government in 2017, with the now Premier…. He was the Attorney General at that particular time. The amount of what I and many others consider to be the interference of government in the independence of the legal profession right across the province here….

I know that the Premier, when he was with B.C. Civil Liberties and Pivot Legal Society…. Their position on ensuring that people were released…. The administration of justice on offences was held, by these organizations, as something that was interfering with people's rights, I guess. I don't know. What has been taken away from this is bringing the administration of justice into disrepute.

I know the courts right across Canada have looked at this. Bringing the administration of justice into disrepute is pretty significant. Between that and the risk to public safety, the courts take a dim view on these kinds of things, which bring the administration of justice into disrepute.

I look at the administration of justice when it comes to somebody being arrested by the police and released on an appearance notice to appear in court on such a day, and they don't appear in court. Crown counsel doesn't approve any charges for failing to appear in court.

I believe it was the direction of the then Attorney General that has led to the Crown counsel charge approval policy that we see today, the interference with that particular aspect of it. It not only leads to failing to appear in court after being issued an appearance notice.

[11:15 a.m.]

When a judge orders somebody to return to court for trial or for a specific purpose and that individual doesn't appear in court anymore or fails to appear in court, it requires the judge to issue a warrant. We've seen time and time again where individuals ignore the warrants. The judge endorses the warrants time and time again to compel the individual to come back

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that individual doesn't appear in court anymore or fails to appear in court, it requires the judge to issue a warrant. We've seen time and time again where individuals ignore the warrants, and the judge endorses the warrants time and time again to compel the individual to come back, and they don't come back.

Or individuals that are released on conditions…. "Keep the peace and good behaviours" is the common one that everybody is supposed to abide by, and they're back out on the street and, within minutes sometimes, they're back breaching those provisions of keeping the peace and being of good behaviour. It doesn't work.

Or they breach their conditions where they're not supposed to go to a certain area. Or they breach provisions where they're not supposed to do certain things. and the Crown counsel policy prohibits them from laying charges. We see the escalation of administration of justice offences right across British Columbia that have had significant impacts on police resources, on court resources, on probationary resources or community corrections, as it's referred to. And that's taxpayer money that's being involved in these.

When we see that…. I think the Attorney General should have been stepping into this a long time ago to ensure that administration of justice offences are properly prosecuted before the courts. I know

that's a step that we're going to be looking at when the B.C. United take over government later this fall. It's something that needs to provide the confidence to the public that we have confidence in justice system in British Columbia. It's not being undermined. It's not being influenced by government through policies and through a lot of the things that we see in this particular act, in this particular bill that's being proposed before the House now, put before the House.

The other thing that I see taking place is when government starts thinking that they know better than the experts. We've seen a lot of that in this particular bill before the House, and we've seen it in other bills that have come before the House. That signifies it's time for a change. It's time for a change in government when government starts bringing bills like this forward to take control of things that they feel that they know better than the experts that we have in the legal field or in any other profession that we see where government has been interfering through legislation. That's an infringement on the public's confidence in the justice system that we have in British Columbia.

When we look at another example of interference by government in the legal profession, in justice, we don't have to look much further than the decrim policy that government has brought into play over the last year or so, where they have imposed a policy on the public for the police not to seize 2.5 grams or less of deadly fentanyl, cocaine, heroin, a number of the other drugs that we have out there. And that's had a significant impact, when we see over 2,500 people a year dying in British Columbia as a result of drug overdoses and fentanyl overdoses because the government has overridden a federal law in their attempt to decriminalize these small amounts of drugs, small but deadly amounts of drugs when we look at the amount of fentanyl that it takes to cause a particular overdose.

When Bill 21 talks about the Legal Professions Act, this is the entire Legal Professions Act as it applies to all aspects of tribunals and law in British Columbia. It interferes with the independence of how we choose our judges in British Columbia.

[11:20 a.m.]

It interferes with the independence at every level that we see where the officers of the court are involved, where the barristers, the lawyers and the solicitors are involved in trying to navigate their way through a lot of the complex problems that are created within our society because of the different situations that arise.

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to navigate their way through a lot of the complex problems that are created within our society because of the different situations that arise.

But those lawyers and the people they are acting for need that confidence, need that independence so that they can go forward and do whatever they need to do under the rigorous oversight of jurisprudence that we have established in this province ever since Confederation and beyond. We rely a lot on a lot of the case law that's been developed in England and other jurisdictions around the world. So it's not like….

I fail to understand why government wants to do this, other than to impose their will on this independent arm of the courts. There is a lot of jurisprudence, a lot of policies, a lot of things that have developed over the years based on tried-and-true legal manoeuvring through the courts and through the processes that are taught in our law schools, that are taught to the various tribunal heads that we appoint right across British Columbia, through the Law Society of British Columbia.

To me, this overreach that we see in the 300 provisions of Bill 21 needs to be exposed to the public so that they can see exactly what government is planning on doing by imposing Bill 21 on the people of British Columbia and on the legal profession of British Columbia. We need the time to do that. We will be….

I'm sure other colleagues…. I'm waiting to hear from the members of the legal profession on the government side, explaining their position and why they support this particular bill, because the public needs to hear that too. The legal profession needs to hear that as well. So we'll get this out in the second reading of this particular bill.

I know for a fact that our critic for this particular area will be popping the hood open on this during the committee stage to examine every clause under Bill 21, giving the public an opportunity to view that and to give the Law Society and the legal profession and the notaries out there, who will be significantly

impacted by this bill, an opportunity to watch and perhaps even offer questions to us or to anybody else involved in the process here so they can clarify a lot of the different issues and things that we have involved there.

This is something that…. I've received calls from a number of my friends that I've noted over the years, as I said yesterday, after being involved in law enforcement trials for more than 50 years now in various tribunals, various court levels. People that have been involved in the past, and individuals who have decades of experience in the legal field, are extremely concerned over the direction that this bill is taking British Columbia, extremely concerned.

As I said, I've received very many calls from retired folks that have been involved in the legal profession, as well as currently serving trial lawyers and others. In fact, some of them are saying: "If this actually goes through, I'm going to pack my bags. I'm going to move my office out of British Columbia because it's taking that independence away. I won't be able to adequately represent my clients when they come walking in the door because of the threat of the overreach of government in how we do things."

It's going to eliminate that independence that we have the confidence in, in moving forward. It's going to eliminate that independence that the public relies on in British Columbia when they have the folks from the legal community representing them. It doesn't matter whether it's in buying a new home, whether it's buying a company and going through the rigorous process that they need to ensure that they're covered from all the little legal things that could take place with respect to property and business rights.

It's the type of independence that we need when we have a lawyer representing a family, perhaps at a coroners inquest, to make sure that the family's concerns are represented without an overreach from government, that the person that's sitting, hearing that coroner's inquest, has the independence to hear that without overreach from government.

[11:25 a.m.]

There's a number of these, a number of administrative tribunals throughout the province here that hear matters dealing with the environment, that hear matters dealing with health, that hear matters dealing with a myriad of other things that

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DRAFT SEGMENT 018

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from government. There are a number of these administrative tribunals throughout the province here that hear matters dealing with the environment, that hear matters dealing with health, that hear matters dealing with a myriad of other things that there's legislation for in British Columbia. But there are also opportunities for individuals to exercise the laws of natural justice. To be heard. And to be heard before an independent member of the legal community in British Columbia, or to be assisted by an independent member of the legal community in British Columbia as well.

This bill goes into a lot of detail on this. It causes a cloud to develop over the independence of the legal community in British Columbia, a cloud that is not necessary. The only thing that I can think of that has brought this kind of a bill and these kinds of drastic changes to the forefront, probably is the fact that the previous Attorney and the now Premier wanted it this way, because he disagreed with the way the system worked with respect to Pivot Legal Society and some of the other…. the B.C. Civil Liberties Association. They wanted to have these changes implemented to protect their own mantra or their own thoughts on the way British Columbia should operate.

The independence of the legal community in British Columbia is paramount. It cannot be interfered with. The independence of the judiciary is paramount in British Columbia. The rule of law is paramount in British Columbia. For government to try and manipulate the rule of law by implementing regulations or legislation that will change that, I think, is going to lead to, perhaps, a constitutional challenge that will cost more taxpayers money and will cause more of a haze around exactly what the rule of law means with respect to a lot of these different tribunals that we have.

I think that we need to concentrate on this bill. We need to unveil all of the aspects of this particular bill, publicly, through the committee stage, so that everybody gets a chance to see that. And then we'll see what the outcome is at the end of that. But there's a lot of concern over this from the profession. There should be a lot of concern from people in British Columbia as well.

E. Sturko: Of course, I'm rising today, like my colleague, to speak to Bill 21, the Legal Professions Act, which proposes significant changes to the regulation of legal professions in British Columbia.

I just want to start by reading something from 1982, the year that the Charter of Rights and Freedoms came into force. It was Justice Estey of the Supreme Court of Canada that articulated the essential importance of an independent Bar. Justice Estey said: "The independence of the Bar from the state in all its pervasive manifestations is one of the hallmarks of a free society. Consequently, regulation of these members of the law profession by the state must, so far as by human ingenuity it can be so designed, be free from the state interference, in the political sense, with the delivery of services to individual citizens in the state, particularly in the fields of public and criminal law. The public interest in a free society knows no area more sensitive than the independence, impartiality, the availability to the general public of the members of the Bar and through those members, whose legal advice and services generally."

The reason I wanted to bring that forward is because this is the fundamental concern with this legislation. It's about upholding the independence of the bar from the state.

[11:30 a.m.]

As a former police officer, many times I attended court as a witness in investigations. Through the years of policing, I supported many victims of crime — many times, very, very vulnerable people, domestic violence victims, sometimes children. Having that underpinning

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and through the years of policing, I supported many victims of crime — many times very, very vulnerable people, domestic violence victims, sometimes children. And you know, having that underpinning of understanding that your voice that's being heard, those that represent you, are truly independent from government, from the state, I think is a bedrock for ensuring that people can have confidence in our justice system. If there isn't any confidence in our justice system, then our democracy fails.

This bill seeks to end the self-regulation of lawyers. As I said, it's a cornerstone of legal independence. They want to introduce new governance structures that dilute the voice of legal professionals because it has increased government involvement. B.C. United, of course, acknowledges the need for modernizing legal services and improving access to justice, but we're deeply concerned that Bill 21 compromises the independence of our legal system, a fundamental principle that has to be preserved to maintain public trust in the rule of law.

We know that as we stand here on Bill 21, the government has actually been put on notice by the Law Society, the Canadian Bar Association, the trial lawyers and even the B.C. Civil Liberties Association, the organization that the Premier was formally involved with. They're concerned about the challenges to this bill in terms of undermining the independence of the legal profession and concerns that when we're talking about it's actually the lawyers…. They have selected to serve on the bench, to serve in our courts, and they are doing this to protect the rule of law. With these types of changes, it is their concern, which they've been bringing forward, that it is in fact bills like this that do undermine their ability to remain independent.

Firstly, the proposal to end the self-regulation of lawyers is a significant departure from the long-standing tradition of legal independence. Tradition isn't merely a relic of the past, but as I said, it is a cornerstone of fair justice and the legal system. It ensures that legal professionals can operate, of course, without undue government influence.

The introduction of a governance structure that is predominantly appointed by the government risks the potential for interference that could actually sway legal regulation and oversight. Furthermore, the proposed board composition under Bill 21 includes a significant number of government-appointed members. The involvement of government-appointed members in significant numbers could lead to decisions that favour political convenience over professional standards and justice.

The bill continues a disturbing trend of government overreach into professional fields, paralleling the action seen in recent restructurings within health care and engineering through Bills 36 and 49. Such precedents serve as a stark reminder of the erosion of checks and balances when a professional field comes under the heavy hand of government control.

As I mentioned earlier, our consultation with legal advocacy groups and stakeholders paints a concerning picture. The Canadian Bar Association's B.C. branch, the Law Society and the Lawyers Rights Watch Canada have all echoed these apprehensions regarding the dilution of lawyer independence under the new regulatory regime proposed by Bill 21. And they're not unfounded fears but based on thoughtful analysis and understanding of a legal framework that, to this point, has served our province well.

While this bill aims to increase accessibility to legal services by introducing regulated paralegals and, potentially, other new legal professions, it's crucial for us to scrutinize how these changes will affect the quality of legal services. Expanding access should not come at the expense of professional standards. Each modification to the scope of practice we should be carefully monitoring and evaluating to prevent any compromise on the quality of legal representation that our citizens rely on.

[11:35 a.m.]

I am particularly troubled by the lack of consultation — or the lack thereof, I should say, really — that preceded Bill 21's introduction, because only a mere 776 responses

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citizens rely on.

I am particularly troubled by the consultation — or the lack thereof, I should say, really — that preceded Bill 21's introduction, because only a mere 776 responses were garnered from the engagement efforts by this government. You have to question, then, the breadth and the depth of the input that was sought by the government. Just for context, we're talking about 776 lawyers out of 14,000 lawyers in British Columbia. That's not very reassuring participation. When we're looking at such a transformative piece of legislation impacting such a cornerstone of democracy in our province, it demands a much more rigorous and inclusive approach.

We've seen this before from this government. The Land Act, making sure that they were doing consultation but not widely advertising it, mind you, just in case people who it might concern might find out…. It feels the same way with Bill 21: 776 respondents only out of 14,000 lawyers. Pretty sparse.

The government has promoted this bill as a means to reduce legal fees and enhance services and affordability, but a close examination reveals a lack of mechanisms within this bill to guarantee these outcomes. This sounds actually pretty typical of this government too: announcements but not results, potentially, no mechanism to guarantee any outcomes. This discrepancy between the government's promise and the bill's actual provisions is troubling, and it's why it highlights a need for greater transparency and accountability in the legislative process.

It's important to recognize the proactive steps taken by notaries in British Columbia to elevate their professional standards. Notaries have made significant strides to ensure that those practicing in the expanded scope have the necessary knowledge and expertise. This commitment to maintaining high standards actually deserves commendation. While B.C. United, of course, appreciates the government's intention to integrate such standards into Bill 21, it's imperative to note that notaries themselves actually proposed an alternative path.

They suggested amendments to the Notaries Act that would have allowed them to voluntarily adopt these higher standards without the need for a broad legislative overhaul. This approach would have preserved the notary profession's autonomy, while still achieving the government's goal of professional standards across the legal service. As we know, the government, of course, chose not to take this path.

As the bill moves to the committee stage, our caucus will rigorously examine every clause to make sure that the legislation, of course, aligns with the best interest of British Columbians and that it maintains independence and the high standards of our legal profession.

Our caucus would implement a regulatory framework that protects the autonomy of legal professionals from undue government influence. This should be done while ensuring that expanding roles within the legal profession don't dilute professional standards. Unlike this government's repeated refusal to do so, we are going to continue to push for a comprehensive and genuinely inclusive consultation process that involves all stakeholders, not only 742 out of 14,000.

While modernizing the legal profession is a worthy goal, it has to make sure that it doesn't come at the expense of the foundational principles that govern our legal system, which is why at the beginning of

my speaking points I wanted to bring up what was said by the justice the same year that our Charter of Rights came into effect about the importance of the separation of the state from our judiciary.

[11:40 a.m.]

We have to make sure that no matter who you are in British Columbia, you can feel confident that you're receiving independent counsel. This is a right. This is what ensures that every British Columbian can stand on an even playing field, regardless of who it is they're facing off with in court. As my

can feel confident that you're receiving independent counsel. This is a right. This is what ensures that every British Columbian can stand on an even playing field, regardless of who it is they're facing off with in court.

As my fellow MLA for Prince George–Mackenzie brought up earlier about, for example, representation when you are in a situation where you are dealing with a government organization…. He brought up the example of the coroner if there's a coroner's inquest, and you want to make sure that the representation that you're getting is independent in every way and not simply going to toe the government line.

One of the things that makes this really important…. This has come up a lot, actually, for me, and so when the member from Prince George Mackenzie brought it up about the coroner…. Because I have so many families that come to me after the death of a loved one. This year, far too many families have contacted me because their loved one died as a result of suicide, where they were discharged from the hospital.

When the family tries to seek answers, for example, from the health authorities, they feel like, whether real or perceived, the health authority is defending the actions that were taken. It may not be the case, but it's certainly what people feel. They feel that they're being stonewalled, that they can't get access to information. That's because the individuals who are conducting the investigations at the health authorities are the people who work for the health authority itself, so there's a perceived conflict there.

That's the kind of thing that we need to avoid in our justice system. Because if, for example, you're involved in a lawsuit that would involve a branch of the government or employees thereof…. That kind of perceived conflict, whether it's carried out or not, the perception of conflict between the independence of the state and the judiciary, that is what undermines our justice system.

I think given that we've seen so much crime in British Columbia that's pretty traumatic…. It's one of the things that I experienced when I was a police officer. We would have very low crime in Surrey. They still actually have a relatively low crime rate there. But people would often have this perception that our city is a violent city.

I think back on that, and it's like, a lot of the…. We'd have a few things happen that were just so traumatic for the public that it really leaves an imprint on your mind. That's why it's important for people's confidence in the justice system to remain high. We've heard it, and we've actually seen already.

If you've ever gone on Facebook and you see these kind of citizens' action groups, and people trying to form neighbourhood groups to take justice into their own hands, it's actually a sign that people have lost their confidence in the justice system, because they do not feel that they will receive justice in any other way. When we already see this kind of fear in the public that perhaps justice will not be done in their interest, it just really highlights why the concerns of the legal professions about the independence of the judiciary need to be taken so seriously.

I don't want to drone on about that, but truly, at a time when British Columbians are feeling unsafe, whether they face a threat of crime, real or perceived, we need to make sure that people don't feel like they have to resort to vigilantism in order to accomplish justice in British Columbia. If people don't feel like they can trust prosecutors or any lawyer, for that matter, that they may be going to trial with, well then, what else do we have?

The world has gotten more complicated since COVID. We've seen a lot of conspiracies emerge. We want to make sure that we do everything that we can to make sure that people have confidence in our institutions.

[11:45 a.m.]

It's fundamental to turning the corner on some of the misinformation that we've seen emerge through social media, in particular, and making sure that people absolutely feel that they are on stable, stable, solid

confidence in our institutions.

It's fundamental to turning the corner on some of the misinformation that we've seen emerge through social media, in particular, and making sure that people absolutely feel that they are on stable, stable, solid ground with things like the independence of the legal system is going to be key.

Can you imagine, people who already may feel that, whether real or perceived, the government is controlling everything, that they can't get a fair shake, that their voice isn't going to be independently heard, when they get a load of what's happening with this bill…. You know, I can't speak for every single person out there but, I think, just given the fact that the voices of lawyers from the bar associations and even with the Premier's former association…. I mean lawyers themselves have concerns. It is fundamental that we make sure that at every opportunity we do everything that we can to make sure that that confidence, of course, is maintained.

B.C. United stands ready to work, of course, towards amendments, because we do want to modernize the legal system. But of course, as I've been saying, I think that we need to make sure that we're doing absolutely everything we can to maintain people's confidence in the independence of the judiciary. We want to ensure that these reforms, of course, genuinely enhance access to justice for all citizens.

Hon. Chair, I want to thank you for the opportunity to speak to this critical issue. And I want to thank the many lawyers and the many legal associations and representative bodies that came forward to us to raise concerns, to talk, to actually take the time to review what is in this bill, to help guide us, to help us understand what their concerns are so that as we do work through every clause of this bill, we can be assured that we're doing our utmost to ensure confidence in the justice system and all forms of the judiciary here in British Columbia.

Let's proceed with caution and diligence and make sure that we are truly safeguarding the pillars of justice in B.C.

N. Letnick: I would like to take my place to address Bill 21. Actually, I would prefer if someone on the government side would stand up in between, defending the bill. Minister of Health looks like he's ready to pounce, but he's not pouncing very quickly, so I'll just continue. I will speak to the bill and take us to lunch and then continue after lunch with your permission, hon. Chair.

Today I rise to address Bill 21, the Legal Professions Act, 2024, which proposes significant changes to the regulation of legal professionals in British Columbia. I'm going to touch a little bit about what the bill does, what it doesn't do, some feedback from different groups on the bill. I'll talk a little bit about the public consultation process as well, compare it to the public consultation the Minister of Health and I and the Leader of the Third Party conducted during the review of the Health Professions Act. Juxtaposed to that consultation, I'm afraid it's a little weak, and I will identify those areas of weakness, if I may, at that time.

I'd just like to do a preamble and talk about what this bill actually seeks to do. It seeks to end the self-regulation of lawyers, which is, of course, a cornerstone of legal independence, by introducing a new governance structure that dilutes the voice of legal professionals through increased government involvement.

[Mr. Speaker in the chair.]

Hon. Speaker, welcome.

The opposition acknowledges the need for modernizing legal services and improving access to justice. However, we are deeply concerned that this bill, Bill 21, compromises the independence of our legal system, a fundamental principle that must be preserved to maintain public trust and the rule of law.

Would you like me to reserve my place and note the hour?

The Speaker: Noting the hour, Member.

N. Letnick: Okay. I will reserve my place, hon. Speaker, and noting the hour, I call for adjournment of the debate.

[11:50 a.m.]

N. Letnick moved adjournment of debate.

Motion approved.

Committee of the Whole (Section A), having reported progress, was granted leave to sit again.

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Motion approved.

Committee of the Whole (Section A), having reported progress, was granted leave to sit again.

Committee of Supply (Section C), having reported resolution and progress, was granted leave to sit again.

Hon. A. Dix moved adjournment of the House.

Motion approved.

The Speaker: This House stands adjourned until 1 p.m. today.

The House adjourned at 11:50 a.m.

But don't move far away. Stay close to us. We need your services to British Columbians. We really admire each and every one of you for the work that you have done for British Columbia. Thank you so much. [Applause.]

and we all love you. You're going to be missed, but don't move far away. Stay close to us. We need your services to British Columbians.

We really admire each and every one of you for the work that you have done for British Columbia. Thank you so much. [Applause.]

Hon. R. Kahlon: In the main chamber, I call second reading for Bill 21, Legal Professions Act.

Second Reading of Bills

BILL 21 — LEGAL PROFESSIONS ACT
(CONTINUED)

N. Letnick: I will continue with my second reading speech on Bill 21 in just a moment, as the Chair assumes his seat and as the members find their way to wherever they're going.

[S. Chandra Herbert in the chair.]

The Chair: Members pour into the chamber to listen to the speech.

N. Letnick: No, it's the other way around, as the members leave. There we go.

Before lunch I did just briefly…. As you can see, I still have a lot of time left. But for those who are following me, I have an appointment at two o'clock, so be ready at two o'clock.

I did talk about Bill 21, the Legal Professions Act, of 2024 and that the bill seeks to end the self-regulation of lawyers. We as the official opposition, B.C. United, acknowledge the need for modernizing legal services and improving access to justice. However, we are deeply concerned that this bill compromises the independence of our legal system, a fundamental principle that must be preserved to maintain public trust and the rule of law.

At this point, I'd just like to talk a little bit about the background of the bill. The process to review the Legal Profession Act and Notaries Act began in 2022 with an intentions paper. Following the release of the intentions paper, an engagement was held, and from what has been provided by government, 776 people or organizations or both completed the survey or sent in submissions. Now, I'm going to talk about the 776 in a moment, so allow me to come back to that a little later.

The Law Society stated in a letter which they've submitted to the public, sent to the Attorney General, yes, that they believe the independence of lawyers will be compromised. Again, I will come back to that as well by reading that letter into the record. I think I will be the first one to read it in the record, so I shouldn't get any direction from anybody else on that.

The Canadian Bar Association, B.C. branch is also very concerned that lawyers do not have a majority on the general composition of the to-be-established board and is conducting consultation with its members that should end at the end of April. They started consultations on April 19.

Also, note part 13 fees. No part implies any savings for the public re legal fees. This is one thing that the Attorney General promised in the news release, but not in her first reading.

The bill replaces the Legal Profession Act — so it's not just an amendment; it's a replacement — and it also replaces the Notaries Act. It establishes a new regulator for legal professions, which are the professions of lawyer, notary public, regulated paralegal and any profession designated by regulation. The bill creates a new licensing and discipline system, disciplines a scheme that establishes the legal professions tribunal.

The bill requires the regulator "to exercise its powers in the public interest and with a view to the following: the facilitation of access to legal services; reconciliation with Indigenous peoples; the removal of barriers to the practice of law faced by under-represented groups; and the regulation of legal

professions in a manner that is transparent, timely and proportionate to the risk of harm posed by their practice."

The bill also establishes the Indigenous council, whose role is to advise the regulator on matters relating to the implementation of the United Nations declaration on the rights of Indigenous peoples in the context of the regulation of the practice of law and to excite certain approval powers under the act.

[1:50 p.m.]

The bill includes amendments to the Legal Profession Act and Notaries Act to come into force on royal assent. Amendments to the Legal Profession Act allow the Law Society to exempt a person from the prohibition against the unauthorized practice of law if satisfied that the provision of legal services by the person will facilitate access to legal services without posing a significant risk to the public. Amendments to the Notaries Act allow notaries public to draft wills that provide for the assets of the deceased to vest when the beneficiary reaches the age of 25.

I previously mentioned the public consultation or public engagement process

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to legal services without posing a significant risk to the public. Amendments to the Notaries Act allow notaries public to draft wills that provide for the assets of the deceased to vest when the beneficiary reaches the age of 25.

I previously mentioned the public engagement process, which received exactly 776 participants. Now that's not 776 lawyers, as was previously mentioned. That is 776 total. The breakdown is 222 lawyers, 218 paralegals, 71 notaries, 211 general public, 10 from legal academic instructor or researcher, 44 other, making 776. From my understanding, there are somewhere between 13,000 and 14,000 lawyers in British Columbia. So this is 222 of, at a minimum, 13,000. It's just a drop in the bucket. A drop in the bucket for one public consultation.

Now juxtapose that against the public consultation that the Minister of Health, the Leader of the Third Party and myself led, with staff, of course, on the Health Professions Act changes. Thousands of submissions. We went out to the public with an intentions paper. They provided us their input. We then went out again with a document showing where we thought we should go in recommending to government and asked them again for their input. A lot of that was based on their input the first time. So we went through two iterations of this with way more people than what the 222 divided by 13,000 would be as far as percentage goes.

I don't understand why the Attorney General believes that canvassing is such an important issue with just 222 lawyers out of 13,000 or 14,000 lawyers is adequate public consultation. I would suggest that instead of putting the bill out for government adoption in two weeks before we rise, that they actually just let it stay on the order paper, let the public and the lawyers and the paralegals and notaries and the legal academics, instructors, researchers, all comment on what the actual legislation looks like. And then in the next session, whenever that is, and whoever is in government at that point, they can take the input provided by all these people and provide a comprehensive review to this legislation and hopefully get it right at that point.

As I said before, all three — the Canadian Bar Association, B.C. branch; the Law Society; and Lawyers Rights Watch Canada — have expressed concerns about the erosion of lawyer independence under this new structure. It is crucial that any regulatory body remains free from political influence to uphold the integrity of our legal system.

The Law Society itself, with an interesting letter, which I will read into the record. It was dated April 26, 2024, addressed to the Attorney General. It says:

> "As you will be aware, the Law Society of B.C. is deeply concerned that Bill 21, the Legal Professions Act, will have detrimental effects on the ability of legal professionals to properly represent the public. The Law Society has a statutory mandate to protect the public interest in the administration of justice by preserving and protecting the rights and freedoms of all persons, and the benchers have an obligation to act on that mandate.
>
> We, the benchers of the Law Society, are certain that the development of Bill 21 has failed to meet reasonable expectations that the public and legal professions will be significantly involved in commenting and advising on the substance of the bill. We are also certain that the passage of Bill 21 will disrupt and diminish the effectiveness of legal regulation in this province.

We are likewise certain that Bill 21 fails to protect the public's interest in having access to independent legal professions governed by an independent regulator, which is not constrained by unnecessary government direction and intrusion.

[1:55 p.m.]

We urge you and your government to reconsider proceeding with the passage of Bill 21 and take the time to consult more widely with the public, legal professions and the Indigenous peoples of British Columbia to ensure that a revised bill creates a legal regulator that will, so far as by human ingenuity it can be so designed, be free from state interference, in the political sense, with the delivery of services to be individual citizens in the state

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DRAFT SEGMENT 012

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with the public. The legal professions and the Indigenous peoples of British Columbia to ensure that a revised bill creates a legal regulator that will: 'so far as by human ingenuity it can be so designed, be free from state interference, in the political sense, with the delivery of services to the individual citizens in the state.'

"Should Bill 21 be passed and receive royal assent, without significant amendment, we believe that our mandate to protect the rights and freedoms of all persons will require the Law Society to initiate litigation to challenge the constitutionality of the act. That outcome is, by no means, the one we consider most conducive to the public interest. The better option is to take the necessary time to get this right.

"We again urge you to exercise the leadership necessary to make certain that the future foundations of legal regulation in this province are the right ones. The Law Society urges government to halt Bill 21 and consult stakeholders."

That is the letter from the Law Society, dated April 26, asking the Attorney General to pause on Bill 21, go back out to the public, ask for more input so they can "get it right".

I believe that it's vital that these changes not compromise professional standards and the quality of legal representation available to the public. As we heard from the Law Society letter, and other people, the conflict here is that they believe, as we do, that there may indeed be some of that occurring.

As the bill moves to committee stage, obviously our critic and critics will be ready to ask the government questions on this bill, specifically to each clause by clause, that are important to all to make sure that we get clarity on what's happening. The caucus will rigorously examine each clause to ensure that the legislation aligns with what the best interests of British Columbians are and maintains the independence and high status of our legal professionals.

We would implement a regulatory framework that protects the autonomy of legal professionals from undue government influence. This should be done while ensuring that expanding roles with the legal profession do not dilute professional standards.

Unlike the government's refusal to do so, we continue to push for a comprehensive, inclusive consultation process that involves the stakeholders. Again, I throw out the example of going back to the public with the intention and then finding more feedback so that we can all get it right.

With that, Mr. Speaker, I would just say thank you for the opportunity to speak to the bill. As I understand it, based on what the House Leader has said, this is the last second reading. Therefore, after 15 years in this place, this is the last time I will get up and speak to a bill at second reading. Thank you for the honour.

Hon. L. Beare: I seek leave to make an introduction.

Leave granted.

Deputy Speaker: Please proceed.

Introductions by Members

Hon. L. Beare: They were introduced earlier today, but they are now finally in the precinct here.

We have Queneesh Elementary School, with their teacher Wes Mann. The MLA for Courtenay-Comox wished them well and was looking forward to their visit. We have 35 grade 6 and 7 students. Would the house please help me make them feel very welcome.

Debate Continued

B. Stewart: I rise on a different topic. I'm here to speak about Bill 21 today. I just want to talk about the Legal Profession Act. It certainly does appear, from not having read the bill from end to end, but the amount of clauses…. It's over 300 clauses.

I think when you see these bills come in, it's always advisable for governments to make certain that they introduce these bills at the earliest opportunity so that the critics and the people that are charged with having to make certain that these bills…. Before they become the law, they need to make certain that they are properly prosecuted from the standpoint about what certain things mean about these things.

It brings me back to…. I think about professional acts that have changed in the time that I have been in this House. I think about one of the first problems that I was dealing with as Minister of Agriculture with the veterinarians. They had a professional act, and they had two very different groups that were not very happy with the act that was there.

They were really in charge of it. I know that we worked on it, trying to get them to come to a point where they could see things eye to eye and make certain that the differences in opinion were resolved by the people in the profession rather than government imposing them. It's been many years and I know that

[2:00 p.m.]

DRAFT SEGMENT 013

was there, and they were really in charge of it. I know that we worked on it, trying to get them to come to a point where they could see things eye to eye and make certain that the differences in opinion were resolved by the people in the profession rather than government imposing them.

It has been many years, and I know that the CA profession was one of the ones…. It did happen on a national basis, but it was one of the ones that we were lobbied early on in my days as a young MLA, in terms of what they wanted to do. We used to have CGAs and all the different other accounting kind of titles, and it was very confusing. You know, what was it?

Of course, today they have one title and they work as one group. I think that that's been something that has been very helpful, more standardization. But they arrived at how they were going to do that.

I have to commend…. I know in our family there were a number of CAs. My cousin and my late uncle were both CAs. The work that they had to do to get a degree and then article and stuff like that…. It is a very demanding profession.

It's no less different when you are a lawyer in the sense that…. I had worked with a number of lawyers over the years in a lot of different capacities, but I always remember the articling students. They'd already been to school, and they had all of these years of work where they were expected to learn the trade from people that had actually been in the trade themselves.

I do think that there's one thing that we have to make certain that we do when we're talking about something where we're taking groups, the notaries and the legal profession. They need to make certain that these things are going to work.

Now, we're not combining like the CAs and the other accounting professions, but there are some mergers going on behind the scenes. The board that is being set up to run with some lawyers, some notaries, some First Nation representatives: I'm respectful of that. On the surface, it appears balanced.

But I guess the question I have to ask is: how many times in the past have we had problems where the people that police lawyers, their own Law Society, have been not able to contain or deal with things effectively? As a matter of fact, they are probably one of the toughest organizations, that I can recollect, that's out there dealing with their own members if they do something — an indiscretion or there is a question. I don't like to think that that goes on, but it does happen. Misuse of funds that are in trust or being held or whatever and things like that.

The benefits that I did see in this is that, I think, from the notaries…. As the minister mentioned in her opening remarks, this is trying to place and put more affordability in terms of legal work in the hands of some people, such as notaries that may charge less and have different schooling to become a notary. But they still have the requirement to maintain their level of expertise in that in order to be able

to maintain their licence as a notary public. I think that in that case, it was a positive step in the right direction.

But I think that in the legal profession, which has been.... I mean, its history certainly goes way beyond even the establishment of the province of British Columbia and coming over from, you know, England and the days of when the law professions were there. There's been a lot of development of these things over the years, and I just think that it's really important we do get this right.

In a lot of cases, there are questions about…. Here we are; we're about eight days from the end of session, and we've got this act that has only really come to second reading without the opportunity to have the full session. Being able to make certain that the prosecution is done is something that we need. It is intended to be properly and thoughtfully worked on. I guess one of the things that I think of when we look at the kind of issues or whatever is we want to make certain that this is done right.

A few years ago, I know that there was a professional reliance on professional engineers. We had some in our caucus. We took that right, that they couldn't be either trusted or we couldn't rely on them, away from them. I know that there was some noise about that.

[2:05 p.m.]

But I do look at some of the other things, and I think about the reliance…. Like, even the lawyers that are forced into, I would say, a union that was not of their choice. They were forced to have to come into that. There was a negotiation, and I honestly know that they were quite opposed to being forced into that, working within the buildings here

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even the lawyers that are forced into, I would say, a union that was not of their choice. They were forced to have to come into that. There was a negotiation. I honestly know that they were quite opposed to being forced into that, working within the buildings here, and being told that this was the way that things were going to be done because the government wanted it to be done that way.

I think that, probably, sometimes that doesn't always work, having government have the heavy hand over top of professions, as we see, where we get too far into things, etc., we actually aren't delivering better services. Sometimes, we're better off to back away and stay away from things, such as health professions, for instance.

Look at how the health professions that Bill 36 that we had in the last session…. I mean, it was hundreds of clauses as well, but it really needed to make certain that it was properly understood. We took all of those professional bodies and we made it simpler, maybe, to understand from an outside point of view. But we took it so that we were, essentially, putting those groups together, and in some cases, where they are not necessarily functional.

I don't have any doubt that government is trying to make things function better, because with a more simplistic approach, we are going to get it so that we end up having doctors or people that are specialists making certain that they are not in separate camps. They have to work together.

I am not certain that there was adequate consultation to bring people along to a point where they could resolve this and come up with some solutions that, at least, could be considered. I think that what we see in Bill 21 is the fact that we are still seeing a situation where we have overreached, and we are making people have to conform into something that they are not necessarily looking or expecting to do without better consultation.

I think about some of the things I know that have been said. But lawyers and the court system are there to protect fairness and justice in our province. I know our Premier, when he was Attorney General, seemed to be quite challenged with that, even though, like this Attorney General, they are charged to be the chief legal officer of the province. I think that both of them would know that, having been Attorney Generals in this province. They only have to walk down the hallway and come in the outside door, and on the glass of a building that's over 125 years old, it's essentially labelled right on the window: "Attorney General."

It's important because that's one of the foundational things that this province was founded on. I know that when the province's seal is turned over to the Attorney General, it is something that is a huge responsibility, and it needs to be taken seriously.

The legal profession, as I said earlier, didn't just come in overnight. It's not something new. It's been around for centuries, the British system that we've adopted. And albeit, we've had our own opportunity, in Canada, as well as British Columbia, to alter those things and make changes that help make it more practical, modern and things like that.

But this bill doesn't do that. What it does is it reaches in and it, essentially, is a gut-changing series of changes and, especially, the oversight. I think that as a lawyer…. I'm sure that they fear the oversight of the Law Society, and I think that they respect it. I know that the head of the Law Society was here. I had a brief chat with him, recently, when he was here in the buildings.

I think that their concern is that they're losing the ability to control and regulate themselves, and they're giving it to people, as I mentioned — the makeup of the new board that would oversee all of legal professions in British Columbia — to people that don't have the same training. They certainly don't have…. There's no requirement that some of the people that are in here have to have legal training. They come from those different areas.

I think that the idea that there are government appointments, some by the Lieutenant-Governor…. I still think that there is room in this particular bill for much better consultation. I think that that's what the Law Society is looking towards.

[2:10 p.m.]

I think that, as I mentioned, that the Attorney General is charged to be the chief legal officer of our province, to provide the understanding and appreciation to the Premier — at the time, Premier John Horgan — and now, as the Premier, who has been the former Attorney General of the province.

I know that this shouldn't come as any surprise to lawyers because I think that they have…. I find most lawyers

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at the time, Premier John Horgan, and now is the Premier, who has been the former Attorney General of the province.

I know that this shouldn't come as any surprise to lawyers, because I think that they have…. I find most lawyers believe in their credentials as being something that's tantamount to the title that they are given — the fact that they might be a King's Counsel, formerly a Queen's Counsel. The fact is that they take their responsibility seriously.

I can't help but think about how even small things where lawyers have acted — and I had the unique opportunity in a particular case…. We were working with a lawyer out of Kelowna at the courts down on Robson Square and the days we spent in there on a particular case, which was about a company that was in receivership. We made a case, but it was appealed in the coming days. I just remember the actions of the people that were in dispute who hadn't paid their bills, hadn't paid the other shareholders. We were there to try to rectify and make certain that everybody was kept whole, to make certain that the business that was in question was not put into disrepute because of the fact that we felt that we could salvage it by using some of our resources.

And it was overturned and turned back to these people. The two people that I'm referring to happened to both be lawyers. They were very, I'd say, predacious. Needless to say, we got taught a lesson that I should have known from the days when I used to be in the finance business, where it was that the debtor always has the ability to make certain that if they can come up with a way to reconcile and pay their bills or whatever, they're deemed to have preference over everybody else. That goes back to people that we used to make consumer loans or mortgages to. And if they found a way to make their payments or whatever, the courts would side with them.

In this particular case, it was very complicated, and it wasn't easy. Even after spending days in court in Vancouver in this particular case, and having the lawyers that we had working for us, I can honestly say I was a bit surprised by the outcome, because it was turned over, and the costs which were denied. And I think about the fact that…. I guess we could have appealed that, but at the end of the day, it's one of those things where you start to learn about the whole business, the whole thesis of what lawyers go through to make certain that they're making their case to the courts and the reason why this was an important aspect of it.

I do appreciate what's being attempted here, but I think that this is overreaching, heavy-handed, and it is something that I don't think is supported by the profession here in British Columbia. Anyways, with that, I think that I'll turn back to….

Thank you very much, Madam Speaker, for allowing me to speak to Bill 21. I appreciate what the government has tried to do here. However, I think that this bill should be tabled and should be properly prosecuted at the next sitting of this Legislature.

S. Bond: I'm delighted to take my place in the chamber to have a conversation about the….

I just realized. I was at lunch, and I have a button on, which is not allowed in this chamber. So it is now off, Madam Speaker.

I'm very pleased to have the opportunity to stand up and speak to Bill 21. I want to begin by first of all recognizing that Bill 21, the Legal Professions Act. What exactly is it, and why is there significant concern about not necessarily all of the content of the bill? It has a great deal to do with timing. It has a great deal to do with consultation. It has an awful lot to do with….

[2:15 p.m.]

We have been on a journey to deal with improvements and changes in terms of the legal system. We absolutely agree that there needs to be modernization of legal services and in improving access to justice. I can't imagine there's a person in this House who doesn't agree with that. But our concerns are about the how, and we find ourselves in this chamber repeatedly discussing the how. And often the word that is used to characterize the way this government deals with legislation would be "overreach."

Those are the concerns that we have. We believe that this is exactly the kind of bill that needs to take the time

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discussing the how. Often the word that is used to characterize the way this government deals with legislation would be "overreach."

Those are the concerns that we have. We believe that this is exactly the kind of bill that needs to take the time necessary to go out, to consult, to deal with the issues related to the bill and to try to get it right.

Why does that matter? Well, what this bill does is…. It amalgamates the Law Society of British Columbia and the Society of Notaries Public of British Columbia into a new corporation. It is called Legal Professions British Columbia or LPBC. It also, though, creates a licensing and regulation structure for paralegals. It has been described by many as, perhaps, one of the most consequential developments in legal regulation in more than 100 years.

The point of all of the comments, or many of them, that we are making today…. We've been trying to figure this out and look at how we modernize legal services and look at improved access to justice.

What on earth is the rush? We find ourselves here again at virtually the same place we have been with other bills of this magnitude. I can speak to that very personally. What springs to mind for me is the Health Professions and Occupations Act, fondly known as Bill 36 in this Legislature.

In November of 2022, third reading of that bill was literally cut off by this government. As a matter of fact, I think I was in mid-sentence when the mics were turned off. The decision to, basically, use what is considered…. It's a gruesome way to illustrate it. It's called the guillotine. Basically, the bill was cut off. The vote was forced, and the government, which has a significant majority, rammed through the bill.

Now, why does that matter? Why has it caused subsequent distress across British Columbia? There's no other way to describe it. I am positive that every member on that side of the House and this one has heard from members who are governed under that bill, the health professions in British Columbia. They have had a pretty significant reaction to that.

Why is that concerning to me? I have been a legislator in this place for a long time, but I remember that bill. I can't remember the exact number of clauses, but I know this. It was one of the largest bills that I have ever debated. There were over 600 clauses in that bill. The content was substantive. It is substantive. It changes things dramatically in British Columbia.

We managed, after eight days on our feet, to get through just over 200 of those clauses. A bill was rammed through this Legislature after only roughly one-third of the content was debated by people who

were elected across the province to do just that, to actually come to this Legislature and have the kind of debate that says: "This bill is not perfect. We probably need to have some conversation about some of these critical issues."

Well, let's talk about the Legal Professions Act of 2024, Bill 21. There are 317 provisions in this bill. I don't know who counted the words but almost 45,000 words. And they're not just words. They will actually create consequential and significant changes to legal regulation, as has been noted by some, in more than 100 years. We need to ask ourselves: "What on earth is the rush?"

[2:20 p.m.]

Let's put it in the context of where we are in terms of this parliament's life. As of the end of today, we have eight working days left in this Legislature. We know that after that, it is completely possible that the Premier will make a choice about when we hold an election in British Columbia. That's the scenario.

We have a substantive piece of legislation in front of us. And it's not just substantive. It is facing strong opposition.

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after that, it is completely possible that the Premier will make a choice about when we hold an election in British Columbia. That's the scenario.

We have a substantive piece of legislation in front of us, and it's not just substantive. It is facing strong opposition. One would think that the reasonable thing to do would be to take a pause, allow there to be adequate, appropriate consultation, and — at some point in the future, whichever government takes their seat on that side of the chamber — then bring the bill back and have a conversation about that, with meaningful, thoughtful dialogue, but that is not what is happening here.

When we look at some of the challenges, the biggest challenge…. Certainly, as a former Attorney General, I can tell you this: anything that compromises the independence of our legal system is simply inappropriate. We must preserve and maintain the public trust and the rule of law. That's not a partisan statement; that's not an MLA statement. That is a critical, fundamental principle.

My point today is that this bill doesn't stand by itself. It continues a very troubling pattern. We look at the overreach that this bill also makes. If you look at other bills — I've already mentioned Bill 36 — we continue to hear from health care professionals across the province about their concerns. Guess what they were concerned about. It's the same kinds of things: governance — how members are chosen to actually represent and sit on a board. Discipline — all of those kinds of things are extremely important.

With Bill 36, we even asked the government, similarly to what we've done here, to say: "Bring the bill back. Take a pause. Perhaps even assign it to the Health Committee, so that there can be ongoing consultation and dialogue." We asked to have a debate in this Legislature, subsequent to the ramming through of the bill. None of those things were permitted by this government. It was, "We're going to blaze through more than 600 provisions in that bill."

Even if people, elected to do their job in this place, which is to try to make laws that are actually effective and work properly…. We know what's going to happen with this, because we've heard, very clearly, that there will be a reaction, should this bill…. I probably should, more accurately, say that when this bill is rammed through the Legislature, there will undoubtedly be legal action.

What I fail to understand…. We have stood up, time and time again. We're not even saying that there aren't elements that are important, that are essential, as we look at modernization. What we're saying is: what on earth is the rush?

When you have people standing up and saying that there is a concern about the independence of the legal system — because of this bill introduced and, you know, many comments made by the Attorney General — one would suggest that we may want to take a moment and think about the implications of what that means, when we look at the other bills where we've seen a similar pattern.

We look at professional fields like engineering. We had Bill 36; we had Bill 49. What has happened? The professions that were regulated, under bills in this Legislature by this government, have already experienced the consequences of increased government control. What does that do? That is the inherent concern with this bill. It erodes the checks and balances that are necessary in a free society.

We look at some of the concerns that have been expressed, and we look at advocacy groups who have expressed concerns. If you think about this, the proposed board composition, it's again an issue in Bill 21. It was certainly an issue, and it continues to be, in Bill 36. The proposed board composition under Bill 21 includes a significant number of government-appointed members.

[2:25 p.m.]

Think about that. That could actually lead to government influence or interference in legal regulation. If that isn't the case, why is the government so worried about taking some time to have a meaningful discussion about that and clarify that that is not what this bill is designed to do?

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to government influence or interference in legal regulation. If that isn't the case, why is the government so worried about taking some time to have a meaningful discussion about that and clarify that that is not what this bill is designed to do? If it inadvertently does, there should be a willingness to fix it.

If you look at the allocation of seats, it is very complicated. That's one of the reasons why people are deeply concerned about this. When you look at what, for example, the Law Society of B.C. has to say, they use the words "deeply concerned." Because, when we think about this, their mandate…. That isn't a mandate created out of thin air. It is their statutory mandate — the Law Society — to protect the public interest in the administration of justice by preserving and protecting the rights and freedoms of all persons.

The legislation has caused deep concern because it, in many people's minds, fails to protect the public's interest in having access to independent legal professions governed by an independent regulator that are not constrained by unnecessary government direction and intrusion. Those are substantive concerns. They are not "Well, let's just rush this through because we want to get onto the campaign trail." We are talking about fundamental and foundational principles when it comes to free society and the checks and balances that need to be in place.

We also want to…. What the bill attempts to do is expand access to legal services by introducing regulated paralegals, and the bill brings the potential to add other new categories of legal professionals. But it is absolutely essential that these changes do not compromise the professional standards and quality of legal representation available to the public.

One of the repeated concerns, and when we look back, whether it is Bill 36, other bills that have come through this House, we hear about it regularly…. The consultation process leading up to this bill's introduction, certainly, is being characterized as inadequate. It had 776 responses. I think that absolutely legitimizes questions about the depth and breadth of stakeholder engagement, especially when we think that this piece of legislation has been characterized by some as sweeping.

One would think if we were going to look at sweeping reform and how it might impact basically one of the core pillars of democracy, we might want to take the time to make sure we get it right. I'm going to reiterate, because I can hardly wait for the comments that are going to be shared, you know: "We don't support it. We don't…."

What we don't support is rushing through a bill of this magnitude when there have been significant concerns articulated by people in British Columbia — yes, those involved in the profession, and others. That's what we don't support. We think it is completely reasonable to say: "Let's take a pause. Let's have a conversation. Let's go back out into the field. Let's talk to people."

Because we know what is going to happen. There will be further follow-up, and it will likely take place in the courts of British Columbia. When a legal professional represents clients — and we know this is true — their interests often diverge from those of government. We know that to be the case.

There must be trust that the legal regulator is independent of government influence. That is the quintessential issue with this bill. If there is an erosion of the principle that the legal regulator is independent of government influence, that is a threat to a free and democratic society. In fact, one of the things I would love to know is what has been done in terms of looking at this from an influential perspective, whether that is nationally or internationally.

[2:30 p.m.]

Those are really critical questions that I think British Columbians and the government need to know and government should be actually responding to. If you think about many of the clients and cases

that are dealt with, government is often involved in terms of being on the receiving end of those cases.

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British Columbians and the government need to know and government should be actually responding to. If you think about many of the clients and cases that are dealt with, government is often involved, in terms of being on the receiving end of those cases. So we know how critical it is that we take the time to get it right.

One of the other significant challenges is there have been repeated promises of reduced legal fees and increased affordability. There is absolutely no clear indication within this bill that these outcomes would be realized. So that discrepancy that exists between what the government is saying and what the bill is saying actually needs to be addressed to ensure transparency and accountability.

In looking at some of the work that's been done and some of the commentary that's been made about Bill 21, even people who express substantive support for Bill 21 say things like this: "Bill 21 is not perfect." Well, if it's not doing what it is supposed to be doing, there is enormous concern about it. What on earth is stopping the government from saying: "We will take the time to ensure that the 317 provisions, 45,000 words, get the scrutiny that they deserve"?

It's not a nice-to-have in the Legislature of British Columbia. When a bill of this magnitude is tabled, it is the responsibility of people who, at this point, serve in the opposition parties to hold the government to account. That is very hard to do when there are eight days left in this session before we head out on the campaign trail, undoubtedly. And we know what's going to happen. If the debate isn't complete and we don't get through 317 provisions, we know what'll happen. The guillotine will come down.

I've had the experience, as I shared earlier. In mid-sentence, the debate was ended. The vote was held, and as one would expect, the majority moved Bill 36 and created law. This is that significant. This is not only about the legal profession. We are creating laws in this place. And yet apparently, adequate scrutiny doesn't seem to be high on the list of government priorities.

We have a truncated session. Fewer days, fewer hours, gigantic bill. "Let's just get her done." Well, we disagree with that, and we've laid out a very reasonable request. Take a pause. Go talk to British Columbians. Go talk to the Law Society. Go and talk to the people, the Society of Notaries Public. Go and talk to the people whose lives and professions will be impacted by this bill.

When you think about it, British Columbia's leading legal professions do not support this bill. And that is being generous. They actually strongly oppose it. In fact, I think if members opposite were to look it up or do some homework, I believe the Law Society has promised there will be a court challenge. So here we sit, creating a law that we already know is likely to face a legal challenge. How responsible is that in this place? In my estimation, not very responsible.

Again, it is not about the fact that we don't need to look at modernization and increased access to justice. Of course we do. I've had the unbelievable honour of serving as the Attorney General of British Columbia, and I know that's an important consideration. But let me tell you, you have the Law Society; the Canadian Bar Association, B.C. branch; and the Trial Lawyers Association of B.C. saying: "Hold on just a minute. We'd like to have more time to discuss this." Yet here we are, stubborn refusal by the government. "Let's just get it done."

We also need to think about the fact that…. Again, I think there should be a recognition and appreciation of the organizations' concerns.

[2:35 p.m.]

The independence of lawyers from state interference is essential. So we have to look at: does the new governance model safeguard the independence of lawyers or not? There is no clear answer.

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The independence of lawyers from state interference is essential. So we have to look at: does the new governance model safeguard the independence of lawyers or not? There is no clear answer.

The bill also, as I said earlier, talks about increasing the range of authorized and affordable options for legal assistance. No one is arguing that that may not be necessary, but there is nowhere in the bill that directly tells us that that would actually be a result of passing this bill.

What we want to ensure in this Legislature is that, first of all, there is substantive time to deal with these issues in committee stage. But make no mistake about it. As the person who debated Bill 36 for eight straight days and got a third of the way through more than 600 provisions, I can assure you that this bill that we are talking about today, Bill 21, is actually complex and is going to require substantive debate and discussion and exploration at the committee stages. We simply do not have that time. To me, in the face of the opposition that this bill has received, recognizing that all of the parties involved know and want to make sure there is a look at how we reform the legal professions and also look at how we create more access to justice — pretty important principles. But why on earth the rush?

So we want to make sure that we have the opportunity to look at the clauses, rigorously examine them, and we need to decide whether this legislation aligns with the best interests of British Columbians and, most importantly, maintains the independence and high standards of our legal professions. That is fundamental to a free society and to democracy.

We also need to ensure that expanding roles within the legal profession doesn't dilute those professional standards. So we continue to push for meaningful, thoughtful, comprehensive consultation, and most importantly, it needs to be inclusive. It has to include all of the stakeholders, including those who have voiced their significant concerns about moving forward with this bill.

I think the thing that is most disappointing is that it is not the intention of the opposition to suggest that there does not need to be change at all. I will be very disappointed if that is how it is characterized. That is not what a single one of my colleagues have said in this House. What we do care about is…. When you come to the Legislative chamber of British Columbia and create laws, you want to make sure you give it the best chance that it has to be effective, to make sure that it is not an overreach. And yet, bill after bill, reform after reform, it's simply: "We've got the majority. Let's just get this done." And that is not acceptable in this place.

People who have expressed support for Bill 21 have said it's not perfect. They have also said that their support is by no means unqualified. In other words, I'm not sure we've seen many people that have said: "This is the best thing. It's perfect. Let's make it work."

There are significant discussions, especially when we think of the scale of what is happening here, and we also need to think about the impact that this bill has on both members of the public and the legal professions who serve them. We actually need to take the time necessary to try to get this bill right.

The Law Society of British Columbia says that the legislation tabled "fails to protect the public's interest in having access to independent legal professions governed by an independent regulator that is not constrained by unnecessary government direction and intrusion."

[2:40 p.m.]

"As legal professionals represent clients whose interests often diverge from those of government, there must be trust that the legal regulator is independent of government influence."

I would love to see in this chamber who would stand up and disagree with that. Yet those are the kinds of

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and intrusion. As legal professionals represent clients whose interests often diverge from those of government, there must be trust that the legal regulator is independent of government influence. I would love to see in this chamber who would stand up and disagree with that, and yet those are the kinds of fundamental questions that are being asked about this bill.

When we think about where we sit today, yes, this is an attempt to modernize governance of legal professionals. We recognize that. What we want to ensure, as I have said previously, is that it aligns with both public expectations and the interests of the legal profession. There is work to be done on this bill. Again, it is simply the pattern of this government that they refuse, when confronted with significant concern, and simply say: "We're going to get it done anyway. We have eight days left. Let's do this. Let's get the debate done. Let's get through committee."

Well, that is simply not good enough. We agree that modernization is absolutely something that all of us as legislators would like to see, but it cannot, and it must not come at the expense of the very foundational principles that govern our legal system. We are more than willing to look at amendments that preserve the independence of our legal professions. We absolutely want to enhance access to justice

for all British Columbians, but stubbornly refusing to take a pause, which I believe is an incredibly reasonable request, is simply not going to happen. We want our court system to be there, and it must protect fairness and justice in our province.

When you look at this bill, it has the possibility of making changes that will cause significant concern. We need to do the right thing to give members of the official opposition and other opposition members the chance to actually fundamentally review this bill, look at it clause by clause. We know that when you look at Bill 36 — I have lived experience — it was extremely controversial at the time that it was passed. We opposed that legislation. It did not have the proper debate, and now we actually see the results of what happened because the guillotine was brought down.

Debate was shut down in this place to ram through the bill. We're asking for a reasonable pause, an opportunity to be inclusive in consultation, to be thoughtful, to be willing to listen to the criticism and to answer the hard questions that when you're creating law in British Columbia, that should be the minimum expectation of the government of British Columbia.

L. Doerkson: I'm a little surprised that nobody else has chosen to stand up and speak to this bill today. It is an important bill of course, and I'll double down on a couple of comments that the member from Prince George–Valemount has introduced here today. I think we've heard it from other members as well, and I heard earlier the other Prince George, Prince George–Mackenzie. I always enjoy him referring to "popping the hood open" on this legislation.

I'm going to talk about a few things that might be new to the conversation. I want to talk a little bit about a letter that was written to me by a lawyer in Cariboo-Chilcotin. Of course, as always, I am thrilled to be here representing Cariboo-Chilcotin and for the opportunity to speak here today.

[2:45 p.m.]

The member from Prince George–Valemount made it very clear that it's not an opposition to not modernize or not reflect on what this Bill 21 intends to do. I mean, without question, there's a need to contemplate changes in this act. But the member that spoke prior to me made it clear that there has been challenges with bills in this House.

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intends to do. Without question, there's a need to contemplate changes in this act.

But the member that spoke prior to me made it clear that there have been challenges with bills in this House. While I'm a relatively new legislator in this precinct, the challenge has been with respect to Bill 36. Frankly, we saw a different sort of situation develop with Bill 31, which did have nine days of committee. We did have an opportunity to speak to that bill and debate that bill.

We still had issues with respect to search and rescue teams in the province. Even when a bill had the opportunity to really be debated in a fulsome way, we still had some challenges with search and rescue teams that really were dealt a blow because of that legislation. Now, in this case, we might not have the same ability to have that opportunity to speak to it and hear other versions and the vision of the government with respect to their support for this bill.

I think that, again, to just reiterate the point that there's not a pushback to not modernize the bill or the legislation. The point is that we want to slow down and reflect and make sure that everybody is consulted on this. I can tell you that there's much frustration in the legal community and those are certainly not people that I would look forward to debating with in a courtroom.

I think that there's an opportunity just to slow down. I think, too, it's indicative of what's happening in this Legislature right now. We have very serious bills before the House. We have estimates ongoing. I think we've got Finance estimates today and all kinds of things. There should be an opportunity to just take pause on this.

The member for Vancouver-Langara mentioned in his own comments that it's important that we understand exactly the point. This has been brought before this House, when we have other things like Haida Nation before us and all those kinds of conversations that are going on. Again, we're not saying stop. We're saying just slow down and let's understand this a little bit better.

We are of course talking about Bill 21, the Legal Professions Act, and I want to talk a little bit about what the bill does. It will establish a single regulator, responsible for the oversight of lawyers,

notaries public, and, of course, a new category for professionals called regulated paralegals, and possible new categories of professionals in the future.

Certainly, the new regulator, called Legal Professions British Columbia, will have a clear mandate to regulate the professions in the public interest and will be required to consider important guiding principles.

Again, through this process…. I know that this is a challenge. I am not suggesting that it's a simple process. But this process did start back in 2022. So here we are. We've had, really, only 776 surveys that have been completed and submissions made. I can tell you, as I will in a moment, certainly from Cariboo-Chilcotin, that there's incredible concern and a real cause to just slow down.

I should note that this, like other bills that we've seen — like Bill 31, like Bill 36 — that, frankly, were not debated in a proper way…. All of the questions were certainly not answered, or even asked, for instance, on Bill 36. But we have seen it on Bill 23, Bill 28, and other bills as well. Now, of course, that those are in place we do see the frustration that some of that legislation has created. Some of that could have been averted, I think.

[2:50 p.m.]

The Canadian Bar Association, B.C. branch, is very concerned, very concerned lawyers. They do not have a majority, and the general composition of the board to be established…. They are concerned about this from the front to the back. I don't know that that conversation has happened in a fulsome way, either. I think in general terms, that's really the concern

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general composition of the board to be established, and they are concerned about this from the front to the back. I don't know that that conversation has happened in a fulsome way either. I think, in general terms, that's really the concern today.

As I said, the bill will seek to end self-regulation of lawyers, a cornerstone of legal independence, by introducing a new governance structure that will dilute the voice of legal professions through increased government involvement. I think that probably, frankly, is the frustration that many are feeling. We'll talk a little bit about that in a moment.

That does feel very much like overreach to me. We're going to take a board that would really be built and made of many people in the industry and all of a sudden sort of inject three members of government. It seems a bit overreaching to me. That government overreach, we feel, comes from our past Attorney General, now the Premier of the province. This has been ongoing since 2022.

I've spoken about bills like Bill 36, and frankly, that was very frustrating for so many people in our province. It was certainly frustrating for me. I wanted to debate that bill. I wanted an opportunity to have a fulsome conversation and ask questions, and I do know that the shadow minister in that role was shut down under closure. I don't recall right offhand, but it seems to me that she might have got through two-thirds of the clauses.

Of course, this is a hefty bill as well. It's not like we're talking about a one-pager or a two-pager. Of course, this time we have more than 300 to talk about, which will certainly generate the odd question in this place, for sure.

I think that there will be many questions around what the motive is. I haven't heard anybody explain why to this point. Maybe we will this afternoon, but to this point, I haven't heard anybody explain why we want to have government involved in this role or at this capacity.

When it comes to the industry on its own, I think there are many ways that this industry operates now, with all of us, that we don't think about on a day-to-day basis. I guess I question an industry that has been pretty intensely monitored to begin with. The fact is they certainly regulate themselves and offer an incredible amount of integrity, to the point that I've certainly had my attendance records and those types of things signed by a notary of my own community.

When my father passed, certainly, I reached out to lawyers and notaries to help me traverse what is a very complicated time in a person's life. They, of course, helped with the estate, the will, the conveyancing of all the land and those types of things to my mother — not that there was a bunch of land, but there was certainly one piece that was complicated.

So I've had much to do just in the daily occurrence of things that you would need to refer to this industry on. Frankly, I question why we find a need to, as government, put ourselves into this role. And I think, obviously, the industry does too.

I want to share a letter that came to me by way of a barrister and solicitor in my riding. I know that the Attorney General, of course, has received this letter as well. I'll just sort of highlight a few things that this gentleman has wanted to convey to the government.

[2:55 p.m.]

He wanted to express his "profound disappointment in this government's attempts to circumvent the fundamental distinction between the legislative and judicial branches of government in tabling legislation that has the potential to seriously undermine this fundamental aspect of our democracy." That is Kenneth D. Smith in 100 Mile House.

I'm going to quote a couple of other things from this letter, as well, but frankly, I've

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tabling legislation that has the potential to seriously undermine this fundamental aspect of our democracy." That is Kenneth D. Smith in 100 Mile House.

I'm going to quote a couple of other things from this letter, as well, but frankly, I've heard from other lawyers in this profession that are very concerned about the overreach of government and the fact that they may consider — and we've seen this in other professions — but that they may end up considering other options, whether that be another province or whether it be something else. They're very concerned about what is happening in this Legislature right now with respect to Bill 21. I'll quote Kenneth Smith again:

> "Similarly, this legislation tabled by the NDP in this province erodes public confidence in the administration of justice separate and apart from the political interference.
>
> "The Law Society of B.C. until recently has governed the affairs of lawyers and is responsible for the protection of the public. It is administered by lawyers so that it can be free of influence from outside of the legal system from parties that may have their own interests in mind other than the proper administration of justice.
>
> "The legislation would allow for inputs from outside actors to put pressure on members of the legal profession to achieve other ends and is accordingly very concerning."

That's coming from a lawyer who's concerned that there might be pressure from outside of this industry that might create something else. I see a member — at least one member — shaking his head, but those are not my words. Those are somebody that is very concerned about this situation. He refers to it: "It's alarming, and it's not fit for a free, democratic society to have this type of legislation."

I'll leave Mr. Smith's letter there with respect to Bill 21, but it's not just Mr. Smith that's concerned. All three — Canadian Bar Association, the B.C. branch, the Law Society and the Lawyers Rights Watch of Canada — have all expressed concerns about the erosion of the lawyer independence under this new structure. It's crucial that any regulatory board remains free from political influence to uphold the integrity of our legal system.

While the bill aims to expand access to legal services by introducing regulated paralegals and potentially other new categories of legal professionals, it's vital that these changes do not compromise professional standards and the quality of legal representation available to the public.

Again, I have to go back to the consultation portion of this, because it really is the most important part. When I referred earlier to Bill 31, the conversation that happened after Bill 31 was passed here with search and rescue teams in the province was frustrating. In fact, I think the minister has admitted that it was frustrating on both sides. I don't think I'm speaking out of turn there.

The point is that there was an opportunity to have consultation during that time. We had an opportunity to debate the bill. We had an opportunity to ask nine full days of questions on that bill. The concern that I have here is that we may not have that same opportunity. The member for Prince George–Valemount pointed out the fact that there are only eight days left. Other committee rooms are busy with estimates. Ultimately, we need an opportunity to slow the pace on this advancing piece of legislation and hear from more than 776 people.

Again, the industry is already regulated and has an incredibly high standard of professionalism, and so many of us, I think, have had the opportunity to use this profession in many ways that we often

forget. I think that they're quite close to us in many ways.

[3:00 p.m.]

Further, I want to recognize the proactive steps that have been taken by notaries in the province, of course, to elevate their own professional standards. Notaries have made significant strides to ensure that those practising in the expanded scope have the necessary knowledge and expertise.

[S. Chandra Herbert in the chair.]

This commitment to maintaining high standards in their profession

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steps that have been taken by notaries in the province, of course, to elevate their own professional standards.

Notaries have made significant strides to ensure that those practising in the expanded scope have the necessary knowledge and expertise, and this commitment to maintaining high standards in their profession deserves commendation.

[S. Chandra Herbert in the chair.]

Welcome to the chair, Mr. Speaker.

While B.C. United appreciates the government's intention to integrate such standards into Bill 21, it is imperative to note that the notaries themselves had proposed an alternative path. They have suggested amendments to the Notaries Act that would have allowed them to voluntarily adopt these higher standards without the need for broad legislative overhaul. This approach would have preserved the notary profession's autonomy while still achieving the government's goal of elevating professional standards across legal services. As we know, the government has chosen not to take that path.

Certainly, as the bill does move through to committee stage, I think many of us will have, obviously, a need to ask many questions. I certainly know that law professionals from Cariboo-Chilcotin have reached out with a number of questions, and we'll certainly be posing those if time permits. Again, that is a bit of a concern, of course, because there are only eight days left in the legislative calendar.

I also just want to go back to the way the board will be made up. I think right now, you know, we're looking at a board that has 17 directors, if I'm not mistaken: five lawyers, two notaries. There are also, of course, folks that are sitting on that board on a merit-based process by a majority of 12 directors, of which four must be lawyers, one notary and one must be Indigenous.

I don't know where the legislation…. I don't know how Indigenous people have been contemplated in this bill, and I think that's one thing that will be very interesting to find out as we go forward. I do know that there needs to be an opportunity, for certain, to consult our First Nations in the province on every bill. I don't know where we have been with respect to that.

I want to close just by…. I talked a little bit about it earlier with respect to the profession itself and how it has helped me. I would suggest that this profession is a bigger part of our lives than we think. We often will take the professionals a little bit for granted because we don't stop to think, "Hey, we just need to have this notarized," or, "We have to have this done."

I think that this industry has had an incredibly high standard, which is where I started here today, just to explain that I don't know that we need to have government sitting on a board that has upheld the standards that they have in this industry.

Anyhow, I do know that they've been an incredible help to me on so many fronts, and I hope that we'll take the time in this place to slow down, just to understand it a lot better than I think many of us understand it right now. I hope that we will go through the full consultation process that members from certainly this side of the House are encouraging.

I hope that the Attorney General along with others will just take a pause for a minute and make sure that everybody understands. It is a very serious bill, I think, probably…. Well, everything that comes before this House is pretty serious. I think, in this case, the legal profession is owed a moment or two to better understand it from their perspective. The residents of British Columbia are owed a bit more of an opportunity to take the time to be consulted as well. Certainly, we have to include our First Nations in that conversation, or the First Nations that are here in British Columbia.

[3:05 p.m.]

With that, I'll take my place and allow somebody else to have an opportunity to speak to this.

G. Kyllo: I was surprised. I thought for certain

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that are here in British Columbia.

With that, I think I'll take my place and allow somebody else to have an opportunity to speak to this.

G. Kyllo: I'm surprised. I thought for certain that government would be putting up some of their members to speak to Bill 21, the Legal Professions Act.

Just before I get into the main gist of my conversation, I think it's important for folks who might be listening at home to think a little bit about democracy. There are always lots of partisan snipes that may happen around the province and even in this House, but truly the democracy that we have here in Canada and here in British Columbia, I think, is some of the best in the world.

As a very proud Canadian, a proud British Columbian and even more importantly, I think, a proud member of the Shuswap community, it's important that we all pay tribute and respect to the work that's done in this House. And it's important that government take the necessary time to inform British Columbians about the legislation that they're bringing forward — new bills and laws that are going impact the lives of British Columbians and, as has been shared by many of my colleagues, the importance of the distinction between the legislative branch of government and the judiciary.

There are many, I'm sure, that have lots to say about the legal profession, but I do know that when the chips are down and you're looking for somebody to stand up for your rights — maybe you've been mistreated by a government or an employer — you need to have a separate branch, the judiciary branch, in order to hear your case and to make a legal argument to try and provide justice.

On so many fronts…. It's not just Bill 21 but on so many different pieces of legislation, we have a government that is increasingly becoming arrogant. They're truncating, shortening, the legislative session, which reduces the amount of time for adequate debate.

They're not following the long-standing traditions of this House by ensuring that legislation is introduced no later than the midpoint of the legislative calendar to provide the opposition with a good understanding of what pieces of legislation the government is bringing forward, to provide proper time for consultation, for legal interpretation, in order to present a valid argument to government, an inquiry to truly understand what is government's full intention.

So when government puts forward a piece of legislation, it is not just the words in that legislation that matter. It is the debate in this chamber, the discussions that are undertaken around second reading debate, but more importantly in committee stage, when the opposition members have an opportunity to raise questions, ask questions of government to fully understand what the true intentions are of the legislation.

That back-and-forth dialogue, that level of inquiry, helps to strengthen the court's, the judiciary's, interpretation of what was government's true intention. But when we see legislation that is delayed in being introduced, and we have a reduced amount of time in order to go through that very important committee stage debate, government gets a bit of a free pass.

And it's not just the opposition that is upset. It should be all British Columbians, who are getting a raw deal. When they elect their governments, and an opposition is formed, it's important for the opposition to have adequate time in order to fully understand what government's intentions are, to do other broad consultation, to have confidence that government has truly undertaken that consultation that

is very necessary to ensure that piece of legislation or new bill is not just introduced at great surprise to those it may be impacting.

What has changed in the last 6½ years? There's been lots of discussion, both in this chamber and in the media, about how on just about every societal measure, life has gotten worse for British Columbians in the last 61/2 years.

[3:10 p.m.]

And as we look specifically to Bill 21, the Legal Professions Act, why are we having so many challenges? Why are we having so many different groups around the province raising significant concerns with this particular government?

Well, there's a lawyer from Ontario that moved to

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specifically to Bill 21, the Legal Professions Act, why are we having so many challenges? Why are we having so many different groups around the province raising significant concerns with this particular government?

There is a lawyer from Ontario that moved to British Columbia — and he happens to sit in the Premier's office right now — who wrote a book, when he was working with the Pivot Legal Society, on how to sue the RCMP.

We have seen sweeping changes brought forward with legislation, where government is taking control of the Professions Act for health care workers, nurses, doctors. We have also seen it with engineers, qualified environmental professionals. Professional reliance is being overridden, largely, by government — government that has an intention of knowing best and not liking, in any way, shape or form, being challenged.

As was mentioned by my colleague, the member for Prince George–Valemount, Bill 36 makes significant, sweeping changes to the Health care Professions Act. Nurses were upset. Doctors were upset. The government is taking a know-all approach, where they are now in control, largely, of the appointees to the colleges that actually determine, in large part, the code of practice for our health care professionals. Well, only health care professionals should be making those decisions to determine what is truly in the best interest of the health and welfare of British Columbians, and not unlike that with Bill 21 with the judiciary branch.

Lawyers are independent, and it is important that they have that independence, that they have that opportunity to self-regulate. But when government chooses to move forward with a piece of legislation, dumping it onto the agenda at the tail end of a very shortened legislative calendar, with limited time for debate, I think British Columbians should be very concerned.

Government is providing, through this piece of legislation — certainly, my understanding — ability to control the appointments and the determination of the legal professions. We are slowly moving away from a democracy and more towards a dictatorship under this government. It's largely moving forward to end the self-regulation of lawyers, and that's offensive.

There has been limited, if any, broad consultation. And for those groups that there has been consultation with, this government has chosen to require non-disclosure agreements. What would be the advantage of that? You only have to look to the government to find out it's a way of silencing any potential opposition. They open up the discussion, bring them in for conversations, get them all to sign a non-disclosure agreement.

It's not about that two-way open conversation to really try for government's sake, which should be to fully understand, maybe, what the lawyers would be looking for and the notaries might be looking for — for the legal professions in general. They use it as a tool to silence any opposition.

We have had limited opportunity for those that this bill is most largely going to impact to actually provide their concerns. So it is opposition's responsibility, and largely falls to us, to raise some of the unintended consequences of a piece of legislation it would be very difficult to unwind.

We see this over and over again with this government. It's not limited to Bill 21. We have seen this before. We've talked about this. The Health Professions Act. Even if we look to some of the other initiatives undertaken by this government…. ICBC might be another one.

[3:15 p.m.]

This government is almost Machiavellian with the way they approach some of these pieces of legislation.

DRAFT SEGMENT 028

initiatives undertaken by this government. ICBC might be another one. This government is almost Machiavellian with the way they approach some of these pieces of legislation. No-fault has removed and diminished the rights of British Columbians that are injured in motor vehicle accidents to seek justice and fair compensation. That is a limitation, a reduction of the democratic rights of British Columbians. And the manner in which government undertook that charade was truly offensive.

Now, as we look to the notaries, the notaries is one area that this bill covers, and it's government's intention…. They certainly touted a lot about maybe expanding the opportunity for notaries to undertake different practices. There's no quarrel with that from this side of the House. The notaries actually presented an informative paper to government with some suggestions on how the regulations could be changed to provide a better opportunity for them to expand their scope of practice.

My grandmother, Jean Gerain, was a notary public in Fort St. John. I think she was one of the first notary publics north of Prince George when she started practising. Yet government has not undertaken that broad consultation with the notaries or had a look at alternative methods or means by which they could expand the scope of practice for notaries. They've charged forward with these sweeping changes that are before us.

The legal profession in B.C., over 14,000 lawyers…. The consultation, again, is grossly inadequate. My colleague for Cariboo-Chilcotin had referenced First Nations. We've seen time and time again with new pieces of legislation, new bills that are brought before this House….

One of the standard questions, one of the first questions that is asked in just about every committee stage debate is to ask the government member or the minister to provide, on the record, a clear indication of the amount of consultation that was undertaken prior to the tabling of the legislation, specifically First Nations consultation. For the most part, that consultation is grossly inadequate and, in many cases, has not happened at all. Government talks about First Nations consultation and the need to move towards reconciliation, but in practice, it doesn't happen.

I happen to be the critic for Labour. In consecutive pieces of labour legislation, when asking the Minister of Labour to reflect on the consultation that has been undertaken with First Nations on changes to the labour code that will have a direct impact on the way the labour laws are enacted in British Columbia — zero consultation. So it's a government that says one thing but does quite the opposite.

As many of my colleagues have suggested, that is one of the biggest concerns that we have. Government is racing this ahead, dropping forward very important pieces of legislation, 317 different clauses. The government has likely been working on this piece of legislation with a huge staff of lawyers for months and months. Yet somehow this government feels that it's warranted or, in any way, shape or form, acceptable to drop a piece of legislation, a very complicated piece of legislation, with 317 clauses, in the last three weeks of session and somehow expect that the opposition members, with a very limited staff, having no lawyers at their disposal, are somehow able to interpret, understand the piece of legislation and put forward thoughtful comments to ensure that government is being forthright and that there are no unintended consequences.

[3:20 p.m.]

That's not fair and open democracy when the government that has the majority decides to use their might and limit the opportunity for meaningful debate and understanding of pieces of legislation. It's absolutely offensive.

DRAFT SEGMENT 029

the majority decides to use their might and limit the opportunity for meaningful debate and understanding of pieces of legislation. It's absolutely offensive.

So 317 clauses, 34,000 words. Here we are, with just two weeks left in the legislative calendar, and we see this.

We've seen this with the government's attempt to move forward with Land Act amendments. No broad and open consultation. Put a little notification on some obscure portion of the government's

website. Open it up for consultation.

Thank goodness British Columbians stood up and were outraged. That's not the way governments are supposed to act and respond. Many individuals were concerned. What are the intentions? Why is this happening now? Who is asking for this?

In my riding of Shuswap…. Our office was absolutely riddled with calls from folks that were incredibly concerned. Everything from ranchers that were concerned about the impact on grazing tenures to folks looking for what opportunity might exist for water lot tenure applications.

In rural British Columbia, there are a lot of folks that have a significant connection to the land base. Logging tenures as well. Yet what did we see? Zero consultation.

I thought it might be worthwhile to have a town hall on the Friday of the Family Day long weekend. I thought maybe we would have 30 to 40 people show up on a Friday of a long weekend. So 350 concerned citizens showed up on the Friday of a long weekend absolutely outraged that this government is so arrogant in their manner of bringing forward legislation that would have such significant impacts with no consultation.

Thankfully, government walked that back. They acknowledged the fact that they did it wrong. They tried to move forward in a sneaky, underhanded manner, and they were caught. British Columbians were outraged, and government walked it back.

Government has not learned their lesson. They continue the same pattern. A lack of consultation. Slip in very important, complicated legislation at the tail end of the legislative calendar, with limited time for debate and when there is limited time to go through all of the questions and inquiry that are required in order to better understand legislation being brought forward by this government. This government will use their hammer and their majority to shut down that very important conversation.

Similarly, the Haida Nation Recognition Amendment Act…. Again, another very important piece of legislation.

Deputy Speaker: If I might, the time to talk about another act is during that act. We're here to talk about Bill 21.

G. Kyllo: Thank you very much, hon. Speaker. I certainly appreciate your advice on that.

As we look to the Legal Professions Act…. It is not just this act in itself. I think it is the pattern of this government, an arrogant government that certainly seems to have the audacity just to continue to hammer legislation through without that opportunity, or an adequate opportunity, for meaningful debate.

What we are asking for is a pause, for government to stand down this piece of legislation, to provide that opportunity for British Columbians to fully understand the depth and breadth of these potential changes, to provide an opportunity for lawyers to be unmuzzled by these non-disclosure agreements and allowed to provide their full views and interpretations on how we've got to this point.

[3:25 p.m.]

I'm going to share a quote. This quote was provided by Lawyers Rights Watch Canada, which is the body in Canada that reviews and works with many bodies internationally to ensure that UN basic principles

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This quote was provided by the Lawyers Rights Watch Canada, which is the body in Canada that reviews and works with many bodies internationally to ensure that UN basic principles, as interpreted by experts, are not overwritten by government. In paragraph 25 of their brief, they quote:

> "Authoritarian governments hamper effective opposition to repressive measures by creating laws that violate the independence of judges and lawyers."

I'll say that again: "Authoritarian governments hamper effective opposition to repressive measures by creating laws that violate the independence of judges and lawyers." Well, that's exactly what this bill does: repressive measures that will reduce and violate the independence, certainly, of the legal profession in British Columbia. The quote goes on to say:

> "Laws that create non-independent regulatory bodies, together with the rules made by those bodies, are often misused to facilitate unwarranted vilification, discipline, suspensions, disbarments or judicial harassment of lawyers or the legal profession."

We're not following other jurisdictions around the globe, throughout the Commonwealth, or even here in Canada. This government is going it alone. They're limiting the ability of the judiciary to self-regulate their profession, and British Columbians and Canadians should be incredibly concerned. This is a move far too far.

Now, as I referenced some of the intentions of government, through this piece of legislation, they talk about reducing legal fees. They talk about increasing affordability, yet there's no clear direction in any of this legislation that actually moves to achieve that. We do have an affordability crisis, but it is not the legal profession, largely, that is the challenge.

Government brings forward legislation with the communication side, believing, "Oh, this is going to make things less expensive for British Columbians," yet when you read the detail of the legislation, there's nothing there that actually requires that to even happen.

To the contrary, as I shared earlier, the notaries actually are quite happy to look at expanding their scope of practice, but it does not have to be in the heavy-handed way of this piece of legislation. That is what should be, again, incredibly concerning — a very heavy-handed approach.

There's a reference that my colleague from Vancouver-Langara had referenced in his remarks. It refers back to the 1982 decision with respect to the Canadian Charter of Rights and Freedoms. Justice Estey, at the Supreme Court of Canada, was able to articulate the essential importance of an independent bar, of an independent judiciary. I'll read back a quote. This is from 1982, on the Canadian Charter of Rates and Freedoms, from Justice Estey:

> "The independence of the bar from the state in all its pervasive manifestations is one of the hallmarks of a free society. Consequently, regulation of these members of the law profession by the state must, so far as by human ingenuity it can be so designed, be free from state interference, in the political sense, with the delivery of services to the individual citizens in the state, particularly in the fields of public and criminal law.

[3:30 p.m.]

> "The public interest in a free society knows no area more sensitive than the independence, impartiality and availability to the general public of the members of the bar and, through those members, legal advice and services generally. The uniqueness of position of the barrister and solicitor in the community may well have led the province to select self-administration as the mode for administrative control over the supply of legal services throughout the community."

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delivery of services to the individual citizens in the state, particularly in the fields of public and criminal law. The public interest in a free society knows no area more sensitive than the independence, impartiality and availability to the general public of the members of the bar and, through those members, legal advice and services generally."

Well, it's interesting. Our current Premier, former Attorney General, seems to know better than Justice Estey, who gave specific reference for our Charter rights and freedoms. There is no bounds for the moves and measures of this heavy-handed government. It's unfortunate that maybe this piece of legislation has not received as much attention in the media as it is likely deserving.

This is a very slippery slope, because once this legislation, assuming it goes forward…. This government certainly has the votes. They'll likely hammer it through, even if there is an adequate time for proper debate. They'll invoke closure. They'll hammer it through, because this arrogant government seems to know best.

It will only be then…. It will be too late. This government is slowly and methodically taking over, not just the judiciary, Health Professions Act, engineering professions. The government-knows-best approach is putting British Columbians, I certainly believe, in harm's way.

With that, I will take my seat, and I certainly will not be supporting Bill 21.

Hon. B. Ralston: I rise to address Bill 21, the Legal Professions Act.

We have heard from members of the opposition a rather apocalyptic view of this piece of legislation, which is really far from the substance of the bill when it is examined carefully and cautiously.

First of all, the bill is passed in a context where many, many members of the public no longer have access to justice, in the sense that they cannot afford to hire a lawyer. The courts are flooded with self-

represented litigation. I believe there are even rules guiding judges on how to deal with the many, many self-represented litigants. The price of legal fees, for many people, is really out of reach.

What this bill attempts to do is to create a regulatory scheme that offers regulation of licensed professionals who are not lawyers but who will be licensed and scrutinized and regulated and able to provide certain legal services. Ontario has licensed people with those skills for at least 15 years. The goal is to have lawyers, notaries public and licensed paralegals in one regulatory framework.

But the idea that this…. I practised as a lawyer for many years. The idea that on a plain reading of this bill, it will somehow interfere with the independence of a lawyer to represent his or her or their client is simply false. It's simply false.

This bill will guarantee that lawyers continue to provide legal advice and representation to their clients without fear of interference from the state that could undermine their commitment to their clients' causes. This entire bill is consistent in its adherence to that important principle.

In no way does the bill impede the independence of lawyers in their ability to fearlessly represent their clients. So the suggestion…. I think the last speaker was speaking about…. He repeatedly mentioned the judiciary.

[3:35 p.m.]

This is a bill which regulates lawyers, notaries and paralegals. It's not a bill that regulates judges. So I think that's probably a slip of the tongue on his part. But it is true that the Supreme Court of Canada, and there are many passages that have been cited

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judiciary. This is a bill which regulates lawyers, notaries and paralegals. It's not a bill that regulates judges. I think that's probably a slip of the tongue on his part.

But it is true that the Supreme Court of Canada — and there are many passages that have been cited — has recognized it's a principle of fundamental justice that the state cannot impose duties on lawyers that undermine their commitment to their client's causes. In other words, there should be no barrier between the lawyer and their client in the path that they choose to represent and the means and the tactics that they may adopt to represent their client. Certainly that's a principle that's set out in a case called *Canada (Attorney General) v. Federation of Law Societies of Canada.*

So this legislation does not propose any changes that would interfere with the ability of a lawyer to provide committed legal representation to their clients or interfere in any way with solicitor-client relationships. Nowhere in the statute are duties imposed upon lawyers that undermine their ability to provide independent legal services. The manner in which lawyers may represent clients has been left entirely to the new regulator under their rule-making powers and other statutory powers. It is not set out in the legislation or left open in any way to government interference.

So the argument that's advanced on the other side at a very high level, without ever pointing to any specific passage in the proposed statute, is simply just erroneous. One wonders…. Well, one can suspect what the motives might be, but they are not consistent with the legislation that's before this House. In fact, in section 6(c) of the proposed legislation the regulator has the following duties: to ensure the independence of licensees. By licensees, they mean those who are licensed by the act: lawyers, notaries and the licensed paralegals. It is a specific obligation imposed upon the regulator to ensure the independence of those licensees.

The suggestion is that…. Yes, there is change, but the member for Prince George–Valemount wisely said that her party does not oppose change. They recognize that there is need for reform and how the legal world is governed. There's not an opposition and principle to change, which is I think prudent and wise and exactly what's taking place here. But the model that's created is a model of self-regulation for licensees.

The bill maintains a lawyer majority on the regulators board, and 14 of the 17 directors will be licensees. The three government-appointed directors…. There's an objection, and somehow this is viewed as some dark attempt to control the body that's being set up, is in fact there are already…. The member for Prince George–Valemount, when she was Attorney General, doubtlessly appointed members of the public, lay members, to the governing board of the Law Society. That's a principle that's been going on for many years. In fact, the number of those appointed members by the government will be a

smaller percentage of the board than it is at present. In addition, the Attorney General, who has sat on the board, will no longer have a position in the regulator's governance. The Attorney General will no longer be a member of the board. That is set out in the act.

The idea that somehow there's a pressure — or I think some flamboyant language is used about a dictatorship — is just irresponsible language. I mean, I appreciate…. I've been a member of the Legislature for a while. I appreciate rhetorical exuberance and a little bit of rhetorical overstatement, but it's simply, when one looks at the statute that's before the Legislature, not accurate.

[3:40 p.m.]

Operationally, under the new act, the government will have no influence whatsoever on the

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a rhetorical overstatement, but simply when one looks at the statute that's before the Legislature, it's not accurate.

Operationally, under the new act, the government will have no influence whatsoever on the regulator's operations, including who will be the CEO, who will be on committees, who will be hired as staff of the regulator or who will investigate licensees for discipline and competence issues. The tribunal chair and the members are appointed by the board, not government. And self-regulation, as set out in the statute, means the profession itself sets the eligibility standards and decides who meets them, sets the standard of competency and conduct, and disciplines professionals who fail to meet them.

These are all matters which will continue to be determined by the regulator under this bill — not by the government. By the regulator. The rules made by the new regulator will not be subject to any form of government review or approval.

What it means in practice, again referring to the obligation of the new regulator's core mandate to ensure the independence of the legal professions it regulates…. What this means in practice is the board and the CEO must ensure the independence of its licensees in the provision of legal services in order to meet the regulator's mandate, including, for example, making rules.

The suggestion is made that somehow this model suggests greater — and I put it in parentheses — government control. It's simply not factual. It is not true that this bill gives the government more control over lawyers. I think one might say, in a jesting aside, that lawyers are notoriously ungovernable, but I'll leave that aside. Certainly hard-headed independence is a strong attribute of most, if not all, lawyers, and a skepticism about government institutions, a healthy one.

I understand the ethos in which these concerns are raised by the Canadian Bar Association and by the Law Society, but only three of the 17 board members — that's 18 percent — are appointed by the government, which is a slightly lower percentage than the number of members currently appointed to the Law Society, of which there are six. Nine directors are elected by licensees. Five are appointed by the board, of which lawyers have a majority and the licensees altogether have a supermajority.

Moreover, the government does not direct the government appointees. They act independently from government and are given a defined term of service. Like all directors, government appointee directors are required to take an oath of office that will include a commitment to act in the public interest. As I have already said, the Attorney General is removed from the governance structure entirely.

The suggestion made — and this seems to be the theme or the leitmotif of those members opposite in their speaking points — that somehow this represents greater government control is false. It is false, and no amount of wishful thinking or rhetorical exuberance on behalf of the other side will make it so.

The opportunity here is to create a new regulator that will better serve the public interest, and indeed the regulator is tasked to act in the public interest. The advantages of doing that, I think, are clear. We're at a time when there is…. Many, many people have difficulty obtaining legal services at a price they can afford. As I said earlier, whether it is within the courts, in family law, whether it is in the Civil Resolution Tribunal, although it is geared more towards ordinary people without legal representation, but certainly any manner that goes to the Supreme Court of British Columbia…. The flood of people who are representing themselves because they don't have any other choice in important matters is really challenging.

[3:45 p.m.]

The profession knows that. I think the profession has taken some steps through encouraging what they call pro bono work, in other words donating legal services to those who are

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matters is really challenging. The profession knows that. I think the profession has taken some steps through encouraging what they call pro bono work — in other words, donating legal services to those who require it and are not able to pay. Certainly, there's a long tradition in the bar of doing that, but that in itself is a small part of the solution, not the major part of any solution.

This is an effort to reshape and rethink how legal services are governed in this province. It follows what has taken place in many other jurisdictions where there is self-regulation in a different style, whether it's in Australia…. The Legal Professions Act in Britain was a slightly different approach, but was a change. Rather than a self-regulated profession, there are independent oversight agencies that govern and overlook what takes place in the legal profession in Britain. That is not the model that's proposed here. Self-regulation will continue in the manner that it has, with the modifications brought forward by this legislation.

The Law Society has written a letter to the Attorney General, simply saying — it's a very short letter — that they are not happy with the process that's come forward and they are concerned that this bill fails to protect the public's interest. But there are no details given in the letter. What they do say is that if the bill passes, they will sue the government. So I think the letter seems to be largely written to convey their intention to sue the government. Probably not a surprising response from a group of lawyers, that given an obstacle, they will go forward and sue. I don't say that entirely in jest, but that is really what they've said. Actually very little specific detail about the legislation and why they object to it.

Similarly, the Canadian Bar Association, which is a professional association — not the regulatory association, more a commercial organization to which membership is voluntary — did participate in the consultation process with the intentions paper, which began in September 2022. There was a public update in March 2024. They participated in that process all along. They've now begun participating in a new engagement process. They are of the view that…. Again, the objections are not specific and there are, notwithstanding the number of members they have and the capacity they have, no specific objections put forward, other than the consultation process and their general view that it's not good legislation.

I think that we will hear at the committee stage where people object to the methods that have been chosen. But the majority of those who are running it will be lawyers. Other professions will be part of the governance structure. There will be a statutory provision for appointment of an Indigenous person. That's a commitment that we have all made here under the Reconciliation Act, that our public institutions reflect the presence and the participation of Indigenous people in all the processes of government.

So that, again, is consistent. I don't really think I would expect much objection, if any, from members of the opposition. And certainly, the Law Society and the Canadian Bar Association did not raise that as a specific objection.

I could go on a bit longer, but I think I've made the points that I want to make. I would urge members in the chamber to support this bill. Thank you.

[3:50 p.m.]

P. Milobar: I am not a lawyer. I know

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urge members in the chamber to support this bill.

P. Milobar: I am not a lawyer. I know the Minister of Forests is. I certainly will likely not have the same passion and zeal in my speeches he just had on his, given that this bill directly impacts a lot of his years of experience in the private sector.

There is a lot of serious concern around Bill 21 out there, and it comes from the better part of the 14,000 lawyers that are in this province. It's interesting that the lawyers that are part of the government caucus have full-throated endorsement of Bill 21, but the vast majority of the 14,000 lawyers in the province don't. One would expect that government members support a government piece of legislation. That's really not a big surprise. I think it's important we take those comments with a bit of a grain of salt as we move forward with this.

The reason I think there's a lot of concern on Bill 21 is, as we've seen time and again with bills in this place, changes, as we've heard, to engineers and professions in and around that, by this government, changes to the health professions by this government. I think what we're seeing is the legal profession actually being able to see how those changes have played out and realize those changes are coming for them with Bill 21. They don't like what they see.

Over time, we are hearing from more and more and more professions that were impacted by those previous bills. A lot of their commentary when those bills were first introduced was "Well, we don't think it will be too bad for us. We're sure we can work with this. It probably won't affect us that greatly."

Fast forward to a few years later, when regulations have finally been enacted, and I would note that this bill, the vast majority of the 317 clauses I believe it has, take effect by order-in-council. There's a whole lack of regulatory work that actually has to happen, that is actually the nuts and bolts of how this bill will work in the real world, that has lawyers very concerned, based on that track record of all those other professions being impacted.

It is important that we have a very clear and free, not just judiciary — and I with the minister who is speaking. This isn't about the judiciary, this bill — but it's important for the public that you not only have a free judiciary, but you have access to a legal profession that is as independent from government as possible.

Why that's important is all you have to do is look at the sheer number of times that this Premier, when he was the Attorney General, wound up in court and lost. The Crown lost, time and time again. The only times they didn't lose was, as we saw in Vancouver, when you had a group of area residents paying and engaging with legal counsel around a rezoning process within the city of Vancouver.

This government chose to introduce a piece of legislation that put the government's thumb on the scales of justice and said: "It doesn't matter if you go to court and win. This new law says what the government wants to have happen on that piece of land is going to happen on that piece of land. So go ahead and go to court, but it doesn't matter."

That is the fundamental worry out there in terms of government having more and more control over the legal profession. The public needs to feel that they have the freedom.

Now, I'm not saying what the judgment in the case in Vancouver should have been, but the residents had the right to go to court until this government literally passed a piece of legislation that was specific to one piece of property to change the law and said: "No, in fact, on this one particular piece of property, you do not have the right to go to court. And if you do decide to proceed to go to court, the government is saying it's irrelevant what the court says for a decision. This law overrides that as well."

[3:55 p.m.]

So when you have a 317-clause bill that is all left to regulation moving forward, it's understandable why there are concerns. And I think the minister was accurate in saying he doesn't think the people in this chamber would oppose or

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that as well. So when you have a 317-clause bill that is all left to regulation, moving forward, it's understandable why there are concerns. And I think the minister was accurate in saying he doesn't think the people in this chamber would oppose or disagree with having more Indigenous representation on a board. Absolutely. It's a good idea. All the lawyers I've met with that have concerns around this bill think that's a good idea as well. We need 317 clauses to actually do that — 317 clauses to ensure Indigenous representation on a board? Is that really what the government is saying, with everything left to regulation after the fact?

The legal profession in B.C. — this is getting mixed in with notaries, and I think it's important that I take a moment to talk about notaries. Notaries want and need more powers and more ability and more

scope of work and more oversight that they're asking for. But again, that doesn't require 317 clauses intermixing them with the lawyers. We can deal with that. We can make that happen. But I think it's important for people at home to understand the scope of the two organizations we're talking about.

Back in the very early days of British Columbia, there were around 14 lawyers. They got together, and they formed what we have now. There were around 14 notaries public as well. Today 14,000 lawyers, 400 notaries public. Now, there's a belief out there that notaries public are less expensive than a lawyer. Some are, but some aren't. And that's for the consumer to do their research, to phone and ask for prices on things like getting documents witnessed and other things that a notary can do or a lawyer can do. And that's as it should be. The designation does not automatically result in a price point. That is what I'm saying.

These 317 clauses are not going to suddenly, magically make everyone in B.C. able to afford a lawyer or a notary. There, unfortunately, will still be those that won't be able to afford it — or at least, the lawyer they would like to have. So I think we have to use that as a bit of a basis of understanding and then question why this Premier/former Attorney General has literally spent his seven years in government trying to pull every profession imaginable under the thumb of government.

We're at the situation now, where — if you're an engineer or you're a health professional and you're captured under Bill 36 or captured under the professional reliance bill previous sessions had — if you take issue with the government and want to go hire a lawyer under Bill 21, once it's passed, to sue the government or sue your own governing body, you're hiring someone that's now going to be governed by the province in a way like never before.

It was bad enough when the Attorney General, now Premier, made the sweeping changes to ICBC and what that meant to the legal professions and people's rights to access legal remedies in this province while he was the Attorney General. Those have been challenged in court. They were constitutionally challenged. And ultimately, the Attorney General and the province were defeated on those.

It almost feels like a payback bill. It feels like this Premier, this government, is mad that the lawyers outside of government keep beating government in court.

[4:00 p.m.]

Now, I know as I stand here and I debate and I talk about the challenges facing lawyers — and I think most lawyers would admit to this as well

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DRAFT SEGMENT 037

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keep beating government in court.

Now, I know, as I stand here and I debate…. I talk about the challenges facing lawyers. I think most lawyers would admit to this as well. They're not cast as sympathetic characters in our society. Neither are politicians. So it always makes for a bit of a….

I know. I know. The Minister of Labour is shocked by that statement. What can I say? It's true.

We're trying to advance a concept around a bill that impacts 14,000 lawyers in our province who, on most days, people — let's face it — don't provide the greatest level of sympathy towards. Until they need a lawyer. Until you need that lawyer. Until you need that lawyer to help you with a home sale. Until you need that lawyer to help you with child custody battles and issues of separation with your spouse. Until you need that lawyer for a wide range of things that happen in peoples' lives on a daily basis.

Again, I think that's why it's important we frame our conversation and our thought process around why Bill 21 should issue concern for people. You want to feel like you have that independence from government when you're accessing your lawyer.

[J. Tegart in the chair.]

Now, again, notaries provide great work in this province. I've met with them several times. I agree with where they want to head as a profession.

We probably have some of the highest, if not the highest, training requirements for notaries already in British Columbia in terms of the level of education they need to have and their skill sets and the

services they provide. Expanding on that and providing them a bit more of the governance oversight they would like to see, as their own entity, I think is a good move. But trying to wrap 400 in with 14,000 that are actually quite different in the scope of what they do presents a wide range of challenges.

It's interesting too. When you think of the five geographic regions often cited in this province…. You have the North, you have the Kootenays, you have Vancouver Island, you have the Lower Mainland, and you have the Thompson-Okanagan. There are your five.

We've just gone through a whole process about rep by pop on all of our boundaries being changed to try to reasonably balance out the representation based on population. It will result in 93 ridings, six more ridings than we currently have, redrawn maps, electoral maps all over the province. We're seeing the same thing play out federally.

The government's solution is to change that representation now where the population of legal profession members is diluted. Not if you live in the North. I'd hazard a guess there are fewer lawyers in the North than there are in Metro Vancouver. In all likelihood, when you see five board members….

Most boards in B.C., if you hear five board members, start to regionalize them. You're going to have one member for the North, which is totally understandable, representing a very small number of lawyers. As you work your way south, the Kootenays would likely be next, with a rep, with a small number of lawyers attached to that rep. In the Thompson-Okanagan, you're going to start getting a fairly significant population of legal, one member. The Island gets a little bit bigger. And then Metro Vancouver, Surrey and Burnaby and all of those legal firms, one representative.

[4:05 p.m.]

If it's not laid out that way, then you have massive geographic areas of the province that have no representation. So it's kind of a no-win situation either way you slice it, when it comes to just breaking that up. Ensure making people within the legal profession have representatives that they can easily access and express their opinions through and have a voice at a table with some semblance of balance

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So it's kind of a no-win situation either way you slice it when it comes to just breaking that up. Ensure making people within the legal profession have representatives that they can easily access and express their opinions through and have a voice at a table with some semblance of balance to it. There is no guarantee, when the government starts appointing people, where they're coming from, geographically speaking. There's no guarantee where they're coming from ideologically.

You're telling the lawyers: "You go ahead and pick the few people you want. If they can resonate with enough members, you can appoint them. But as government, we're going to tell you who the others are, based on what we like of their thinking." That's a problem when it comes to something that should be as independent as the legal profession.

So those are, at the core, I think, my concerns around this. Certainly, when I've talked to local lawyers in the Kamloops area…. There have been a few. I've been getting emails for months ahead of time about this, wanting to know when it would come forward, expressing their concerns about the overall concept of it.

It's not all sunshine and roses, as the government members and the government members that are also lawyers would make it out to be, outside of the walls of this chamber. That's something that I think we always have to keep in mind. There is a lot bigger province out there than what is in here. It's our job to represent those voices and to question and to seek answers for those people that are going to be impacted by bills such as this.

Again, when we go back to looking at the history of this government, and you can only judge a government based on what their past actions are, their past actions have been, as we've heard, government knows best. Government knows best, and if you disagree with us, we'll take you to court. When you win in court under this Premier, when he was Attorney General — I'm hard-pressed to think of a court case he actually won as Attorney General — they will then just change the law.

I know it sounds far-fetched to those listening at home, but that's exactly what has happened. Once a precedent like that starts to get set, it's not too much of a leap when you see what is happening unfold in real time with professions like engineering, like the health sciences, with similar legislation, all left to

regulation after the fact. There are 317 clauses. Just about every single clause is left to regulation and enactment by order-in-council.

I can appreciate the Minister of Forests thinking and feeling like he has a feel for the intention of this bill. But with all due respect, by the time the regulation is all in place, there's going to be a new government in place, one way or the other. There's an election in October. There will be a whole different slate of ministers responsible for a wide range of everything, including the Attorney General.

That's the thing. These pieces of legislation live on from government to government, from cabinet minister to cabinet minister. So as Minister of Forests, who is not responsible for enacting the regulations and developing them…. I can understand, as a lawyer and as a government MLA, that he would speak very favourably of this bill. I get that. But to think that lawyers don't have a legitimate concern in the rest of B.C., when they have watched how other legislation has been enacted, when they have been actually hired by some of those professions to push back against government regulation and laws that have been enacted, impacting their professions….

[4:10 p.m.]

To think that those lawyers might not have concerns that the government is doing the same thing to them, well, it's surprising the government can't understand that. But it really does speak to an overall pattern by this government. If you're in Housing, despite us having a housing crisis

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Well, it's surprising the government can't understand that. But it really does speak to an overall pattern by this government. If you're in housing, despite us having a housing crisis, if you build housing and make a profit, you're vilified by this government, and we must have all government-built, government-operated housing. I don't know how you build project No. 2, if you're a private developer, if you don't make a profit on project No. 1. According to this government, that's evil, and it all has to be brought back into government, all of it.

If you're a professional engineer and you have your own code of conduct and professional standards you follow and your own governing body, this government says: "No, no. We're government. We know best. We're going to pull you back in, and we're going to control those standards."

If you're a health professional, same thing. And now with Bill 21, it's happening with this, with the legal profession. This government also did that with ICBC. "No, no. Government knows best." Government will care for you for the rest of your life at the standard government tells you that you need to be cared for if you get injured in an accident with this government's changes to ICBC. And, oh, by the way, you're not actually allowed to hire a lawyer to seek other compensation.

That's what this government has enacted over the last seven years, all under the watch of this Premier, either in the Premier's office or as the Attorney General. It's a very solid track record. Now, I know the Premier is a lawyer. He obviously is not a fan of the profession itself, because it's a constant attack on the legal profession within this chamber — constantly.

I look forward to committee stage on Bill 21. I know we have an Attorney General critic who is a lawyer himself, so it will be, I'm sure, rife with legal back-and-forth. I know the Attorney General is a lawyer, a very accomplished lawyer in her own right, so it will be an interesting back-and-forth committee stage debate, but a very important committee stage debate to try to get to the meat of what is actually trying to be solved or not. If it's simply, as the Forests Minister said, a case of trying to have Indigenous representation guaranteed on the board, well, let's see that clause and not have to deal with the other 317 clauses that are in this bill.

There are one-off issues that might need to be addressed. If it's about the notaries needing more scope and wanting to have a bit more oversight, let's deal with that. But you don't need 317 clauses, and you don't need to drag the 14,000 lawyers into that conversation.

You need to listen to the notaries, and you need to address their concerns and their issues and make them operate the way they would like to operate without the government dictating to them how they will operate. They want changes. Of course they're going to be more favourable to anything that's going to get them closer to what they need, but we can get them to what they need without Bill 21.

With that, I thank the Chair for this time, and I look forward to other colleagues' debate around the chamber, and I certainly look forward to committee stage on Bill 21 as we move forward.

T. Shypitka: I'm happy to talk to Bill 21, Legal Professions Act. Before I do, I just would like to give a quick high-five to some of the lawyers in Kootenay East that have really made an impact on the constituents there, the first one being Ken Steidl. I knew Ken Steidl for a long time. Unfortunately, he passed away six years ago, on July 12, 2018 — super strong fighter, real strong advocate for the legal profession and a good friend of mine. He has been sorely missed.

[4:15 p.m.]

And: Gerry Kambeitz; Don Paolini; John Zimmer; Marco Maryniak; Glenn Purdy; Gord Leffler; Wes Rogers, somebody everybody else knows in this chamber; Bill Bennett; and Gerry Kent. Gerry Kent was a special lawyer to me. He was also a good curler. He skipped the team that I was on when we

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Glen Purdy; Gord Leffler; Wes Rogers; somebody who everybody else knows in this chamber, Bill Bennett; and Gerry Kent.

Gerry Kent was a special lawyer to me. He was also a good curler, and he skipped the team that I was on when we represented British Columbia in the 1991 Brier, where we ended up finishing third. It was a tough one. It was a tough pill to swallow back then. The winner that year got to go to the Olympics in Albertville, France.

Anyway, the reason why I mention these lawyers is because Bill 21 represents the legal profession, but it also represents the people they represent. They're good people, like the people I just mentioned, representing good people. I think that's the thing that really strikes to me the most. The NDP introduced Bill 21, the Legal Professions Act, into the Legislature. Lawyers and legal organizations across B.C. — and across Canada, in fact — are very concerned about Bill 21 and have come out in droves to oppose it.

The Legal Professions Act, more commonly referred to as the single-legal-regulator reform, is a new piece of legislation from the B.C. government to create a single, centralized regulator to oversee all legal professions in the province, including lawyers, paralegals and notaries. We have seen this overreach several times with Bill 36, the Health Professions Act, and Bill 49, the Professional Governance Act. This closes the triad of government control in B.C. At the passing of this bill, it will be a mission accomplished by the socialist Premier.

The issue most lawyers have with the B.C. government plan to overhaul regulation of the legal system isn't with creating a single regulatory entity. The concern is more about what this government is trying to do in addition to this. Many lawyers are deeply concerned about three broader patterns of alarming behaviour exhibited by this government.

The first one: the unjustifiable concentration of more power over the legal system, out of the hands of lawyers and into the hands of cabinet and the Attorney General, and implications for the integrity of their professional independence from government.

Second: the lack of transparency around the development of Bill 21, an essential but non-existent public engagement program, and a consultation process limited to a small, select set of stakeholders under non-disclosure agreements, who arrived at major changes to the regulation of the legal profession. I think it was 300 out of 14,000 lawyers we heard here today.

Also, the third point: the lack of any substantive and funded measures to improve access to justice.

In the current system, lawyers are a self-regulating profession. They're regulated by the Law Society, which comprises 32 benchers, 25 of whom are lawyers freely elected by other lawyers, and up to six non-lawyers who are appointed by government. This majority, 25 of 32 — in fact it's a supermajority — of freely elected lawyers is what makes the legal profession a self-regulated profession. This self-regulation allows lawyers to have independence from government, and it's an important aspect of a properly functioning democracy.

Why is the independence of the bar important? Well, government is powerful — really powerful, as we've seen. They have billions of dollars, tens of thousands of employees and the ability to create laws that are enforced by law enforcement.

History has shown that government will sometimes use these things to bully or oppress a group of people. They will sometimes overreach and make laws that are unconstitutional, or act unfairly. When they do, they are often kept in check by a strong and independent bar, whose role it is to push back on

government and protect individual rights. This is how things operate in a properly functioning democracy. A weakening of the independence of the bar should be of concern to everyone.

Bill 21 ends lawyers' self-regulation. Under Bill 21, there are no benchers and no true Law Society. The bill creates a new regulatory board, which will have 17 directors. Only five of the 17 directors will be elected lawyers, meaning that lawyers lose self-regulation.

[4:20 p.m.]

Now, this is where things get tricky and complicated. The total board looks like this: there is a first group of five elected lawyers, two elected paralegals, two elected notaries, and three government appointees. This is a group of 12, where lawyers are the minority, five out of 12. This group will then appoint four more lawyers to round out the total group of 17.

Yes, there will be

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paralegals, two elected notaries and three government appointees. So this is a group of 12, where lawyers are the minority — five out of 12. This group will then appoint four more lawyers to round out the total group of 17. Yes, there will be nine lawyers in total, but the other four lawyers are appointed by a group where paralegals, notaries and government appointees form the majority. So 11 of the 17 directors will be non-lawyers, government appointees and non-elected lawyers appointed by a group where lawyers are the minority.

This majority of 11 will make up all the rules about the legal profession that are under the control of the Law Society today: rules about who can become a lawyer, what lawyers can say, punishment for lawyers and even disbarment. The new board may also make rules under sub-subsection 28(2)(b): "establishing a process for the screening of candidates in the election of the directors." Even the few elected seats that remain will be subject to a screening process within the reach of government influence.

This is a profound weakening and threat to the independence of the bar, increasing in government appointees out of step with other jurisdictions. In comparison, in Ontario's single-legal-regulator model, the board has 40 elected lawyers, 20 of which are selected from the greater Toronto region and 20 from the rest of Ontario, eight government appointments and five paralegal representatives. Bill 21 is an enormous departure from the norms governing legal regulation in liberal democratic societies. Changes in the Ontario regulator was driven by lawyers.

Law Society tried to make changes independently last year and were rejected by government. So there are concerns that regional representation will diminish. And I'll get into that. There are currently 25 elected lawyers — benchers, they're called — across nine regions represented on the board of the Law Society of B.C. Bill 21 would leave only five elected lawyers on the board, so the regions will have to be changed, merged or be represented only by an appointed bencher who is not accountable to the members of the bar in the region.

The specifics of the regional restructuring are also left up to the rules determined by the new board. It is a certainty, however, that there will be fewer regions represented by fewer elected lawyers, further concentrating power in Victoria and Vancouver, at the expense of the rest of B.C. And we've seen this time and again, where rural British Columbia fails to be represented, whether it's health care, transportation, emergency response and now the legal profession. It's a continuation of eliminating the current concerns of rural British Columbia.

The few legal stakeholders that the government did consult with prior to tabling this legislation, including the Law Society, were required to sign non-disclosure agreements before taking part in any conversation. This stifled the ability of these legal organizations to discuss with other legal organizations, the media or the public any concerns they had about the proposed bill. Many legal organizations, such as the Trial Lawyers Association of B.C., were not asked to take part in any such consultation, nor was the public.

This was not the mandate that this government ran on in the last election. This is the concept of a Premier who was not elected but rather appointed when the prior Premier had to step down. The B.C. government March 24 public update, posted on a government webpage during spring break with no

accompanying news release, provided few details for plans that were only partly shared in public prior to the bill's introduction.

Sound familiar? This was the same case of the sweeping changes of the land amendments act that first came out.

[4:25 p.m.]

And I remember speaking to many stakeholders when the word was leaked and the news release was found amongst a bunch of Engage B.C. other notifications. And I phoned all stakeholders. Mining Association of B.C., Association for Mineral Exploration, Stone, Sand and Gravel Association — none of them were consulted. And we found out what happened there. Government did

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amongst a bunch of Engage B.C., other notifications. I phoned all stakeholders: Mining Association of B.C.; Association for Mineral Exploration; Stone, Sand and Gravel Association. None of them were consulted. And we found out what happened there. Government did finally pull that back, and we're hoping we'll get the same with this bill.

The NDAs are expired, and the Law Society and Canadian Bar Association, B.C., who are no longer bound by their NDAs, are mad. They confirm that the consultations were not consultations. None of their suggestions were implemented, and the meetings were effectively an opportunity for the government to tell them what they would be doing, like it or not.

The Law Society released a letter calling for an immediate pause to this bill, which is important. The speed that this bill is proceeding is astounding. The bill was tabled April 10 and is already in the second reading here today. And we've only got less than ten days left here in the Legislature. As my other colleagues have noted, what is the rush? So 316 or 317 clauses, 45,000 words, whatever it is, zero consultation, and we're going to ram it through here in the last week or two of the session.

That the Attorney General hasn't engaged with stakeholders and communities in any manner commensurate with the gravity of this bill is indicative of the B.C. government's dismissive view of the importance those elections hold for lawyer independence in our province.

The disinterest in public consultation on this file is reminiscent of another piece of legislation from this government. I just mentioned that was the Land Act amendments. Concern is that the proposed legal reform shows a repeating pattern of government overreach.

On the Land Act amendments saga earlier this year, Vaughn Palmer wrote in the *Vancouver Sun* that: "The New Democrats issued the call directly to stakeholders and insiders earlier this month. They made a low-key posting on the government website at engage.gov.bc.ca. But they neglected to advise the broader public of the opportunity, by either news release or any other announcement." Palmer might as well copy and paste his work on that article to describe the B.C. government's approach to public consultations for the single legal regulator reform.

For a bill ostensibly justified by a focus on the public interest, the government behind the bill sure doesn't seem to be very interested in what the public has to say about it or whether they even know it's happening. Tellingly, they weren't included in the ministry's what-we-heard report. The power that the Law Society of B.C. has and that the new single legal regulator will have to regulate, discipline, and disbar lawyers is too great to be left in the hands of the B.C. government. Controlled or influenced employees could abuse that power to further political or ideological interests.

Both the Attorney General and the Premier have come under fire already for doing exactly that when the Attorney General criticized a judge's decision on social media and in a television interview, suggesting he wasn't properly trained, and the Premier backed her up. The B.C. Attorney General criticized the court's decision and "the actors in the justice system," suggesting the judge lacks proper training.

In response, in the fall of 2023, the Law Society of B.C. issued a statement saying: "In a recent media interview, B.C.'s Attorney General, KC, made comments suggesting judicial training may not be sufficient following the sentencing of a B.C. man. The Law Society of B.C. is concerned that the Attorney General's implied criticism of the judge's decision interferes with the independence of the judiciary and the rule of law and may undermine public confidence in the judicial system and the courts."

The Law Society statement also addressed the Premier directly, bluntly stating that: "in recent months government officials, including the Premier, have made comments on justice system matters that tread on interference with the administration of justice by politicizing justice issues."

[4:30 p.m.]

For a regulator as esteemed and reserved as the Law Society of B.C., the statement is a fierce shot across the B.C. government's bow. The Canadian Bar Association, British Columbia branch, also weighed in, writing in an open letter to the B.C. Attorney General that it felt "deep concern about comments made and

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the statement is a fierce shot across the B.C. government's bow. The Canadian Bar Association, British Columbia branch, also weighed in, writing, in an open letter to the B.C. Attorney General, that it felt: "deep concern about comments made and reported on *Global News* on November 23, 2023, regarding sentencing on a criminal matter from October 2023. These comments, made with the weight of your office, risk undermining the public's confidence in the criminal justice system. We are concerned that commenting on a specific case in this matter harms the administration of justice in this province."

Given any government's potential to politicize the courts and the judiciary, B.C.'s community is on the edge about Bill 21 and how it further concentrates power over legal professions in the hands of politicians. The Attorney General has included extreme provisions in Bill 21 that confer significant control and discretion to the minister over the application of regulations affecting the legal professions.

Section 4 outlines the addition of a power to create entirely new categories of legal professionals through government regulation, meaning that on the mere recommendation of the Attorney General, an entirely new legal profession beyond the existing grouping of lawyers, paralegals and notaries can be created by the Lieutenant-Governor-in-Council at any time — essentially by diktat. The act includes other particularly troubling sections as well, which continue a pattern of centralization and politicization.

The single legal regulator reform also fits another behavioural pattern from the B.C. government, that of dangerous government overreach and reckless politicization of professional regulation. In 2022, the B.C. government centralized health care professions' self-regulation into six government-appointed colleges and eliminated the elected positions that had existed under the old system and had ensured professional independence from government control. The legislation underpinning that reform, the Health Professions and Occupations Act, was highly controversial at the time it was passed and remains so today.

Now, the B.C. government is proposing to centralize regulators of lawyers, paralegals and notaries. The decision of whether to disbar a lawyer will be made by not only unelected lawyers, but by government-appointed directors and members of other professions. The Legal Professions Act will increase the proportion and influence of government appointments and dramatically reduce the number and authority of elected lawyer members by removing their existing absolute majority on the Law Society of B.C. board. More government-appointed insiders, few elected members, more political control.

This sort of government overreach into the regulation of the legal profession, with so little in the way of public consultation or transparency, giving inordinate power to government appointees, is extremely dangerous. Remember too, that B.C. judges are selected from the bar, meaning lawyers become judges. Bill 21, Legal Professions Act, enables the politicization of the regulation and disciplining of lawyers. Over time, that means the government can exert enormous influence over the types of lawyers and judges we have in B.C. and the decisions courts make. Independent courts can only exist with an independent bar. If lawyers are politically regulated, over time, the courts will become more political as well, simply stated.

The B.C. government has rationalized Bill 21 by arguing that it will improve access to justice by lowering costs for British Columbians in need of legal assistance. Access to justice needs to be improved in B.C., yet Bill 21 does nothing to improve access to justice. In fact, it distracts from the B.C. government's continued diversion of funding intended for legal aid, to instead support general government revenues and spending.

[4:35 p.m.]

B.C. is unique among all provinces in that it charges a 7 percent sales tax charge on legal services, which makes these services more expensive than they would otherwise be. When the PST charge on legal services was introduced in 1990,

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B.C. is unique among all provinces in that it charges a 7 percent sales tax charge on legal services, which makes these services more expensive than they would otherwise be. When the PST charge on legal services was introduced in 1992, under this NDP government, the government promised that the revenues generated by the tax would be used to fund the legal aid budget, thereby improving access to justice for those in need. This was by design and stemmed from the recommendations of the AG report of that same year.

In February of this year, the CBABC noted in a February 2, 2024, statement that "amount of PST paid by British Columbians on their legal fees is estimated to be $230 million each year, with approximately $130 million allocated to Legal Aid B.C." This means, of course, that the government has underfunded legal aid by around $100 million every year and has no plan to fix that fundamental problem.

Bill 21 does nothing meaningful to address or reform the structural issue of underfunded legal aid services. It also contains no measures to alleviate concerns about rising insurance costs for some legal professions if their scopes of practice are broadened.

It is likely that this bill is a cynical distraction from the fact that this government is continuing to divert funding intended for legal aid services into general revenue instead. Rather than taking responsibility for the failure of the B.C. to properly fund legal aid, the B.C. Attorney General is apparently attempting to distract and divide British Columbians through Bill 21 by instead blaming lawyers and other legal professions for the high cost of legal services.

I think there is very little in the bill that will meaningfully impact access to justice. I personally think the best way to improve access to justice is for the government to stop underfunding great organizations like Access Pro Bono that help British Columbians access justice. I do, however, think this government will continue to use access to justice as a smokescreen to bring in legislation that will weaken a legal profession that has long been a thorn in its side.

In conclusion, drafted behind closed doors with only a handful of stakeholders, under non-disclosure agreements, the Legal Profession Act, 2024, ends lawyers' independence and institutes greater government control over the legal professions and legal system in B.C. Disappointingly, Bill 21 does not even tangibly address the persistent failure of the B.C. government to end the diversion of $100 million in annual tax revenue that is meant to fund legal aid for British Columbians.

Access to justice needs to be properly funded, and Bill 21 does nothing to address that. The goals that the government says it is trying to achieve with Bill 21 — improving access to justice, modernizing the legal regulatory framework, increasing the Indigenous voice and the regulatory process — all can be done without impacting the self-regulation independence of lawyers, which is a foundational cornerstone of free democracy.

When we heard the Minister of Forests speak a little bit earlier, he spent more time talking about how this new bill doesn't change the current legislation and spent very little time addressing what actually it does to make it better. You may believe this government is working and would not use a weakened bar for ulterior purposes. However, even if true, what about the next government, or the government after that?

What if a government comes along and starts doing things you don't like, but now we have a legal regulatory framework that has compromised the ability of the bar to hold this future government in check? Bill 21 is dangerous, and it is a step too far.

Final little seven points I'll just conclude with. Bill 21 ends self-regulation for lawyers. Bill 21 ends lawyers' independence from government in B.C. Bill 21 is dangerous. Lawyers and legal organizations across B.C. and Canada are opposed to this disturbing piece of legislation. British Columbians are asking for members of the Legislature to vote against Bill 21.

[4:40 p.m.]

There is actually even a hashtag out there right now. British Columbians want us to stop Bill 21, so you can just go to the hashtag and #StopBill21 and weigh your voice in. Finally, will the Attorney General please listen to lawyers, legal organizations, and British Columbians and withdraw Bill 21?

For those reasons, I will not be in favour of this bill. I will take my place.

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and weigh your voice in. Finally, will the Attorney General please listen to lawyers, legal organizations and British Columbians and withdraw Bill 21?

For those reasons, I will not be in favour of this bill. I will take my place.

D. Davies: I'm happy to rise this afternoon on the Bill 21, the Legal Profession Act, 2024. We've heard from all of our colleagues about how it proposes significant changes to the regulation of legal professionals here in British Columbia. I don't know how many times — I would probably say every time that I've spoke in this House on bills or whatever — that the words "overreach," "control," or "lack of consultation," "out of touch," come up. These are themes that we continually hear from or about government legislation.

This Bill 21 is no different. It seeks, in essence — I'll explain a little bit, and it's been touched on by my colleagues — basically the ending of self-regulation by lawyers in the province of British Columbia. We've heard a couple members of the government caucus talk about it and say that that is not true. But when we look at 15,000 or 14,000 some-odd lawyers in British Columbia, the Canadian Bar Association B.C. Branch, the Law Society, the Lawyers Rights Watch Canada: these organizations that represent lawyers in British Columbia have all come out strongly stating that they are opposed to this legislation Or that at least it needs to be paused and slowed down to give time to digest it.

In fact, I had a conversation today with the Law Society. One of the things…. We've heard this over and over again, and we've seen this over and over again. We're down to what? We're done today, so we've got four days next week and four days the week after. So we have eight legislative days. Remove Monday mornings because we don't do bill business there. You take out the question periods and all the other introductions and all those pieces, and that's not a lot of time for legislators for us to go through Bill 21. Especially when, of course, we have other large pieces of legislation that are also going through this House.

One is the Haida piece of legislation. And here we are, eight days left. And we're in second reading with lots to convey and lots to talk about. Committee stage on this, I believe it is, 317 clauses is actually just another repeat of Bill 36 that we're going to be seeing. The Law Society and others, and lawyers…. In fact, I've even communicated with lawyers in the city of Fort St. John that have reached out to me that are really concerned about this overreach by government about the unintended, or maybe intended, consequences that this piece of legislation could and likely will have on lawyers.

When I was talking to…. Again, I spoke to a member at the Law Society today, and just going through it today I realized: oh gosh, how is that going to work? What are the impacts of this going to have? Lawyers are going through this information right now and trying to look at how the impacts of this legislation are going to have down the road. And they were only just given this information as well.

[4:45 p.m.]

So we saw this, as I mentioned, with Bill 36

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this legislation is going to have down the road. They were only just given this information as well.

So we saw this, as I mentioned, Madam Speaker, with Bill 36. We also saw this, maybe not as much, with Bill 49, the professional alliance bill. But certainly with Bill 36, which was an enormous bill that was brought in toward the end of session, just like this one is, with the government knowing full well that there's not going to be time to debate it, and the government knowing full well that they will bring closure. It doesn't matter what part of the bill we get to in committee stage. That will be that.

A big concern of this bill is obviously how much of it is left up to regulation. One of the pieces, and I'll just read it here…. "This legislation gives the Lieutenant Governor in Council the authority to create regulations to determine scopes of practice, designate new categories of legal professionals and to

generally make regulations." This marks a departure from the current Legal Profession Act, which makes no provision for the use of government regulation.

Government, and I go to the overreach, has deliberately overstepped, or is planning to overstep, their control, bringing all the power in and around the Premier's office. In a time…. A profession such as lawyers is one of the few groups, other than the opposition, that can stand up and call out government. But as a legal entity or a legal group, they can actually hold government to account and say: "That's wrong."

We've seen this. We've seen it lots. The Premier now, of course, the former Attorney General at the time…. I've got a list of court cases lost that the Premier…. Some of them are quite important and relevant to the province.

Let's just look at August 29, 2017. We'll start there. That's early on in the days of this government's tenure. Justice David Stratas of the Federal Court of Appeal commented on B.C.'s application for intervener status on the TMX legal challenge. "British Columbia does not appear to understand the basic ground rules of the complex proceedings it is seeking to enter." I wonder what that cost taxpayers of British Columbia to fight.

The list goes on. February 22, 2019, another fight with Alberta. July 19, 2019, another fight with Alberta. These are all losses, by the way. These are all losses where this government has taken, whether it's another province or other entities within this province…. The list goes on and on.

The Premier, the Attorney General at the time, lost a key court challenge to limit the expert witnesses in auto insurance cases, which, according to the judge, "infringes on the court's core jurisdiction to control its processes, because it restricts a core function of the court to decide a case fairly upon the evidence adduced by the parties." The Attorney General said that the policy, though, would save ICBC $400 million a year.

Well then, of course, down the road we just see: "If I can't get my own way, I'm just going to change how ICBC does business." We saw that legislation come out. Children and families. The Representative for Children and Youth…. Anyways, the list goes on and on. I could read the list into the record, but I'm not going to.

[4:50 p.m.]

But this is the relevance and the importance of lawyers being able to hold government to account, to say to government, "That's wrong," and then, in a courtroom, to actually prove that it is wrong. When….

Interjection.

D. Davies: You can't compare that. That's apples and oranges. Apples and oranges. I'd love to see the member stand up. Have you spoken on this yet?

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to say to government, "That's wrong," and then, in a courtroom, to actually prove that it is wrong. When….

Interjection.

D. Davies: Oh, you can't compare that. That's apples and oranges — apples and oranges. I'd love to see the member stand up. Have you spoken on this yet?

Deputy Speaker: Through the Chair.

D. Davies: Through the Chair, Madam Speaker.

I mean if the members want to speak and yell, they have an opportunity to stand up after I'm done, and they can have 30 minutes to talk.

Let's go back to Bill 36, and how that played out. I know the member for Prince George–Valemount spent an enormous amount of time on that bill. As we mentioned, the government brought

closure, the guillotine. They just said: "You're done. Too bad, so sad." Now we're starting to see the challenges and the implications of that.

By the way, it was a bill that, I think, most of the opposition opposed. I'm not sure of the other parties, but the B.C. United caucus completely opposed that bill. Because it was a bill of such magnitude that was being pushed through in just the last couple of weeks at the end of a session, it was not enough time to actually look at the impacts that it might have down the road, the unintended consequences.

Again, I wonder if they were intended, because we are seeing the challenges now of Bill 36 coming into effect and how it's impacting our health care system right now. It is a bad piece of legislation that this government passed, that this government rammed through this House, and this piece of legislation, Bill 21, I suspect will be treated in the exact same instance.

We have to ask why the government wants to pull out that independence from lawyers in the province of British Columbia. Are they worried? Or do they not like being held accountable, or wearing egg on their face at every court case that they tend to lose?

This new governance structure that's being proposed here will dilute the legal professions through increased government involvement. There's no other jurisdiction, I don't think, that has done this in Canada — or across the Commonwealth, for that matter — and that, you know, somewhat replicates this place. Who is asking for this?

You know, I wasn't here, but I was listening on the TV to the Minister of Forests when he was speaking, and my colleague from the Kootenays made a really good point. The Minister of Forests didn't really talk about how good this is and how it's going to benefit everything across the province but kind of pulled out little bits and pieces. Oh, we're exaggerating over here, and making things up. Those were the Minister of Forests' comments — not to proudly stand up and talk about it: "This is fantastic for XYZ." I mean, there might have been a couple little pieces in that.

Let's look at that, though. That's what this place really is. This is a place to introduce and debate bills. We're not disagreeing that there needs to be improvements on things. That is why we have these debates. That is why it is important to allow fulsome debate. Again, we're not going to have that on this bill because the government will bring in closure on it.

The government has not consulted widely enough. I mean, again, if you consider it, there are 15,000 or 14,000 — I've heard a couple different numbers; I'm not exactly sure how many lawyers there are — you know, 14-some-thousand lawyers. And you get this little, quiet, almost secretive consultation process that came out, and they heard a little bit back.

[4:55 p.m.]

By the way, this is all in the last month. This has all happened, actually, in the last few weeks, and they get 700 responses back. Is that fulsome consultation on something so fundamental? I don't think it is. Actually, it isn't.

We are deeply concerned

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and they get 700 responses back. Is that fulsome consultation on something so fundamental? I don't think it is. Actually, it isn't.

We are deeply concerned about Bill 21 and how it will compromise the legal system that we…. I'm sure many of us, even myself…. When I do speak to my lawyer about whatever I'm working on, I have great trust in my relationship and that confidence with my lawyer. But this creates a huge ripple. A fundamental principle is to preserve public trust in our lawyers. This bill does not do that.

As this bill does move into committee stage, which is a critical part of the debate, in the next stages of this, the B.C. United caucus obviously will be rigorously examining each and every clause that we have that is in this bill, all 700 and whatever they are, 700 and some. We are already reaching out. We've been in contact. I know that the Attorney General has received a letter from the Law Society stating their absolute disagreeance in this.

Interestingly enough, the minister was talking about…. A lot of this is to improve legal aid. But at the end of the day…. And I'm just going to read. There's a ton of articles written that are out opposing this piece of legislation.

This one is the *Business in Vancouver* article. And it's interesting. One of the reasons of bringing forward Bill 21 is to improve the legal aid society. Well, I'm going to read a piece out of this news story. I want to make sure I start at the right spot.

"Significant amounts of revenue generated by the tax…."

In B.C., we're one of the only jurisdictions that actually charges PST on lawyers. Other jurisdictions don't. Well, Alberta doesn't have it.

So there's a significant amount of revenue generated by the tax on legal services that has been diverted into the general provincial government revenues spending. In February of this year, the Canadian Bar Association, B.C. branch, noted that the amount of PST paid by British Columbians on their legal fees is estimated to be roughly $230 million a year. Approximately, though, $130 million a year is allocated by the government to Legal Aid B.C.

So the government, in essence, is really underfunding legal aid by $100 million a year, with the PST supposedly supposed to go to supporting legal aid. So the problem isn't necessarily the legislation creating issues for legal aid. The problem is that this government is underfunding legal aid.

I know my colleague for Kamloops–North Thompson…. He had mentioned another one is to have Indigenous voices at the table. We don't disagree with that. I'm sure that the Law Society doesn't disagree with that.

[5:00 p.m.]

But 370…. Can someone give me that number? I'm trying to make it up here. What is the number — 370-some clauses? I thought I had it written down, but I don't. Anyways, over 300 clauses in this bill.

DRAFT SEGMENT 049

What is the number? So 370-some clauses. I thought I had it written down, but I don't. Anyways, over 300 clauses in this bill.

Interjection.

D. Davies: Thank you. So 317. I'm going to write that down. Now I have it.

So 317 clauses required to give an Indigenous voice and to improve legal aid. And one heck of a lot of ability for cabinet to make decisions through orders-in-council.

This is not the way that legislation should be made and proposed in this province, but we have seen it over and over again. We've seen a government that wants to bring in that control and that wants to have that control, whether it's changing how health professions are regulated, whether it's changing how our professional services engineers are regulated.

Now, this is just carrying on with that theme. There's no one else left, by the way. These are the last ones to check off. There are others. Maybe they're coming down the road. It's now lawyers.

The big challenge with lawyers is…. They're the ones that can really hold our governments to account through legal challenges and such. Changing the structure to giving….

Technically, the lawyers used to, at one time, have a 32 member board. Twenty-five of those members were elected directly by lawyers out of the province of British Columbia. So there's a real voice of elected lawyers that have a strong majority to manage the legal workings of this province and their board and the accountability within the lawyers themselves.

Now we are seeing, for the most part…. Well, they don't have a majority anymore of elected lawyers. Most of it is appointed by the government now. Tell me you don't see a problem with that.

I'm really surprised. There are members, lawyers, sitting in the government caucus. I'm shocked that they don't see worry where you have government now appointing the majority of people on a board that looks after the regulatory world within lawyers. It's shocking to see that.

Like I say, there will be a lot of questions. I know our critic for the Attorney General has a number of questions that he will be asking as well as others from within our caucus. Again, we've all had…. I'm sure the government caucus, as well, has had lawyers from around the province email them, reach out to them and show their concern.

These are questions that we will be bringing forward. It is our role as the official opposition to hold government to account and to make sure that we are protecting the self-regulation that lawyers have in the province of British Columbia. That is now at risk.

I go back to my opening points of overreach and control and a lack of consultation. That is really the theme of this bill. It is a theme of this bill that absolutely could, potentially, upset the legal system as we know it in the province. It puts in jeopardy the independence of lawyers and gives the government an iron fist in controlling much of what is being said and much of what is being done in the province of B.C.

[5:05 p.m.]

I just want to make sure I don't miss anything.

With that being said, I just hope

DRAFT SEGMENT 050

done in the province of B.C.

With that being said, I just hope that we do see this government push a big pause on this bill. Pause it. Let's bring it back when we can actually look into it deeper. Have more time to go into it. Have the ample time that the government should be having to consult properly. Make sure that all the pieces that are in the 317 clauses…. What are the unintended consequences that, maybe, should be diverted or maybe not done or amended? We don't have time to do that here today.

We don't have time to do that, nor do the different societies that the lawyers, whether it's the Canadian Bar Association or the Law Society…. There's not enough time to go through this big piece of legislation that is now bumping up here in the last eight days left of this legislative session.

So with that, I will take my seat. Thank you.

T. Halford: It's delightful to get up on this Thursday and speak to Bill 21.

I will point out that when I came in here a little while ago, the gallery was packed. It was bustling up there. And now, we have one loyal individual who has come to my attention. His name is Antoine. Antoine, visiting us from Quebec. Antoine, I hope that I give you the best speech of my career here. I will try my best so you can go back home and tell people you saw the heroics of the MLA for Surrey White Rock on Bill 21.

Interjection.

T. Halford: And you better stay for this whole time, because this will be riveting stuff. But it is important. I want to actually take the time to say if you're dedicating your time here to this, I appreciate it. I know I've had the experience — and I will relate this to Bill 21, I promise — to be inside the legislature in Quebec City, and it's absolutely beautiful. I'm partial to where we are right now, but welcome here. And thanks for taking the time to spend on a Thursday afternoon with us.

I'm not going to say it, probably, more eloquently than, or longer than, my colleague and friend, the shadow minister for Attorney General and MLA for Vancouver-Langara. I honestly don't have the background to speak on that. He's been in the legal profession for a couple decades. But I will say that the concerns that he's raised in this House and he's brought to us and he's brought to the government, I think, are valid. I think that they speak to an overall pattern that we've seen here over the last little bit.

When we talk about Bill 21, Legal Professions Act, 2024, which significantly changes the regulation of legal professionals in British Columbia…. And we've talked about other pieces of legislation. This has been an area where the government has put forward heavy — when we talked, we referenced Bill 36 — pieces of legislation. I think, in this bill, there's 317 clauses in it. As my colleague said, after today, we are down to eight days left of potential debate. I think that there are a number of concerns that are outlined in this piece of legislation.

I think we, as Canadians, in our judicial system, we take a lot of pride. It's not perfect. But we do realize the importance of independence. We realize the importance of collaboration, consultation and the ability to have input. We've seen when that has failed and the ramifications that's had. We've had to pull Bill 12 for lack of consultation.

[5:10 p.m.]

We've heard, and I continue to hear, about the frustrations regarding the lack of consultation with Bill 36, the Health Professionals Act. And here we are again with Bill 21, the Legal Professions Act.

In this bill, it seeks to end the self-regulation of lawyers

the frustrations regarding the lack of consultation with Bill 36, the Health Professions Act.

And here we are again with Bill 21, the Legal Professions Act. In this bill, it seeks to end the self-regulation of lawyers, on which I think we're hearing from law societies and at least the Canadian Bar Association — well, the B.C. branch — and the Lawyers Rights Watch Canada, how the self-regulation is a cornerstone of their legal independence. What this bill is proposing to do, and I realize the intentions of it may be good and done in good faith —I believe that — but it's introducing a governance structure that can water down the voice of legal professionals through increased government involvement. And that has become a common theme that we've seen in here. We know that we need to modernize almost every institution.

There's another guest here. I don't know his name, but he is.... That's great. Anyways, that's Richmond South? Yeah, okay. That's a good distraction to have. I like that.

Anyways, we have seen that in Bill 21, we're talking about the compromising of our legal system. And it's a fundamental principle to maintain our public trust in our rule of law. And I think that what we're hearing from different officials is that it is an overreach, right? We're hearing from many officials that it's coming into a system that is built on trust. It is built on the ability of independence. And it is done in a way where they are wanting to maintain their independence. And I think that that's vitally important.

I have said before that we've heard from the Canadian Bar Association, from the B.C. branch, from the Law Society and the Lawyers Rights Watch Canada, and all of them have said that it's an erosion of lawyers' independence under this new structure and that it is crucial that any regulatory board remain free from political influence to uphold the integrity of our legal system. And I think that that's a core belief that many in this House, whether they're going or their opposition, would believe — that we need our legal system to be independent, especially from political involvement.

We talk about the consultation process. And I think that over the years, at least since I've been here, since 2020, the word "consultation" is so important when we're talking about pieces of legislation, whether it's Bill 12 — which we heard in unison that that consultation was a spectacular failure. We heard that in Bill 36, and now we're hearing that in Bill 21. And we're hearing that in terms of….

I think we're looking at 14,000 lawyers potentially affected by this. In the consultation process, 776 responses collected. When you're talking about the fact that under 8 percent, less than that, consulted on a bill that affects our entire judicial system, I think that that's a significant red flag. I think that that's a problem that we all have to address in this House. I know that my colleagues did as well. They will continue to do that.

[5:15 p.m.]

I suspect that there will be more government MLAs that will speak to this and defend this bill, to some point. But we need to make sure that we are doing things in a way that is strengthening our system and not undermining it. When we look at it, whether it's…. When you look at the fact that you have 317 clauses in this

but we need to make sure that we are doing things in a way that is strengthening our system and not undermining it.

When we look at it, whether it's…. When we look at the fact that you have 317 clauses in this bill and you look at the lack of consultation and you look at the lack of engagement…. When you're looking at modernizing something as important as our legal system, you want to set up a piece of legislation like this for success. And the best way to do that is through ample consultation in trying to bring people along, right? Not just the lawyers, but also the notaries. My colleague from Vancouver-Langara specifically touched on that.

But when we look at it in a way where we've seen previous legislation, where that lack of consultation has been a problem, I think the government has done the right thing. I think on Bill 12 as an example of that, where they said: "Hold on, we didn't get this right." And I think that there's…. Like I've

said before, there's never the wrong time to do the right thing. I think this is an opportunity to follow suit on that.

Let's talk about the composition of the board. I think it's clause 8 of this bill. Just five of the 17 board members will be elected by and from lawyers. So that needs to be understood by government and those who are concerned. That's our position. When we hear from the Law Society and other associations, that is a dramatic change.

Today's current composition of the board of the Law Society, which is the regulatory board of lawyers, is 32 board members, and 25 members of this board are elected directly by lawyers in this province. That's 25 out of 32. Five out of 17, by my math, is not a majority. I think that that was the crux of what the member for Vancouver-Langara was talking about in his speech, about not having the ability to allow for further independence on that.

[The Speaker in the chair.]

We talked about the Lawyers Rights Watch Canada.
With that, I reserve my place.

T. Halford moved adjournment of debate.

Motion approved.

Committee of the Whole (Section A), having reported progress, was granted leave to sit again.

Committee of Supply (Section C), having reported progress, was granted leave to sit again.

R. Kahlon moved adjournment of the House.

Motion approved.

The Speaker: This House stands adjourned until Monday, May 6 at 10 a.m.

The House adjourned at 5:18 p.m.

Interjections.

The Speaker: Members. Members, let's be respectful of each other.

Hon. M. Farnworth: …which helped victims of sexual violence in this province. That was their plan when they sat on this side of the House.

They failed to add police resources when they sat on this side of the House. That was their plan.

I know this. When the election comes, the public will choose our plan over their plan any day of the week.

[End of question period.]

Petitions

M. Bernier: I rise to present a petition from hundreds of people in the district of Chetwynd who are calling on the Minister of Forests to listen to them, reverse his decision and keep the northern initial fire attack crew in Chetwynd.

Orders of the Day

Hon. R. Kahlon: In the main chamber, I call second reading Bill 21, Legal Professions Act.

In the Douglas Fir Committee Room, I call Committee of the Whole for Bill 14, Tenancy Statutes Amendment Act.

In the Birch Committee room, I call Committee of Supply for the Ministry of Finance, followed by the Ministry of Indigenous Relations and Reconciliation.

[J. Tegart in the chair.]

Second Reading of Bills

BILL 21 — LEGAL PROFESSIONS ACT

[2:40 p.m.]

DRAFT SEGMENT 015

T. Halford: I again continue my remarks on Bill 21. I know that a few of my colleagues will be speaking after me.

It was interesting. Over the weekend, we all attend events in our communities. I had a number of people come up to me, on both Saturday and Sunday at different events, on this specific piece of legislation and the concern that they had and the impact that it would have on them and their legal professions. They have been watching, and they've been following what's been going on in this House. To say that they are concerned would be an understatement.

We have seen in this House what happens when proper consultation is not done. We have seen in this House what happens when the government, all through good intentions, fails to actually execute — and the impacts that can have. We've seen that on Bill 12. We've seen it on other pieces of legislation that the government has rammed through with closure. An example of that is Bill 36, the health professions act.

Today, when we're talking about Bill 21 and the changes that are going to occur with that, I think people should be right to be concerned. We look at some of the issues that are being had in here. One of them is, out of the 14,000 lawyers in our province…. We talk about the consultation that has been brought forward by this government and the lack of consultation that has been brought forward. We are looking at a bill with 317 clauses. We've got about eight days remaining in this session.

[Interruption.]

We've got some theme music. That'll cost you.

Like I've said before in this House, and I'll say it again: it's never the wrong time to do the right thing.

When we talk about the health professional act, Bill 36…. We opposed that legislation. Obviously, it was controversial. Now we're seeing the results in our health care system and the crisis that we have. We've seen the government walk back on Bill 12. It's almost a pattern with this government with a failure for consultation.

One of the things that I heard from a number of constituents was around clause 8. In clause 8, it states that only five of the 17-member board will be elected by and from among lawyers. Something that needs to be clearly understood by government and those concerned about the position…. We have laid forward — and what we hear from the Law Society and other associations in our province — a clear mandate for change.

Today, the current composition for the board of the Law Society is a regulatory board of lawyers in this province. It's a 32-member board; 25 members of this board are elected directly by lawyers in this province. That's 25 out of 32. That is a majority. I think one of the things my colleague, the member for Vancouver-Langara, laid out is that with the changes, five out of 17 is not a majority.

We've seen groups mobilize here, whether it's the Lawyers Rights Watch, the Canadian Bar Association — the B.C. branch of that — the Law Society…. They have all expressed concerns in what they're calling the erosion of independence under this proposed new structure.

[2:45 p.m.]

We have said from day one, led by the Leader of the Official Opposition, supported by the member for Vancouver-Langara, that it is imperative that any regulatory board remains free from political influence.

DRAFT SEGMENT 016

We have said from day one, led by the Leader of the Official Opposition, supported by the member for Vancouver-Langara, that it is imperative that any regulatory board remains free from political influence to uphold the integrity of our legal system. I think that's something that we can all strive for, but I think that's something that this legislation obviously fails to achieve.

With that, I'll take my seat.

R. Merrifield: My colleague from Vancouver-Langara, started his speech with a really powerful quote that I'm going to use. The quote was actually from 1982, the year that the Canadian Charter of Rights and Freedoms came into force. It was a quote by Justice Estey of the Supreme Court of Canada. In articulating the essential importance of an independent bar, Justice Estey said:

"The independence of the bar from the state in all its pervasive manifestations is one of the hallmarks of a free society. Consequently, regulation of these members of the law profession by the state must, so far as by human ingenuity…be so designed, be free from state interference, in the political sense, with the delivery of services to the individual citizens in the state, particularly in the fields of public and criminal law. The public interest in a free society knows no area more sensitive than the independence, impartiality and availability to the general public of the members of the bar and, through those members, legal advice and services generally."

As we deliberate on Bill 21, the Legal Professions Act of 2024, we are presented with a proposal that could fundamentally alter the landscape of legal regulation in British Columbia and, in doing so, will potentially shatter the independence of the bar from the state. The warning that I just read from Justice Estey becomes not just hypothetical but a reality.

This bill, while aimed at "modernizing" our legal system, presents profound changes that necessitate a thorough examination not only for the immediate impact but for the long-term implications on our democratic processes and the public's, then, trust in our legal system.

This bill represents a vast overreach and the possibility of politicization of another professional body. We've seen this before. Whether it's with the engineers or the physicians, this bill is going to result in less independence. It will actually reduce the number of elected members of the board from 80 percent to a paltry 30 percent.

Bill 21 proposes the cessation of self-regulation for lawyers, replacing this model with a governance structure featuring increased governmental oversight. This shift raises significant concerns about the potential erosion of the legal independence system, an element vital to the integrity of our judicial system.

And don't just ask us. The Law Society, the Canadian Bar Association, Trial Lawyers Association and even the B.C. Civil Liberties Association are all challenging this bill in terms of the undermining of the independence of the legal profession that it represents.

It's not just about lawyers. It's also about the judges that they become and that they all protect the rule of law from government. The foundation of a fair judicial system is its independence and the independence of its legal professionals free from government oversight.

[2:50 p.m.]

Bill 21's structure threatens this independence by potentially subjecting legal decisions to political influence. This not only undermines the profession but could also erode the public's trust in the impartiality and the fairness of our legal system. The proposed changes in Bill 21 could have profound implications for democracy in British Columbia. A legal system

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Draft Segment 017

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to political influence. This not only undermines the profession but could also erode the public's trust in the impartiality and the fairness of our legal system.

The proposed changes in Bill 21 could have profound implications for democracy in British Columbia. A legal system that appears to be under the control of the government can lead to a perceived, if even not actual, decline in the rule of law. When legal professionals are seen as extensions of the political system rather than as independent advocates, public confidence in the entire democratic process can diminish.

This erosion of trust is particularly concerning in a society that relies on its citizens' belief in fairness and justice as administered by an impartial legal system. Public trust in our legislative processes is essential for the functioning of a healthy democracy.

I love democracy. I am an elected official because I believe so much in democracy and in all voices that are in this House, protecting the democracy and the democratic rights and freedoms that each resident of British Columbia maintains. But bills like Bill 21 significantly alter the regulation of a profession fundamental to the enforcement of these very democratic rights. It also erodes the whole sense of justice, and thus it has to be approached with rigorous public consultation and transparency.

This bill did not receive that. There was limited engagement in the consultation process for Bill 21, with only 776 responses, which really indicates a lack of sufficient public discourse. Without broad-based support and understanding from the public, there's a risk that this legislation is going to be viewed as governmental overreach, damaging trust not only in this law but in the legislative processes as a whole, and also in a democratic government.

With the three associations that I mentioned earlier, that is 14,000 voices against this bill, with only 776 that have been spoken to. Bill 21 alters the regulatory framework of a profession integral to the administration of justice and could significantly affect the public's trust in our legislative processes and in government. This is particularly concerning given the potential consequences these changes hold for the rule of law and the impartiality of legal judgments.

Our system of checks and balances is designed to ensure that no single branch of government gains too much power. The independence of the judiciary is critical in maintaining this balance. Our legislative arm is the last stop for bills that are being challenged. For example, when the former Attorney General, now Premier, was also the minister responsible for ICBC, he wanted to change the rules of court and evidence in ways that were constitutionally challenged and that, ultimately, the Attorney General and this province were defeated on.

If the government was actually in charge of that body, that would be a very different situation. And by increasing governmental control over the legal profession, that's exactly what Bill 21 does. It risks upsetting the balance, concentrating power in a way that could diminish other essential democratic safeguards. This shift towards more centralized control could set a dangerous precedent, potentially inviting further governmental overreach into other areas.

What does that actually mean? Do we need a system where a justice system will actually hold government in check? Well, yes. It's a foundational principle in our democratic governance, designed to prevent government from accumulating excessive power.

[2:55 p.m.]

This system ensures that the legislative branch of our government can regulate laws while the judicial branch of government can regulate and make sure that there is a check and balance on each other. It prevents abuse of power and protects individual rights and freedoms. It operates under the premise that when power is distributed and mechanisms for oversight and control are established, the integrity and effectiveness of governments

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Draft Segment 018

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and balance on each other. It prevents abuse of power and protects individual rights and freedoms. It operates under the premise that when power is distributed and mechanisms for oversight and control are established, the integrity and effectiveness of governments are enhanced.

But this modernization that this bill purports is actually going to do the opposite. Has it ever been done anywhere before? Are we following best practices? No. Ontario did change the oversight of paralegals and notaries, but it left self-governance in place for the legislative institution. So this will actually be the first move by any Commonwealth government or provincial government in Canada to do this, to take away the self-regulation, the ability of lawyers to elect a majority on the board that represents them.

An independent legal profession serves as that crucial check within our government system. Lawyers and the organizations that regulate them must operate independently from government influence to effectively advocate for their clients, uphold the rule of law and challenge governmental actions when necessary. This independence ensures that legal professions can protect individual rights against potential government overreach and uphold democratic principles without facing political retribution or repercussions. Bill 21 proposes to replace this self-regulation of lawyers with a regulatory framework significantly influenced by government appointments. This shift not only threatens the independence of the legal profession but risks the integrity of the entire system.

I've spoken at length about the potential for government overreach but increasing government-appointed positions within a regulatory board from having 80 percent that were elected by the lawyers themselves to only 30 percent introduces a potential for bias and manipulation in legal governance. It actually has that 12 of the 17 on the board will be government-appointed. This influence can lead to a regulatory environment where decisions and regulations favour current government policies or suppress dissenting legal actions, thereby aligning the legal profession more closely with the legislative or government branch, rather than acting as an independent body.

But lawyers become judges, and they are the primary pool from which judges are selected. If the independence of lawyers is compromised, so too the independence of our judges. A legal profession influenced by government interests could lead to a judiciary less capable of acting as an impartial adjudicator in cases involving government actions, weakening one of the most critical checks on the legislative power of government.

With increased government control over the regulation of lawyers, there might be an implicit pressure to avoid antagonizing the province, potentially deterring lawyers from taking on cases that involve challenging government actions or defending clients against provincial interests. This situation could lead to a chilling effect where important checks on government power, such as litigation and judicial review, are underutilized.

The perceived loss of independence within the legal profession could also erode public trust in the fairness and impartiality of legal proceedings. Public confidence in the legal system is paramount to maintaining the legitimacy of the judiciary and the effectiveness of the rule of law. Without trust, the

social contract between the government and its citizens weakens, leading to a less stable and a less just society.

The changes proposed by Bill 21 threaten to fundamentally alter the landscape of legal regulation in a way that could undermine the entire system of balance within British Columbia's government. By diminishing the independence of the legal profession, the bill risks creating a system where legal and judicial processes could become tools of the government, rather than mechanisms of accountability and justice.

[3:00 p.m.]

For these reasons, it is imperative that any reforms to the legal profession preserve the independence and self-regulation of lawyers to ensure that the legal system remains a robust check

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rather than mechanisms of accountability and justice. For these reasons, it's imperative that any reforms to the legal profession preserve the independence and self-regulation of lawyers, to ensure that the legal system remains a robust check against governmental overreach.

The imposition of government-appointed members on the board overseeing legal professions could lead to decisions that prioritize political considerations over legal ones. This could stifle dissenting legal opinions that are essential for robust legal debates and the development of law. Furthermore, the autonomy and moral authority of legal professions to challenge unjust laws or government actions could be compromised, undermining their role as one of the checks on government power.

And this is powerful right now. We've just seen Bill 12 walked back out of this House because the legal profession gave opinions contrary to this NDP government's beliefs. And they were so loud and so convincing and so cross-sectorial that the business community also rose up and was heard. What happens if each of those lawyers was subjected to a government-appointed board? Could there be retribution? Could they be disciplined for their speaking out against government? If the possibility exists within Bill 21, then this bill has gone too far and should be stopped in its tracks right now.

If legal professionals, in any way, by this bill, are perceived to be beholden to the government, the impartiality of legal proceedings and the fairness of trials could come under scrutiny. This perception could deter individuals from seeking legal recourse, believing that the system is rigged against them unless they have government favour. Moreover, the potential for governmental interference in legal education and licensing could lead to a homogenization of legal thought, curtailing innovation or critical thinking within the profession.

As legislators, our duty is not only to pass laws, but to uphold the principles of justice and democracy that form the bedrock of our society. In considering Bill 21, it's our responsibility to ensure that any changes to our legal system enhance those principles rather than weaken them. So if you could answer my question about Bill 21 with a, "Well, maybe, but," already, we have weakened those legal system checks.

It's crucial that we proceed with caution, ensuring that any reformation of the legal profession preserves its independence and continues to uphold the highest standards of justice and integrity. Where could this be an issue? Well, as I just mentioned, bills that come through this House…. Oftentimes lawyers will rise up and give legal opinions on what the bills mean, where the bills have gone too far.

It could also be a group of citizens that are challenging decisions made by the government that affect their rights. Their property rights. The rights to their community, to keep safe in their community. The location of government facilities in their community. How about motor vehicle accidents? Complex injuries? These are just a few. These are areas where we need to ensure that lawyers have the ability, and free of government interference, to properly assert the rights and represent the rights of British Columbians in the court system.

Imagine the government introduces a new public health law that mandates the closure of numerous public health clinics in rural and underserved areas, citing budget cuts and resource reallocation to more populous regions. Well, this decision sparks significant public outcry, particularly from affected communities, who argue that the closures will severely limit their access to essential health care services, potentially endangering lives.

[3:05 p.m.]

Let's say a coalition of health care advocacy groups and affected residents decides to challenge this new law. They argue that the closures violate their right to equitable access to health care as guaranteed by provincial health standards and, potentially, national human rights provisions. This group then seeks legal representation

DRAFT SEGMENT 020

a coalition of health care advocacy groups and affected residents decides to challenge this new law. They argue that the closures violate their right to equitable access to health care as guaranteed by provincial health standards and potentially national human rights provisions. This group then seeks legal representation to file a lawsuit aimed at reversing the law's implementation.

Well, what happens if we no longer have an independent legal profession? For the coalition to effectively challenge the government's decision, it's going to require skilled legal representation that operates independently from government influence. If the legal profession's regulatory body is dominated by government appointees, lawyers might be deterred from representing cases that challenge government decisions, fearing professional repercussions or conflicts of interest.

For a judicial review to occur, the lawsuit reaches the court where judges, drawn from the ranks of those same independent lawyers, must assess whether the clinic closures unlawfully infringe on citizens' rights to health care. The independence of these judges is crucial. They have to be free to interpret and apply the law based on legal principles and evidence, not governmental pressure or policy agendas.

The court's ability to check the power of the executive by potentially declaring such health legislation unlawful is a critical aspect of maintaining democratic governance and rule of law. The judicial review acts as a safeguard against arbitrary decisions that could negatively impact public health and individual rights.

But this is just hypothetical. I could have used 20 different cases. If the independence of the legal profession is vital to ensure that all laws undergo rigorous and impartial judicial scrutiny, what happens when this is no longer the case?

It's not like we haven't seen governmental overreach in the last few years. Where has it already been seen? Well, we've got the Kits Coalition just off Broadway at West 8th and Arbutus. They brought forth concerns about the city of Vancouver's lack of public process and accountability and transparency around B.C. Housing's project. What did this government do? Brought forward legislation to quash their challenge. How about the Surrey police? Just bring a law in that makes it mandatory. Or the union representation of government lawyers? Don't want them to have a choice? Let's bring in a law that will mandate who they go with.

This NDP government loves to override those with legitimate concerns about an abuse of the powers that they have, already showing a clear disregard of the rule of law.

As we delve into the details and implications of Bill 21, I really want to focus on one of the positive aspects. One of the standout features of this bill is in its initiative to broaden the scope of practice for paralegals and notaries. This expansion is a progressive step towards making legal assistance more available and accessible, particularly in underserved communities and for individuals who may find traditional legal services prohibitively expensive.

Paralegals and notaries play a crucial role in the legal system, offering a range of services that include everything from drafting documents to providing legal advice on matters that do not necessarily require a lawyer's intervention. By expanding their scope of practice, Bill 21 facilitates a more inclusive legal environment where more citizens can receive timely and affordable legal support. And this is especially significant in rural and remote areas where the scarcity of legal professions can impede access to justice.

Expanding the roles of paralegals and notaries can also help alleviate the heavy caseloads on courts and lawyers, thus speeding up legal processes and reducing legal costs. This change not only benefits the public but also enhances the efficiency of the legal system as a whole.

So there are positive aspects of Bill 21. I believe that all citizens deserve access to legal services, and enhancing the roles of paralegals and notaries is a commendable strategy to achieve this goal. However, it is deeply unfortunate that these positive changes are overshadowed by the broader implications of Bill 21 that threaten to undermine the very fabric of our democratic society.

[3:10 p.m.]

The bill's approach to restructuring the governance of the legal profession, particularly the increase in government-appointed positions within the regulatory board, poses a serious threat to the independence of the legal profession and to our democratic system.

Draft Segment 021

The bill's approach to restructuring the governance of the legal profession, particularly the increase in government-appointed positions within the regulatory board, poses a serious threat to the independence of the legal profession and to our democratic system. A positive change for the notaries and the paralegals is overshadowed by the possible threat to our democratic system.

We have seen this story before. We know how it ends up. We saw it with the engineers after we took away the actual empowerment of their seal. They are not submitting environmental assessments anymore. They're frustrated. They're disempowered, and they're having their applications rejected for different reasons every time: goalposts are changing, different bureaucrats that are far less educated and less responsible for the decisions than what their own engineer's seal represents. So the engineers are frustrated and are choosing not to do work anymore, with these constantly changing goalposts and, in fact, many of them are leaving the province.

Well then there are the doctors under Bill 36. Just for an example, the definition of informed consent used to be based on global universal standards but now it is subject to a board of politically-appointed persons.

And now the lawyers, the last stop of holding a government to account. Because if the doctors wanted to, they could challenge Bill 36. How would they be represented? By lawyers. Who would make the decision? A judge selected from the pool of lawyers.

Challenging the lawyers' self-regulation is really the last stop. I've talked about associations, but what about the homeowner? What about a patient? They would have to go to a lawyer to represent them, but that lawyer could now be concerned with retribution or political agenda. This is a huge overreach by government. It is unnecessary. Where does it end? How does this story play out?

For a government that has been taken to court so many times over the last seven years and lost…. I have lost count. And it would seem that they are simply trying to remove the obstacle that they have before them: the legal profession that holds them accountable.

While the aims of modernizing the legal system and increasing access to legal services are laudable, they must not be pursued at the expense of our foundational principles of our legal and democratic systems. I urge this assembly to consider the long-term implications of Bill 21 carefully.

Let us work together to find a solution that maintains the independence of our legal professionals, preserves public trust and upholds the delicate balance of powers that are so vital in democracy. Let's move forward with a thoughtful and measured approach, ensuring that our actions today foster a just and democratic society for tomorrow. Because this is possibly the last stop: a gross overreach and a stacking of the deck, for this NDP government, by taking the last independent agency of the government's system of accountability under its power.

E. Ross: On behalf of Skeena, my riding, it's an honour to speak to Bill 21, the Legal Professions Act.

And it is quite the act. It is 317 sections on 135 pages. But more importantly, I think it's important for the public to understand what we're really talk about here in terms of the principles that I've heard my colleagues talk about, especially the member for Vancouver-Langara and just recently now Kelowna-Mission.

[3:15 p.m.]

Because it might seem like we're just talking about the appointment of a board or 317 sections that it's going to take a lawyer to understand. But I think what we're really talking about here is, like so many colleagues have talked about, democracy and governance and, basically, what that means under the context of a free society.

Draft Segment 022

317 sections that it's going to take a lawyer to understand.

But I think what we're really talking about here is, like so many colleagues have talked about, democracy and governance and, basically, what that means under the context of a free society.

A lot of what I talk about in here is based on my own experience. It's no secret that my band is a success story, in terms of how LNG brought our people, and many First Nations from Prince George to Kitimat, out of poverty — even a few down channel.

But that was just a small part of the story in terms of what we were trying to do to fix our future, to build our future in a sustainable way — and "sustainable" meaning not one-time initiatives, not one-time agreements, not one-time payments. It had to be…. Like the saying back then was, we had to make decisions for the seventh generation down the road.

Well, to do that, you've got to look at governance. And the two things I noticed that my band, the Haisla Nation Council, didn't have, that the provincial government had and the federal government had, was they had continuity and they had corporate memory, and that was built under the structure. As much as I tried to duplicate that structure, I probably got halfway, but it was enough for the council and our people to understand there had to be a separation of sorts, a separation of politics and business, a separation from politics and our administration.

For that…. That was under our Indian Act model. The revised model that we created that ran parallel to the Indian Act model took our council away from all that, took them away from the day-to-day activities that our administration was going through and took us away from the business decisions that were being made in relation to LNG or forestry or mining. That was a big part of our success.

To be clear, when we're talking about Bill 21, it's in the same manner we were talking about Bill 36, the health bill. This is government overreach. And I am opposed to government overreach based on what I researched in terms of trying to make a sustainable government for my own band council, but also based on what the Indian Act offered First Nations for the last 100 years. If there's ever an extreme example of overreach, it is the Indian Act.

So every time I see a bill come up that proposes that government take control of a certain profession — like the health profession under Bill 36, or now Bill 21, the Legal Professions Act — I have to question it in terms of governance, democracy and a free society.

There's a reason why the existing bar associations were independent from government. Now government is proposing to get rid of that independence. And that's dangerous. I understand what government is trying to do in terms of these bills, but you can't hide the fact that there are 87 politicians in this place, with political ideologies, including the parties that they represent.

I always thought that government, as well as the legal framework, had to be objective. It couldn't be subjective. That's what the danger is here when we're talking about Bill 21 — in second reading, mind you. I know our member from Vancouver-Langara is going to get into deeper detail on third reading, clause by clause, word by word. But in general, the public's got to know this is government, again, overreaching and including a level of politics in an area where politics shouldn't really be included.

[3:20 p.m.]

In terms of the Indian Act…. I'm not saying this is how it's going to work for Bill 21, but the Indian Act still exists. Fortunately, all those clauses and limitations aren't relevant in today's day and age. It's because the politicians in my band

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Draft Segment 023

I'm not saying this is how it's going to work for Bill 21, but the Indian Act still exists.

Fortunately, all those clauses and limitations aren't relevant in today's day and age. It's because the politicians in my band council chose to ignore it. And at the same time, for LNG's sake, the previous governments for both provincial and federal chose to ignore the Indian Act. Instead, they focused on reconciliation in terms of the Haida court case of 2004. And 2004 was when reconciliation really started in B.C. There was so much success in B.C. from that, in terms of peace in the forest, the forest and range agreement, the mining agreements that First Nations signed with B.C. government. And of course, the LNG initiative, which was quite extensive.

If there was ever a time that politics aligned, it was with the B.C. Liberals who governed at the time, and our Haisla Nation Council, as well as other First Nations councils, but we also understood there were rules that had to be followed. We accepted it. We accepted the fact that we had to actually participate in an environmental assessment, not only for LNG, but also for mining projects.

The problem was the environmental assessment back then was complicated, very complicated. For a band council that didn't have the capacity and who were just starting to understand the basics of Aboriginal rights and title case law, let alone trying to understand the permitting issues that fall underneath or run parallel to environmental assessment. So we had to hire capacity.

We hired environmental consultants, business consultants, but probably the core of our team was our lawyers — our Aboriginal rights and title lawyers, especially — just to get our foot in the door and just to understand what the Haida court case meant, what Delgamuukw meant, what section 35 of the constitution meant in the context of government policies. It was extremely difficult.

When we got to a point where we understood that we were on the same playing field as the provincial government and the federal government, we had an understanding of where the case law was supposed to go and what our overall objective was, we understood we needed a corporate lawyer to understand the business agreements that we were getting into.

We kept the governments apprised of our issues, of our shortcomings. It took a long time to build up not only the trust but build up the agreements where we could build something going forward in partnership with the governments, provincially and federally.

The biggest issue we had back then was trust. We did not trust the provincial government. We did not trust the federal government. We spent a lot of money that we didn't have, by the way, on lawyers, not only to understand what we were doing in terms of negotiating, but also to let the government know that we had the capacity to understand what was in front of us.

This was brand new for us, getting into major projects and understanding there were different aspects of the legal profession that we needed. Back in those days, prior to the Haida court case, the lawyers we had were HR lawyers and Indian Act lawyers. That's what they specialized in. But the business community, especially LNG, spoke a different language, completely, in terms of regulations, legislation, not only here in Canada, but also international. They also spoke a different language in terms of business concepts that we had no idea what they were talking about.

[3:25 p.m.]

Through trial and error, we went out and found this capacity, the people that understood the specific language that corporations and government were using against us. But in that whole time, never did we think that the legal profession was

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DRAFT SEGMENT 024

We went out and found this capacity, the people that understood the specific language that the corporations and government were using against us.

In that whole time, never did we think that the legal profession was in any way connected to government, in no way. I think if we had found out that this bill was coming into play back in 2004, 2006, my band probably would have rejected it.

The scars of the Indian Act are still alive today in many First Nation communities, and especially in First Nations councils, who are elected to represent their membership in some of the most complicated topics that anybody has ever had to face in Canada.

Why it's important that you understand this, especially from a First Nations perspective, is because I see that Bill 21 talks extensively about First Nations inclusion, including consultation. In terms of making a rule, for example, "the board must consult the Indigenous council respecting the extent to which the rule accords with the principles set out in section 7(b) and (c)," the guiding principles.

There, also, is another clause talking about reconciliation with Indigenous peoples and the implementation of the United Nations declaration on the rights of Indigenous peoples. Well, we haven't had legal representation historically, and this is why a lot of First Nations have to understand what's being proposed here. What's being proposed is that government is now, through legislation, going to get involved with the legal profession. Politics will get involved with the legal profession, at a high level, of course, but still involvement, taking away the independence of the legal profession.

In terms of First Nations, in terms of legal representation, in 1927, the federal government introduced section 141 into the Indian Act. It banned the solicitation or collection of funds to pursue a legal claim on behalf of an Indigenous person or group without the permission of the Department of Indian Affairs.

Former Prime Minister John Diefenbaker explained that the provision provided that Indians can have no recourse to the courts unless they have the permission of the minister to proceed. The blackout period lasted almost 25 years, until 1951, when section 141 was finally repealed.

This was a political government passing legislation to say that natives can't have legal representation. It is probably the last time a politician got involved with the legal profession. Rightly so. In my mind, it is almost a conflict of interest to have the politicians in this place creating the laws and then sitting on a board to dictate the membership of a board, taking away the independence of a legal profession that at some times will have to fight against the government.

There is no shortage of parties that want to take the government to court. That's their right. They have the freedom to do that in Canada. That should be black and white. There should be no watering down or confusing language in a bill that — let's face it — nobody is going to read, 135 pages. Nobody's going to read that, 317 sections. The people out there should know that what they're really talking about is government taking away the independence of the legal profession.

[3:30 p.m.]

That is scary. It's a politicization of a professional body that's really there to protect.

Draft Segment 025

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is government taking away the independence of the legal profession. That is scary.

It's the politicization of a professional body that's really there to protect — protect the justice system, to protect us from all sorts of issues, including government, government-sourced issues. The further away government stays from the legal profession, the safer people will feel. And we're talking about a self-regulated profession, a number of bars that are there to regulate their own lawyers.

You really think about the idea of UNDRIP being implemented through this new board and the appointment, Bill 21. Yet I don't understand how to implement UNDRIP or DRIPA when it's really just a framework bill. It's not legally enforceable. So how are they supposed to implement that?

The NDP government itself argued in court that UNDRIP is not legally enforceable, and they had lawyers arguing that on their behalf. Gitxaała First Nation, the First Nation that was taking the government to court over it, had lawyers as well. But because nobody really understood UNDRIP, the B.C. government won the argument, and now UNDRIP is referred to as an interpretive aid. Now we see how it's going to be implemented in Bill 21. But it doesn't point out that UNDRIP is just an interpretive aid.

[S. Chandra Herbert in the chair.]

In terms of the separation of government from the legal profession, Doig and Halfway River are currently in court with the B.C. government over treaty rights in regards to the Blueberry River agreement. Rights and title is one of the most complicated, most abstract, most interpretive case law out there. It's not really the law of the land, but its case law dictates how the Crown is supposed behave when dealing with the Aboriginal rights and title. That includes treaty rights.

The lawyers that Doig and Halfway River hired, without prejudice, are arguing that the government omitted information, deceived Doig and Halfway River and brought dishonour to the Crown. Any First Nation, including Doig and Halfway River, are going to be surprised to hear that, number one, previously the legal profession was an independent body, independent from government, but number two, the days of independence are going to be over. So how is the First Nation supposed to trust government when government argues that DRIPA is just an interpretive aid and is not legally enforceable?

And then, Doig and Halfway River, who are taking the B.C. government to court, find out that the legal profession…. Their independence will be taken away by Bill 21, the Legal Professions Act.

A political appointment to something so fundamental to democracy and freedom in Canada is just plain wrong. Justice should be blind to anything. Justice should be objective, not subjective, and there should be in no way any connection from the political side to the legal side to the justice side. Maybe in other countries they have this, but not in Canada.

[3:35 p.m.]

And nobody is going to go research the constitution or Charter rights to figure this out in terms of what it means. People in here might. Lawyers might. But the freedom that this society has built in Canada

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DRAFT SEGMENT 026

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research the constitution or the Charter rights to figure this out in terms of what it means. People in here might. Lawyers might.

But the freedom that this society has built in Canada took years. It, mainly, was built on people that came here from different parts around the world that were oppressed, that didn't have freedoms. They saw government overreach. They saw politics run amok. So they wanted a different country. I agree freedom is probably one of the toughest systems that you can implement, along with democracy. One of the toughest systems. But when you see how other people are treated around the world, you've got to admit, it's still a pretty good system. You have to admit that.

We should be fighting to protect that. And that does mean keeping the legal profession separate from government. The self-regulation is already there. That's what the lawyers want, is to continue that. If there are problems with it, let's fix it. But let's not do the heavy-handed approach and say: "Government has now got to be part of your bodies." If we're going to do this, if we're going to protect against unfairness from government, then we've got to think about free societies, democracy and governance. We have to.

We do know that this government has been put on notice by the Law Society, the Canadian Bar Association, the Trial Lawyers Association and even the B.C. Civil Liberties Association about the challenges to this bill in terms of undermining the independence of the legal profession.

Here we are on second reading. This current government talks about how this bill addresses independence and self-regulation for lawyers. And yet, there is a clear disagreement on it, just in principle alone. And it's not just us, as the official opposition, talking about this. It's the association of lawyers, the 14,000 lawyers in our province who have been speaking to the government about the importance of this bill and how it undermines the independence of lawyers in our legal profession by eliminating self-regulation.

This was the same thing, the same issue, the same scenario that we experienced in terms of Bill 36, the Health Professions and Occupations Act. The member from Prince George–Valemount, the shadow Minister of Health, tried to debate every single clause of that huge bill. But she didn't have enough time before the government shut down debate. And here we are, with less than two weeks to go in this session, and we got this massive Legal Professions Act, Bill 21, along with another number of different issues that we're actually debating in different rooms in this Legislature.

I've heard the member from Vancouver-Langara saying that he's hopeful that he gets a chance to review the full 317 clauses of this bill, but is skeptical, because it's just not enough time — just like Bill 36, the Health Professions Act.

This has been said, that in Canada, if not the Commonwealth, this will actually be the first move by any Commonwealth government or provincial government in Canada to take away self-regulation and take away the ability of lawyers to elect a majority on the board that represents lawyers. We have to understand that, as MLAs, so we can go back to our constituents and tell them what this actually means for them in the future in terms of legal representation and how will government guarantee that the legal profession will continue to offer independent services to the citizens of British Columbia.

It makes you wonder why no other country has gone down this road. Most likely, it speaks to what this side of the House has been saying: "You've got to keep government and the legal profession separate." It's foundational to what this country is built on.

[3:40 p.m.]

I look forward to third reading and listening to the questionings put forward by my

separate. It's foundational to what this country is built on.

I look forward to third reading and listening to the questions put forward by my colleague the member for Vancouver-Langara.

D. Ashton: I look forward, for a few moments here, to have the opportunity to speak to Bill 21. Before I speak to it, I just want to give you a couple personal situations that I've run into with the independence of lawyers.

I'll never forget, as a young kid, getting dragged up the stairs to my dad's solicitor and the barrister that was also in the office and having the opportunity to really see firsthand what lawyers can do for you.

The gentleman went on after numerous years of service to many in Penticton to become a B.C. Supreme Court judge. As many know, it's not applicable for an individual that is rising to the bench to give recommendations of where you should go. My father, being rather astute, said, "Well, who would you hire for a lawyer in Penticton?" No recommendation. So the gentleman mentioned a few.

We had a meeting. I was dragged into it again, and we had a meeting with an individual that kind of hit off. When you're in business, lawyers get to get to see how you think, through acquisitions or family issues or deaths. They get to see how the family is and how interdependent you are.

After numerous questions and everything, we had decided upon the individual, and within about three years, he called us both in and said: "I'm sorry to inform you that I won't be able to be your solicitor anymore because I've been called to the bench." My dad again said: "Sir, who would you recommend?" The lawyer said: "Well, I'm not allowed to do that." But my dad said: "Okay, well, who would you hire for a lawyer?"

He gave an individual, a female, very well-respected, at the largest law firm in Penticton. I remember walking in. I'm a little bit older now and knowing a little bit more about the business and that. I remember my dad sitting down, myself on one side of the table and the solicitor on the other side. No precursory discussion whatsoever. The first question out of my father's mouth was: "Do you have any aspirations for the bench?" The young lady lawyer said: "No, sir, I don't have any." And he goes: "You're hired."

Again, lawyers get to know what you're like. They're there for that independency that you need. They give you both sides of situations, good lawyers do. You want an individual that's independent. You want an individual that is able to provide you with the best legal advice possible, the best personal advice possible.

You also don't want any conflicts, because in business, there are lots of tendencies where you do cross boundaries of government. You want fair. You want, not ambiguous…. You want an upright, straightforward answer to what is right and what is wrong in the direction that you want to go.

I really think…. Just like religion and politics never, ever mixes, I really would hope that as my peer from Skeena had said…. With Bill 36, 135 pages in the bill, 300-plus sections to look at, coming in at an explicit time of where we literally have seven more days after today before that bill will be coming forward to get at royal assent…. I would just hope that common sense would prevail when there are drastic changes that are taking place.

[3:45 p.m.]

An example that I can give right now. I don't know if other members of the House have had this, but I've had people come into our office since ICBC was changed. Here you have individuals that sustained major injuries and are limited now to what is possible to recover. A young lady with an insurance company our company deals with…. She is

people come into our office, since ICBC was changed, and here you have individuals that sustained major injuries and are limited now to what is possible to recover.

A young lady with an insurance company our company deals with…. She is literally one of the last settlements for a horrendous, horrendous accident that she was involved in and has to wear the results of

that accident, not only in her mind but on her body, for the rest of her life. If it had been underneath the current rules of ICBC….

Mr. Chair, I'm just using it as an example to Bill 21.

But if she had come in under the new one, it was a fraction of what she would have been able to receive to look after her, because she needs help for the rest of her life.

So this is one of the things…. And I'm not going to come out and chastise the government for jumping in on this. They had their ideals that they want to project onto society on some of these issues, whether it was the health bill, Bill 36, that I had just mentioned, down to 21 now….

For the lawyers, there are places that government shouldn't be. And I really think that this is one of the places that government should not be. For the record, and it may have come out….

Mr. Chair, if you don't want to give me grace on this…. But for the people that I represent, I would just like to read the letter that has come from the Law Society personally on it. It's addressed to the Hon. Nicki Sharma, Attorney General of British Columbia here at the parliament….

Deputy Speaker: We don't use names in the House, Member.

D. Ashton: Oh, I apologize. I was just reading the top of the letter. I'll just say to the Attorney General.

Deputy Speaker: And if the Member can….

D. Ashton: I apologize.

Deputy Speaker: Yes, and the letter…. Good chunks have been read into the record, so you don't need to read the entire letter, but please proceed.

D. Ashton: Okay. Thank you, Mr. Chair, for your advice, and I appreciate that. Let me just give a couple of quotes out of it. One of the quotes is:

"We, the benchers of the Law Society, are certain that the development of Bill 21 has failed to meet reasonable expectations that the public and legal professions be significantly involved in commenting and advising on the substance of the bill."

Well, here you have the society where a few in this wonderful Legislature have risen up through, saying to the government: "Hold on a minute, folks. There has not been enough advice coming from us, nor comments." And I think that that is very, very important.

They're asking…. They urge the government to reconsider the passage at this point in time and take more time to consult not only with the public but also the legal professions and especially, as we heard my peer from Skeena say, the Indigenous people of British Columbia to ensure that the revised bill creates legal regulators, where everybody has a fair and equal opportunity.

I really think that there is time at this point, whether or not it gets through in this session, but it's going to be incredibly important for the future. I really think we should be proceeding with caution and due diligence as a safeguard to the pillars of justice that we all respect in this province and in this country.

I think this is a critical issue at this point in time. I know our side would like to work towards amendments that preserve the independence that we've talked about. Other peers of mine have talked about, here…. The legal professions have brought forward…. I think that they do generally and genuinely realize that there is an opportunity for an improvement in the Legal Professions Act, but they want the opportunity of the input. They want the opportunity to be involved in the process to ensure, again, that there's an arm's length between the solicitor and the client and — I'm going to add one more to it — the government.

While the modernization of the legal professions, as I said, is a worthy goal, I don't really think it should come at the foundations of our legal system. I just hope that government alleviates the repeated refusal to do this.

[3:50 p.m.]

I really think that the government needs some secondary thoughts on this, and if we all work together, we will have the opportunity for a comprehensive and a real genuine process that will involve

all the stakeholders, involve everybody that is going to have something to do with this new act to ensure that the base, that big, solid foundation that's required, is put into place

that it is going to have something to do with this new act, to ensure that the base — that big, solid foundation that's required — is put into place and put into place properly.

I know that we on this side would like to implement some regulatory framework that protects the autonomy of the legal profession, again, from government influences — I guess that's a good word. It's not a word where there's going to be direction being brought into it. However, a subtle influence, unfortunately, probably does not exist and should not exist when the profession is dealing with individuals or dealing with entities like corporations or dealing with the Indigenous people of British Columbia.

I really hope as this moves towards the committee stage that all of us, especially on this side of the House — the B.C. caucus, the other two parties that are represented, who are not in here at this point in time, and plus the independent — will take a hard look at this. We'll really have the opportunity to examine not only the bill but also, we'll have the opportunity to question the Attorney General on the processes that were involved in bringing this bill forward — why it has to be brought forward at this point in time — so that we're able to maintain that incredible independence, maintain those high standards, that we all want of our legal professions.

Just as an interjectory note, and I don't often repeat this…. I came from council, as many of us did. We had a very well-known lawyer on council, a man who I didn't really know when I got on council. You say some things that you really shouldn't say in council meetings, and this was one particular one. The lawyer was carrying on, as a lawyer can. But we weren't in court. We were in a council. I said a comment to him that I thought he was a bit of a peacock.

He looked over at me, and the mayor choked. He asked me what I meant by that. I said: "Well, you're over there fluffing yourself up." I said: "Pretty soon, you're going to spread your tail, and we can see your true colours."

Let me tell you that that was one of the last things I ever said to him. It was a derogatory comment. Because all of a sudden, I gained that experience, not only on council but in life experiences. I see my peer from Skeena is smiling backwards. I gained the opportunity to realize that a gentleman of his stature in the community brought an awful lot to a council and an awful lot that we should have been listening to all the way along.

I think, again, that there are some very good individuals in here that have gone through the process of becoming lawyers and have gone through the opportunities that have been presented to them all through their life to have that independence. I would just hope that the Attorney General, also being a solicitor/barrister, would realize that there's a lot at stake here and that there's a lot that should be taken into consideration.

I realize that there are amendments also to the Notaries Act. These are individuals, as we know, that look after the wills of our loved ones or the wills of ourselves. They're the individuals that, on more than some occasions, help proceed us with the purchase of land and/or homes. We want to make sure that that's done appropriately, and we want to make sure that that is done in a fail-safe way — when they attach those blue corners to the document, that that is a document you can take to the highest standards in the land.

We want to ensure that that's done correctly, but we also want to say that we want to have that opportunity to hear what they have got to say about the direction that the government is trying to take this particular bill. I also understand that there were approximately just over 700 responses to this. I question, out of a population of four-plus million people in British Columbia, how much was the stakeholder agreement, not only from the solicitors but also from other agencies around the real estate association and other government bodies?

[3:55 p.m.]

Opportunities in our communities where those in the legal profession give that sound and sage advice that we all want and have them have the opportunity to discuss that with their clients or people that are in the know, to say

where those in the legal profession give that sound and sage advice that we all want and have them have the opportunity to discuss that with their clients, or people that are in the know, to say this is a direction of government, what do you think? Is this right or is there something else that we should be taking a look at?

I really am curious that all three of the Canadian Bar Association, the B.C. branch, the Law Society and the Lawyers Rights Watch Canada have all expressed concerns about the erosion…

[The bells were rung.]

The Chair: Thank you. You can proceed now. Division vote in another chamber.

D. Ashton: …of lawyer independence under this new structure. It is crucial that any regulatory board remains free from political influence to uphold the integrity of our legal system. That's a pretty bold statement that I would hope that the government, and those involved in the process and the creation of Bill 21, would rise to and listen to and think about. Because when you see associations like that coming forward…. I think the end of it says: "uphold the integrity of our legal system." Well, that's pretty important in this country, this incredible country that is still one of the most democratic countries in the entire world.

I think we really, really ought to be taking a look at this. I've said this, and again, I know other people will say it, that there is deep concern that Bill 21 is a compromise to the independence of our legal system. It is incredibly fundamental that the principle must be preserved to maintain public trust and the rule of law.

I really hope that those in the House that I see today and those that we know have stepped forward, on this bill, to bring their concerns forward…. I don't think it's out of line, at this point, as what my peer from Skeena said, to reconsider the direction that government wants to take on something as deep and as thorough… And the necessity is going to prevail on this when the changes do take place on how important that's going to be.

We have the opportunity. We have three days left after today in this week. We have four days next week. Yes, there's something transpiring in the fall, but oh my goodness, when something the depth of this is coming forward at the last moment…. I realize that there has probably been a substantial amount of time in the preparation of this document, but I really think the public need to be able to have a look at this and to be able to think this through, to be able to talk to their peers in the profession, and to be able to come forward and maybe add some suggestions.

We heard what had happened on Bill 36, and we've heard from the professions of their discontent on how this transpired. I would really think that the government would be hearing those concerns because there still is a lot of uncertainty in our health professions regarding Bill 36. Realistically, it's too late on Bill 36.

I really sincerely hope that the government will learn a lesson from that: in bringing forward Bill 21. In the situation that it has been brought forward here in this Legislature, and how it's been handled up to this point in time…. How we all have heard from those in our community that are going to be affected, how we have not heard from those in our community that may not even realize that it's taking place at this point in time….

[4:00 p.m.]

And that dissemination of information not only into the profession but those that are associated with the profession in ways…. Whether they're a customer of a lawyer or an agency that is represented legally, have the opportunity to sit down and ensure that what is being proposed, and which will become a bill and law very, very quickly, is right.

Mr. Chair, I

an agency that is represented legally, have the opportunity to sit down and ensure that what is being proposed, and which will become a bill and law very, very quickly, is right.

Mr. Chair, I would ask again, through yourself to my peers in the House, those who have the opportunity to talk to those in their party and also to the staff, I know, that are listening intently as we all speak about this, that let's just give this bill some sober second thought, give the opportunity of input throughout this province. Let's not run into this.

I can never, ever forget…. Going back to that original solicitor that I talked about that was the first to go up to the bench, he had a beautiful…. It was porcelain. The name slips my mind of who makes them — an old, old English company. In his office, he had a picture of the female with the scales wearing the blind, because justice should not be directed from anywhere. And I would just leave that with…. Royal Doulton. It was a Royal Doulton piece. It was a beautiful statue like this of the scales of justice.

So there it is. Justice shouldn't be directed by colour or voice or whatever. Justice has to be there for justice with no influence whatsoever.

On that, I would like to say thank you for the opportunity to step forward on this. Please, let's just reconsider this. Let's take some time, think this one through.

Thank you very much, Mr. Chair. Greatly appreciated.

T. Wat: Today I rise to address Bill 21, the Legal Professions Act, 2024, that proposes significant changes, sweeping changes to the regulation of the legal profession in British Columbia.

Indeed, I stand before you, Mr. Speaker, with heavy heart and a deep concern and also a deep sense of disappointment that this NDP government is taking a dangerous pattern, aiming at centralized government control and government overreach.

We first noticed this trend in 2018, when the government was dealing with the engineers, with the fundamental centralization of regulation of the engineer profession. This was the first sign of this government's dangerous pattern.

Then we have seen Bill 36 in 2022, the self-regulation of six government-appointed colleges for the health care professionals and the elimination of an elected position that existed under the former system that ensured professional independence from government control. When this bill was passed, the Health Professions and Occupations Act, that was highly controversial.

B.C. United MLAs were certainly opposed to that legislation, because we didn't have the proper debate. The government imposed a closure, so that my colleague, the member for Prince George–Valemount, the shadow minister of Health, did not have the opportunity to complete the review of that bill. We only got a third through the bill.

[4:05 p.m.]

As a result of the lack of thorough debate of that bill and, of course, not enough consultation, we see the result of the crisis in our health care system.

As a result of the lack of thorough debate of that bill and, of course, not enough consultation, we see the result of the crisis in our health care system.

As an immigrant from Hong Kong, the same as, I guess, most other immigrants who have come to Canada not only just for a better quality of life but, like myself…. When I left in 1989, Hong Kong was still a British colony. All Hongkongese did not have the opportunity to vote for the governor. We called the head of the Hong Kong government the governor, who was appointed by the British government and sent all the way to Hong Kong, somebody who might not even live in Hong Kong or understand what Hong Kong is like.

Living in a colony — at that time when I was there, it was about an over three million population — we had no say. We had no say in deciding who was going to decide the policy for Hong Kong. That's the major reason why myself and my family had decided to uproot. It wasn't easy because, in terms of living standard, we had a very good living standard in Hong Kong. It's just that we felt that we should come to a country with full democracy, that as a citizen, we can get involved in the operation of government.

Plus, there should be full independence of the judiciary, the political system, the government. There shouldn't be centralized control from the government, like what I had lived in the first half of my life in

a British colony. Then, even in Hong Kong, as far as I remember, the legal profession still enjoyed independence, full independence, without getting the centralized control from the colonial government. That's why I started off with my comment saying that I'm standing here, really, having a heavy heart and also a deep sense of disappointment in this Bill 21, the Legal Profession Act, 2024.

My colleague, the member for Vancouver-Langara, already spoke so eloquently for quite some time about the fundamental change to this legal profession. That's why the major legal societies — the Law Society, the Canadian Bar Association, the Trial Lawyers Association, and even the B.C. Civil Liberties Association — have put this government on notice about the challenges of this bill in terms of undermining the independence of the legal profession and the concern that it would have for the legal profession. It is for the legal profession, for whom the lawyers are selected to serve on the bench, to serve in our courts and to protect the rule of law.

[4:10 p.m.]

The association of lawyers, the 14,000 lawyers across our province, have been speaking to the government about the

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Draft Segment 033

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rule of law. The association of lawyers, the 14,000 lawyers across our province have been speaking to the government about the importance of this bill, about how it does undermine the independence of lawyers in our legal profession by eliminating self-regulation.

I was reading the opinion by the president of the Trial Lawyers Association of B.C., Michael Elliott. It really touched my heart that he reiterated, the same as the other lawyers association, that lawyers across B.C. are deeply concerned about this bill, Bill 21, for several reasons, in particular that it ends lawyer independence in our province.

As I was speaking from the beginning, I think it's not only me. Canada is made up of immigrants from all over the world. As I said, most immigrants, like myself, have decided to come to Canada because we really look forward to and admire and respect the full democracy that we all enjoy. We expect independence of the judiciary, independence of the political system, independence of the executive council, and also independence of each professional body — not to be messed and controlled by the government. But here we are, seeing that one after the other, this government is trying to take over their independence, first the engineers and then the health professionals.

And now our Premier, himself a lawyer, of the legal profession, and the Attorney General, herself a lawyer, the two most important government officials…. The Attorney General proposed this bill, just during the end of the last session of the second term, without proper consultation with the legal profession, without engagement.

Again, that's why I say I'm standing up with a heavy heart, because this is a dangerous pattern. This government is going on the path of lack of consultation, lack of engagement and is taking away the independence of professional bodies. Especially, as I said, the Premier is a lawyer himself; the Attorney General is a lawyer herself. The two senior government officials should understand that lawyers must have independence in order to protect British Columbians from the government.

One of the reasons that the government has rationalized Bill 21 is by arguing that it will improve access to justice by lowering costs for British Columbians in need of legal assistance. Of course, access to justice needs to be improved in our province, but Bill 21 does nothing to improve it.

[4:15 p.m.]

In fact, it distracts from the B.C. government's continued diversion of funding intended for legal aid to instead support general government revenues and spending. Already, British Columbia is unique among all provinces in that it changes a 7 percent provincial sale tax charge on

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funding intended for legal aid to instead support general government revenues and spending.

Already, British Columbia is unique among all provinces in that it changes a 7 percent provincial sales tax charge on legal services, which makes these services most expensive and more expensive than any other province.

The PST charge on legal services was introduced in 1992 by the NDP government. The government of the day promised that the revenue generated by the tax would be used to fund the legal aid budget, thereby improving access to justice for those in need. Unfortunately, revenues from the 7 percent tax on legal services began to be diverted in 2002, when a draconian series of cuts to the legal aid budget amounting to as much as 40 percent of the budget were implemented. Significant amounts of the revenue generated by the tax on legal services have been diverted into general provincial government revenues and spending ever since then.

In February this year, the Canadian Bar Association, B.C. branch noted in a statement that the amount of PST paid by British Columbia on the legal fees is estimated to be $230 million each year, with about $130 million allocated to Legal Aid B.C. This means that, of course, the government has underfunded legal aid by around $100 million every year and has no plan to fix that fundamental problem.

Instead of addressing the issue and directing the revenue from the legal service tax back towards funding legal aid or reducing the 7 percent tax to make legal services more affordable, the Attorney General has decided to embark upon a cynical path of distraction and diversion. Rather than taking responsibility for the policy failure of the B.C. government to properly fund legal aid, the government is attempting to distract and divide British Columbians through Bill 21 by instead blaming lawyers and other legal professions for the high costs of legal services.

Bill 21 does nothing meaningful to address or reform the structural issues of underfunded legal aid services. It does nothing to reduce or eliminate the diversion of legal services tax revenue away from legal aid funding. Bill 21 also contains no measure whatsoever to alleviate concerns about rising insurance calls from some legal profession if the scope of practice is broadened.

In fact, upon further inspection, it is very difficult to find any section of Bill 21 that will have any tangible impact on the cause of legal services or access to justice. It is more likely that this Bill 21 is a cynical detraction from the fact that the government is continuing to divert funding intended for legal aid services into general revenue instead. It is also, as I said earlier, a dangerous bill that is designed to give this government more control over the legal profession.

[4:20 p.m.]

When one of the primary functions of an independent legal profession in a functioning democracy is to act as a check and balance against government overreach, it is really time for this government to take accountability for their access

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DRAFT SEGMENT 035

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as a check and balance against government overreach. It is really time for this government to take accountability for their access-to-justice policy failures, shelve Bill 21, preserve the independence of the legal system and restore the funding for legal aid instead of diverting it.

When I was reading a practising lawyer in Victoria for 47 years' commentary, Roxanne Helme, I feel really sad. I quote her for the first paragraph: "Over my long and wonderfully rewarding legal career, I have observed the propensity of socialist governments, invariably for their own mischievous purposes, try to paint lawyers as greedy villains."

Towards the end, this seasoned lawyer concluded by saying that: "Consider the lot of lawyers in many established socialist venues, such as Russia, and what the society looks like in those places, because the attack on the legal profession is extremely dangerous for the health of the just society we have in our own peril." She said this attack on the legal profession that she has witnessed over many years has been deliberate, incremental, persistent and sneaky.

B.C. United acknowledges the need for modernizing legal services and improving access to justice. But we are deeply, deeply concerned that Bill 21 compromises the independence of our legal system, a fundamental principle that has been aspired by immigrants of my community. This must be preserved to maintain public trust and the rule of law. I must emphasize, once again, that I left Hong Kong, where I was born, where I was educated, where I enjoyed a good career and uprooted my whole family to Canada, because I respect that the government has our public trust and is governing according to the rule of law.

Bill 21 continues a troubling pattern, an overreach that mirrors action taken against — as I said earlier — all other professional fields, such as engineering and health care for Bill 36 and Bill 49. These professions have already experienced the consequences of increased government control, which ends the checks and balances for a free and democratic society. Checks and balances are crucial for a free and full democratic society.

Various legal advocacy groups have echoed our key concern with Bill 21. The proposed board composition under Bill 21 includes a significant number of government-appointed members, which could lead to potential government interference in legal regulations.

[4:25 p.m.]

All three, the Canadian Bar Association, B.C. branch; the Law Society; and the Lawyers Rights Watch Canada have expressed concerns about the erosion of lawyer independence under the new structure. It is crucial that any regulatory board

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DRAFT SEGMENT 036

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branch, the Law Society and the Lawyers Rights Watch Canada have all expressed concerns about the erosion of lawyer independence under the new structure. It is crucial that any regulatory board remains free from political inference to uphold the integrity of our legal system.

While the bill aims to expand access to legal services by introducing regulated paralegals and potentially other new categories of legal professionals, it is vital that these changes do not compromise professional standards and the quality of legal representation available to the public.

The consultation process leading up to the bill's introduction appears inadequate, with only 776 responses collected. This raises questions about the depth and breadth of stakeholder engagement, particularly concerning such a transformative piece of legislation that impacts a core pillar of B.C.'s democracy.

Despite promises of reduced legal fees and increased affordability, there's no clear indication within the bill itself that these outcomes will be realized. This discrepancy between the government's statements and the bill's content needs to be addressed to ensure transparency and accountability.

Further, it is important to recognize the proactive steps taken by notaries in British Columbia to elevate their professional standards. Notaries have made significant strides to ensure that those practising in the expanded scope have the necessary knowledge and expertise. This commitment to maintaining high standards in their profession deserves commendation.

While B.C. United appreciates the government's intention to integrate such standards into Bill 21, it is imperative to note that the notaries themselves have proposed an alternative path. They suggested amendments to the Notaries Act that would have allowed them to voluntarily adopt these higher standards without the need for a broader legislative overhaul. This approach would have preserved the notary profession's autonomy while still achieving the government's goal of elevating professional standards across legal services.

As we all know, this government chose not to take this path. As the bill moves to the committee stage, the B.C. United caucus will vigorously examine each and every clause to ensure that the legislation aligns with the best interests of British Columbians and maintains the independence and high standards of our legal professions.

The B.C. United caucus would implement a regulatory framework that protects the autonomy of legal professionals from undue government inference. This should be done while ensuring that expanding roles within the legal profession does not dilute professional standards.

Unlike the government's repeated refusal to do so, we will continue to push for a comprehensive and genuinely inclusive consultation process that involves all stakeholders. While modernization of the legal profession is a worthy goal, it must not come at the expense of the foundational principles that govern our legal system.

[4:30 p.m.]

B.C. United stands ready to work towards amendments that preserve the independence of our legal profession and ensure that the reforms genuinely enhance access to justice for all citizens.

Thank you, Mr. Speaker, for the opportunity to speak on this critical issue. Let us all proceed with caution.

legal profession and ensure that the reforms genuinely enhance access to justice for all citizens.

Thank you, Mr. Speaker, for the opportunity to speak on this critical issue. Let us all proceed with caution and diligence to safeguard the pillars of justice in British Columbia, which has been existing for so, so many years.

Deputy Speaker: Member for Cariboo-Chilcotin.

C. Oakes: Today I rise to address….

Deputy Speaker: Cariboo North, of course. I've got to get it right.

C. Oakes: Thank you, Mr. Speaker.

Today it is a privilege and an honour to rise to address Bill 21, the Legal Professions Act, 2024, which does propose significant changes to the regulation of the legal professions in British Columbia.

My previous colleagues have done an outstanding job of walking us through the challenges in this bill, and I just wanted to provide, perhaps, a few comments on what I've heard from my community and some of the concerns that constituents of Cariboo North have.

[J. Tegart in the chair.]

Bill 21 is a pattern that we've seen from this government, very similar to what we witnessed during Bill 36. I know the Health Professions and Occupations Act created significant challenges, not just in my writing but in constituencies across this province. I had many conversations with constituents on their considerable concerns about Bill 36.

Of course, we voted against that, but it's just a process, and it's a pattern. Bill 21 is a similar pattern of what we're addressing and seeing today. That's why you've seen such a vigorous debate from B.C. United teams of standing up and defending our constituents.

I wanted to take a moment to read into the record something that was shared with me, because I think it's important to be putting this on record. I'll just read their words.

> "Today we stand at a crucial crossroads in our society's journey towards maintaining a delicate balance between government authority and individual freedom. Government overreach in its many forms poses a fundamental threat to the principles of self-governance and self-regulation that lie at the heart of a free and democratic society.
>
> "It is a phenomenon that transcends political ideologies and party lines, for its implications are felt by citizens of all walks of life, irrespective of their beliefs or their affiliations. At its core, government overreach signifies a breach of trust between the government and those entrusted with the governance. It occurs when the powers vested in government institutions are abused or extended beyond their intended scope, encroaching upon the rights and liberties of individuals with adequate justification or recourse.
>
> "However, amidst these challenges posed by government overreach, there lies an opportunity for us to reaffirm our commitment to safeguarding the principles of self-governance and self-regulation. It is incumbent upon us as citizens and stakeholders of democracy to hold our elected representatives and government institutions accountable for their actions.
>
> "We must demand greater transparency in the decision-making process, ensuring that policies are formulated and implemented in the best interests of the people they serve. We must advocate for the protection of our fundamental rights and liberties, resisting any attempts to curtail them in the name of expediency or security.

[4:35 p.m.]

> "Moreover, we must actively participate in shaping the future of our society. By fostering a culture of civic engagement and democratic participation, we can empower ourselves and future generations to resist the encroachment of government overreach and uphold the values of liberty and justice for all."

That is what we are trying to do today. We've heard, from people across the country

and future generations to resist the encroachment of government overreach and uphold the values of liberty and justice for all. That is what we are trying to do today.

We've heard, from people across this province, concerns with this bill: a request to take time to go out and do further consultation; that voices have not been heard; concerns about the impacts that this will have similar to Bill 36. For all of those who spoke up on Bill 36, I encourage you to speak up on this bill as well. This is truly a bill that is about government overreach and the impacts that it potentially could have in our communities.

I wanted to take a moment as well to read into the record, in a 1982 decision — the year that the Canadian Charter of Rights and Freedoms came into force — when Justice Estey of the Supreme Court of Canada articulated the essential importance of an independent bar. Justice Estey said:

> "The independence of the bar from the state, in all its pervasive manifestations, is one of the hallmarks of a free society. Consequently, regulation of these members of the law professions by the state must, so far as by human ingenuity it can be so designed, be free from state interference, in the political sense, with the delivery of services to the individual citizens in the state, particularly in the fields of public and criminal law.
>
> The public interest in a free society knows no area more sensitive than the independence, impartiality and availability to the general public of the members of the bar and through those members, legal advice and services generally."

At the heart of it, that is what this bill is about. This bill sets forward regulation that will eliminate self-regulation, undermining the independence of lawyers, going against what the Supreme Court of Canada said was fundamental to a free society — a free and democratic society. That should alarm all of us in this House.

Composition of the board under clause 8 of this bill sets forward that only five of the 17-member board will be elected by and from any lawyers. Today, the current composition of the board of the Law Society, which is the regulator board of lawyers in this province…. There are 32 members of this board; 25 members of this board are elected directly by lawyers. That's 25 out of the 32, which is a majority.

There is a reason why they are independent — because, hon. Speaker, as you well know, there is great diversity in this province, and representation across this province looks very different. I've often spoken in this Legislature about the geographic challenges and differences that exist in this province. If you come to the Cariboo, often the views of people living in our rural communities are very different than the views that are often shared in some of the larger urban settings.

When representation by geographic area is eliminated and removed, again, it is a reason why it is necessary to speak out, speak up and speak against. The Law Society previously had regional, elected lawyers on a geographic basis, and they ran elections. This bill removes from the professions of lawyers their right to association for the purpose of self-governance and self-regulation, and the lawyers' rights to freedom of association would be limited to joining voluntary bar associations that have no governance or regulatory authority.

[4:40 p.m.]

With only five of the elected of the up to 17-member board, lawyers will be unable to protect the public's right to representation by lawyers or right of lawyers to fully discharge their professional duties

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DRAFT SEGMENT 039

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that have no governance or regulatory authority. With only five of the elected of up to 17 members board, lawyers will be unable to protect the public's right to representation by lawyers, of right of lawyers to fully discharge their professional duties free from the regulator or other interference by the state or other external actors.

That reason is why I speak up, I speak for and I encourage others to join this conversation on a bill and call for more time for consultation so that all voices in this province can be heard.

The Chair: Seeing no further speakers, the question is second reading on the bill.
Division has been called.

[4:45 p.m.]

DRAFT SEGMENT 042

Second reading of Bill 21 approved on the following division:

YEAS — 49

Chandra Herbert	Parmar	A. Singh
Babchuk	Coulter	Lore
Chow	Beare	Kang
Heyman	Osborne	Cullen
Bains	Malcolmson	Bailey
Mercier	Brar	Routledge
Starchuk	Phillip	Yao
Leonard	R. Singh	Whiteside
Farnworth	Kahlon	Eby
Conroy	Sharma	Dix
Fleming	Dean	Rankin
Ralston	Alexis	Sims
Simons	Elmore	Glumac
Routley	Donnelly	Greene
Anderson	Chant	Dykeman
Paddon	Begg	Walker
	Chen	

NAYS — 24

de Jong	Doerkson	Milobar
Stone	Bond	Halford
Ross	Oakes	Bernier
Davies	Furstenau	Banman
Morris	Kyllo	Shypitka
Sturko	Merrifield	Wat
Lee	Kirkpatrick	Stewart
Ashton	Sturdy	Letnick

Hon. N. Sharma: I move that the bill be committed to a Committee of the Whole House to be considered at the next sitting of the House after today.

Bill 21, Legal Professions Act, read a second time and referred to a Committee of the Whole House for consideration at the next sitting of the House after today.

Hon. R. Kahlon: In the main House, we call Committee of the Whole for Bill 24, Energy Statutes Amendment Act.

[5:00 p.m.]

Committee of the Whole House

BILL 24 — ENERGY STATUTES
AMENDMENT ACT, 2024

The House in Committee of the Whole (Section B) on Bill 24; J. Tegart in the chair.

Orders of the Day

Hon. R. Kahlon: In the chamber, I call Committee of the Whole for Bill 21, Legal Professions Act.

[2:50 p.m.]

In Douglas Fir Committee Room, I call Committee of the Whole for Bill 25, Haida Nation Recognition Amendment Act.

In Birch Committee Room, I call Committee Supply for the Ministry of Public Safety and Solicitor General.

DRAFT SEGMENT 017

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of the Whole for Bill 25, Haida Nation Recognition Amendment Act.

In Birch Room, I call Committee of Supply for the Ministry of Public Safety and Solicitor General.

Committee of the Whole House

BILL 21 — LEGAL PROFESSIONS ACT
(continued)

The House in Committee of the Whole (Section B) on Bill 21; J. Tegart in the chair.

The committee met at 2:52 p.m.

On clause 1 *(continued)*.

The Chair: We'll call the committee to order. We're dealing with Bill 21, Legal Professions Act.

M. de Jong: The discussion has and will continue. I thought, as we move, maybe, with some greater particularity around some of the definitions contained in clause 1 of the bill, that a good way to characterize that or to preface that exchange would be…. I have heard the Attorney General's response to a number of the questions about the approach that was taken, the process that was followed.

I think the Attorney will agree, though, that what is being proposed here is a significant realignment, and I use that as a neutral term, insofar as the regulation of legal professions is concerned. What was it, or is it, particularly about the model that has been in existence — by that I mean the Law Society, the benchers…. In the Attorney's own words, what is it particularly about that model that the Attorney General and government feel is problematic and has prompted this significant — dare I say, dramatic — shift?

[2:55 p.m.]

DRAFT SEGMENT 018

Hon. N. Sharma: I've spoken at length about the process that led up to today. I'm going to narrow it down specifically, because I think the member was asking about the governance structure in particular. I can go through all the reasons that led up to the many changes that are in this bill, but in particular, I think, the CBA did a governance review in 2014, and then I mentioned the Cayton report that the Law Society issued in 2021.

In Cayton, the core recommendations included proposals for the reduction of the elected benchers, an increase in proportion of publicly appointed benchers, and a reform of the electoral college model in a manner that would facilitate not only geographic diversity but also an optimal level of skill sets on the regulator's board.

That was one of the things that pointed to changes in the board structure. I know that the CBABC submissions to our intentions paper mentioned that a small, more agile board composition was needed to be consistent with effective and modern regulatory operations, and it should comprise a mix of appointed and elected members.

That was in the CBABC submission, the one that I just quoted. In the Law Society's submission, when it came to the intentions paper, it was the view of the Law Society there that the self-regulation of legal professions requires that a majority of the board that governs lawyers be themselves lawyers and that the majority of lawyer directors be elected.

There was a lot of input that we received, particularly on the governance model and, of course, the notaries and the paralegals. Once you move to a single-regulator model — it was generally accepted by all professions that we would move to a single-regulator model — then the governance had to reflect the composition of all the legal professionals that would be represented in that self-regulator.

M. de Jong: Thans to the Attorney. There's lots in that answer. I'll try to break it down a little bit.

The Attorney has referred to aspects of a report that spoke to the representative nature of the present regulatory body, the benchers — and, I think, was intending to convey that the present regulator is not as representative of either the profession or the society; I'm not certain which.

The question is…. I suppose one could imply from what we have before us that the government and the Attorney General accept that as fact, but I think that on a shift as significant as this, it is worthwhile to ask directly whether the Attorney General agrees with that.

Does the Attorney General and the government today believe that the existing regulator of the benchers is not sufficiently representative of either the profession or the society?

[3:00 p.m.]

Draft Segment 019

Hon. N. Sharma: Of course, diversity and representation on the board is important, especially when moving to a single-regulator model, because now we need to make sure that legal professions that are under the single-regulator model are also represented in the new structure. So of course, that would be a shift from the current one.

I think that we have to acknowledge that the Law Society and the benchers have made strides in terms of representation. Certainly, when I look at the benchers today, it's not the same group of benchers that I remember when I was a young lawyer and first starting out. And so I acknowledge those strides in terms of representation.

We think that the bill strikes a balance between maintaining diversity, giving new tools to ensure representation, and making sure we can continue to move forward on that.

[3:05 p.m.]

S. Furstenau: I'm glad to get up and have a moment to speak to the bill.

Noting the comments, just now, of the Attorney General striking a balance, trying to

Draft Segment 020

S. Furstenau: I'm glad to get up and have a moment to speak to the bill. Noting the comments just now of the Attorney General: "striking a balance, trying to create this diversity and representation…" And I know that the debate has been proceeding for a few days now. There has been a lot of concern that has been raised around concerns brought forward by the legal professions, by the judiciary, by people who are concerned about the pace at which this legislation is moving forward. The lack of engagement at this point and the lack of evidence that the engagement that has happened has been taken into account.

I just want to point to one particular aspect of this, that the members of the legal community have been considering at length and for a long time, about the way in which we need to modernize our legal system, how we can get there, how to improve access to the legal system, particularly when it comes to people who currently can't afford that access. I know that this is part of what's in this bill, but it's unfortunate to see a lack of really concrete ways for improving the funding that would go to access for judicial services for people who can't currently afford it.

But in 2019, the Law Society commissioned the futures task force to consider these questions. For example, there's currently no consideration of how to prepare legal services in the legal profession to be resilient in the face of catastrophic events such as what we're seeing in the northeast of this province

right now, or another pandemic, or a natural disaster. This was one of the recommendations of the future report.

The futures task force was clear-eyed about the challenges facing the profession and the need that there be more done to ensure that all people have access to justice. It is disappointing that this government has moved forward with this legislation, which has raised a lot of red flags, that hasn't created a sense that the engagement has been meaningful and that there are a growing number of voices who are concerned about the implications of the changes proposed in this legislation. We get a bill, four weeks before the end of the final session of this electoral period, which isn't particularly aligned with earlier indications of what the legislation would bring in, and has raised these flags.

My question to the Attorney General: Why was this path, which was not aligned with the futures task force report, taken? How does the Attorney General propose to move forward with the goals set out in the futures task force report?

Hon. N. Sharma: I'm going to start in response to access to justice. We've done a lot of work as a ministry on using all the tools that we can to improve access to justice in the province, and that includes increased funding to legal aid. I've had a chance during this debate to speak pretty specifically about the government's efforts in many fronts to increase access to justice.

[3:10 p.m.]

This bill gives the regulator the tools to expand legal professionals in this province so we can have registered paralegals and notaries providing legal services and in scopes of

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DRAFT SEGMENT 021

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speaks pretty specifically of the government's efforts on many fronts to increase access to justice.

This bill gives the regulator the tools to expand legal professionals in this province so we can have registered paralegals and notaries providing legal services in scopes of practice across this province that will be less expensive than lawyers.

I just want to say also — just to correct, I think — a little bit about who's in favour and who's not. I often hear that lawyers are against it. I have a long list of lawyers that are part of this and that are very supportive of the work that's in this bill, including past presidents of the Law Society; including lawyers that are academics and a part of the faculty of law; lawyers like Jamie MacLaren, who is executive director of Access Pro Bono, which specifically provides low-cost legal services to people.

This is one of the tools that we have, as a government, to expand not only options but also access to justice in the province.

I want to say also that the futures report that the member mentions was taken into account along with many others. In fact, in the CBA submission that they gave us on this, they noted that: "On the matter of regulation of lawyers, notaries and paralegals as an issue, this has been discussed for the past three decades."

The submission goes on to list all of the reports that have talked about the future of legal services, how you can expand legal aid service delivery, submissions the Law Society provided, including the futures report, all the way back to 2012, when the then Attorney General wrote a letter to the Law Society and the notary society talking about an amalgamation under a single regulator. So this project has been decades in the making and has included many, many submissions and discussions, including from key components of the Law Society and the CBA, which talked about a new model of self-regulation.

We think we've landed on a way that takes into account everybody's perspectives — the notaries, the B.C. paralegals, the Law Society's submissions — and balances them in the public interest. My job as Attorney General is to represent and bring forward the public interest when making decisions, and we've balanced that in this bill.

S. Furstenau: I have one specific example around access to justice that I'd be interested in the Attorney General to contemplate. I've raised this before, I think with the previous Attorney General specifically. It's an example of what I think is a pretty significant imbalance in terms of access to justice.

For families that are dealing with Ministry of Children and Families cases, often those families do not have the funds to pay for their own legal representation, so they use legal aid. Often the legal aid

lawyers have many, many cases that they are managing, and so they allot a very limited amount of time to each family. These are examples from families that we have helped with in our constituency office.

On one side, you have a family — often Indigenous, often in poverty — trying to make the case that is probably the most distressing experience of their lives, the case to be able to keep their own children out of a system that is failing to protect children from the outcomes we see from MCFD. That's one side. On the other side, we have government lawyers representing MCFD who are on salary, who are earning significantly more than the lawyers who are representing the families.

And so right in the structure of how these cases come before the courts, there is a deep imbalance in terms of the access to justice for the families who are trying desperately to be able to continue to keep their children in their homes.

[3:15 p.m.]

One proposal that our office brought forward and put up for discussion was to have government lawyers on both sides of this equation, so that then there's a balance and

Draft Segment 022

in their homes.

One proposal that our office brought forward and put up for discussion was to have government lawyers on both sides of this equation, so that then there's a balance, and the families get the same level of representation, the same funding going into representing them as the MCFD staff get on their side. There's an access-to-justice imbalance that currently exists, and the outcomes from this are deeply significant for the parents and families that are facing these conditions.

That kind of ingrained imbalance that people face when they are facing off with government lawyers and force themselves to rely on legal aid in cases of MCFD files….

[3:20 p.m.]

Draft Segment 023

Hon. N. Sharma: I want to thank the member for the question. It's something I think about a lot, in terms of access to justice and power imbalances in our system. I have a few answers for her, but I'll start with the tools of the bill.

What we know is that if you can have different licensing regimes for different levels of legal professionals — if you expand that out — you can actually use resources differently. What I mean by that is that if a paralegal is able to do some part of the work under some scope of practice that's related to however that's determined, that scope of practice, then that's a way for you to use your legal services or your budget in a more effective way. There's an aspect of diversifying legal professionals as a province that does get at cost and access to justice for people. That's one of the tools.

Another, I think, very interesting tool in this that the self-regulator will have to grapple with as this expands…. When you think about situating a regulator, which this bill does, with the independence of legal professionals, the public interest and access to justice, that's something that it's measured by. It's a tool in this bill to have the self-regulator measure itself against how it's promoting access to justice with the tools that it has.

Part of that is a new tool which is specialized licensing or licensing that could be very specific to a certain thing. You could theoretically think of a specially licensed legal professional that is to do with MCFD cases or can play a role that's specialized in certain cases. You could see that developing as an access to justice thing.

But there are a few other ways that I think we're tackling this issue. One is with Indigenous justice centres. That is a funded program where there are lawyers that are staffed there to focus directly on providing free legal services for people that are dealing with various issues, including MCFD and child protection issues. Those are Indigenous lawyers that are there to provide those services.

Another is the influx of $29 million that is going to the family law legal aid system that we announced recently through a settlement. That's particularly for people that need family law legal aids. We estimate that 4,500 more people will get access to a lawyer through that.

M. de Jong: I want to come back to this matter that we were discussing a moment ago before our colleague from the leader of the Green Party posed a few questions. Before I do, though, I wonder if I could put this question to the Attorney General. Depending on the answer, I may be critical, but I am merely, at this stage, seeking information that might help to guide the conversation and discussion going forward.

We are on section one of a 300-section bill. The Attorney would say: "Well, you and the opposition decide what section we're on." I've watched the exchange. I think, to her credit, she has endeavored to answer the questions honestly and fulsomely. It has been a good conversation.

That having been said, we are on section one of a 300-section bill. Today, a few moments ago, the government introduced two more bills that it's my understanding the government is going to seek to have passed, which is going to necessitate breaking into this discussion and debating in this chamber those bills. There are two and a half days of session left.

[3:25 p.m.]

Can the Attorney confirm at this stage, given what has just taken place…. Is it her and the government's intention to have this bill voted upon through third reading in this session?

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have this bill voted upon through third reading in this session.

Hon. N. Sharma: I'll just say that I'm frustrated by the pace at which this is going. I find myself repeating answers that I've given. We have been at clause 1 for seven hours in the debate so far in the committee stage, and I am very eager to get to a clause-by-clause analysis of this bill, because a lot of my answers are better answered through looking at the different sections, as I think I mentioned last week when we were at this debate.

It's my hope that we can get through everything in a way that we can explain to the public and to get the opposition to have a chance, to answer questions. I'm hopeful we'll move on to the section by section.

M. de Jong: Believe me, I am certain that there are times when the Attorney is frustrated, and she can be assured that there are times when members of the opposition are frustrated. We are at that stage, however, where there are always a finite number of hours in a legislative session, particularly when we have a calendar, as I think we still do.

Managing that time, which the opposition does actually have a role to play in, requires that we know with some certainty what the government and the Attorneys' intentions are. For better or for worse, we are on section 1 of a 300-page bill.

I asked the question politely a moment ago. I always try to be polite. I guess the more direct question is: notwithstanding where we are in this discussion, come Thursday, is it the government's and the Attorney's intention to impose closure on this debate?

Hon. N. Sharma: I'm hoping to make progress. I'm making myself available to do that, certainly past clause 1, in the hours that we've been debating. I'll be speaking to the House Leader pretty regularly about allocating time for that.

M. de Jong: I think the Attorney came perilously close to answering my question, when at the conclusion of her answer, she said she would be speaking to the House Leader about "allocating time." Her words. I hear "time allocation" when I hear the phrase allocated time.

Look, I hope the Attorney realizes that this is relevant for an opposition, any opposition, in determining how to conduct itself going forward. If there is to be time allocation, the sooner the opposition is informed of that, if there is to be the guillotine, if there is to be closure, the sooner the government informs the House and the committee of that, the better for everyone. I don't think anything is achieved by the Attorney saying: "Well, we'll see how it goes."

Something as important as this, a rewrite of a regulatory scheme that has been in place for over a century and a half, I think — I hope we all agree — deserves careful scrutiny. If there's a guillotine in the future in the next two days, by the way, as I said a moment ago, a relevant question throughout, but

made even more relevant by the government's decision in the last three days of the session to introduce more legislation that it says it wants to pass, how the opposition allocates our time is influenced by that and the knowledge of what the government's intentions are with respect to this bill.

[3:30 p.m.]

Hon. N. Sharma: I know that the

the government's intentions are with respect to this bill.

Hon. N. Sharma: I know that the member opposite was House Leader at that point and understands how these things work. It's not up to me as minister. But I do have to say that I really hope that we can get through certainly more than clause 1 in seven hours of this bill. In order to assist in the debate, I know that my team has provided the opposition with a concordance summary.

[S. Chandra Herbert in the chair.]

That is a summary that outlines exactly, specifically, where the differences are between the current Legal Professions Act and the bill before us, so we could start to focus on the content and the sections and move through this in a way that helps to answer questions but also focuses in on the changes that are being made.

M. de Jong: Yes, need I be reminded of those 12 glorious years as a Government House Leader. It's, at times, a thankless job, and I think the Attorney appreciates what I'm saying.

Look, I'm not trying to be troublesome or trick anyone here. Is the Attorney…. Does she anticipate being in a position today…. Again, triggered by the introduction of more legislation that we certainly weren't anticipating, is she likely to be in a position today to advise the committee whether the government intends to invoke some form of time allocation or closure on the discussion around the provisions of Bill 21?

Hon. N. Sharma: My intention is to explain this bill and to answer the opposition's questions to the sections of the bill — is why I'm here.

I'm sure that our House Leader will be communicating with the opposition's House Leader, as I know they do regularly, on how things will be scheduled in this House. I'll make myself available as many hours as I can.

M. de Jong: Well, I'll put one more remark on the record. Appropriately, the Attorney General is the person who speaks for the government with respect to this bill. Whilst the Government House Leader has other responsibilities relating to the management of House business, the Government House Leader isn't available to answer these questions in these proceedings. The Attorney is, and I thought the question was a fair one. I'll ask it one more time.

Is the Attorney prepared today to consult with her House Leader and come back to the committee later today to explain and to state authoritatively whether or not the government intends to impose closure or time allocation on these proceedings? Because it will influence the nature of the proceedings. That's why I asked the question.

Hon. N. Sharma: Again, I would like to focus on the sections of this bill and the discussion that we can have about the content of the bill before us. I will endeavor to make myself available for the time that it takes.

M. de Jong: Well, look, I'll move on and ask a question. But I will make this observation, because the Attorney reminded me of the time I spent as House Leader. I think the record will show that there

were times when governments that I was a part of imposed closure. In every instance, it was made clear weeks in advance whether there was any prospect of a bill being subject to that procedural manoeuvre.

[3:35 p.m.]

The Attorney can avoid the question and say: "I don't want to talk about it. It's not relevant." It's such a crucial and important piece of legislation dealing with the regulation of our legal professions that I

question and say: "I don't want to talk about it. It's not relevant."

It's such a crucial and important piece of legislation dealing with the regulation of our legal professions that I would have thought that she would be sensitive to any allegations of procedural shenanigans or manipulation. The refusal to answer a straight-up question about whether or not there's going to be closure come Thursday, strikes me as just that, an attempt to be secretive and manipulative. If that's the approach, I guess that's the approach.

Before our colleague from the Green Party asked some questions, the Attorney, in response to a question of mine, made this statement. I think it's accurate. I won't read it as a quote. When I asked her about the general notion of representation amongst the benchers and the Law Society, she said that she wanted to acknowledge that strides have been made by the Law Society to create a more representative body. So that's helpful.

Where have they fallen short?

Hon. N. Sharma: Of course, I take the Chair's guidance, but some of these answers that I've been answering over the last few days are better answered when we get to the clause, because the clauses that deal with governance will help me explain how it shows up in the bill.

But I will say that the Law Society has acknowledged that there have been gains in recent years with respect to the number of Indigenous benchers and with respect to gender diversity. The Law Society has acknowledged the following groups as being underrepresented among elective directors: racialized lawyers, LGBTQ2+ lawyers, lawyers with disabilities and young lawyers and solicitors.

On clause 1.

M. de Jong: I understand the Attorney has said there will be an opportunity for her to expand upon some of those particular issues. But let me ask now in a general way.

She's pointed to commentary by others, by the Law Society itself. What I hear from the Attorney is, in part, these changes are being made to address shortcomings in representation on the Law Society, on the benchers. And this is our legislative attempt to address that. And I, as Attorney General, and the government accept entirely those arguments around the lack of appropriate representation.

Have I got that correct?

Hon. N. Sharma: Chair, I believe I've answered this, and if it could be tied to something specific in clause 1, that would be helpful for me in answering.

But I will say that we've talked at length over the last, I think, maybe more than seven hours of debate on the purposes and the goals and the intent and what reports we relied on to make the changes.

The Chair: Thank you, Attorney.

Yes. We've covered some of this already, so certainly it is helpful if members can review what we've already covered so we're not asking repetitive questions. The Chair would appreciate that.

[3:40 p.m.]

M. de Jong: In clause 1, there are two terms. One is discipline committee, and the second is discipline hearing. They appear one after the other and they are defined terms and, of course, they emerge and present later in the legislation.

Let me ask in a general way, as part of our

discipline hearing they appear one after the other, and they speak to…. They are defined terms, and of course, they emerge and present later in the legislation.

Let me ask in a general way, as part of our conversation around clause 1, what, if any, concerns does the Attorney have with the existing disciplinary procedure within the Law Society of B.C.?

Hon. N. Sharma: The Law Society has set up a tribunal of more independence, just in practice. What this bill does is enshrine that more in legislation in terms of the operation of it. I'm happy to speak to it when we get to sections 89 and 90.

M. de Jong: From that answer, am I able to take that the Attorney has absolutely no concerns with respect to the existing disciplinary proceedings within the Law Society?

Hon. N. Sharma: The sections, once we get to 89 and 90, will really help me go through each of the ways that discipline and the discipline hearing and committee process will be undertaken in this act.

I didn't hear any questions about the specific definitions that are listed here, but I will say that a lot of the changes that we will get to in sections 89 and 90 were taken from feedback at the Law Society about different tools they wanted or needed with respect to the discipline of lawyers and other legal professionals.

M. de Jong: Not to harp on this, but the Attorney's reluctance to answer my procedural question means we are left uncertain as to whether we will ever get to section 90. That's part of the problem, you see. I appreciate that the Attorney says, "Well, we'll get to it," but we don't know that.

Having said that, my specific question was less about the change that is encompassed by this legislative package than it was about better understanding whether there are concerns, or any concerns, on the part of the Attorney about the present disciplinary process within the Law Society.

For example, were there aspects of that disciplinary process that the Attorney and the government were unhappy with that they are looking to address with this legislation?

[3:45 p.m.]

Hon. N. Sharma: You know what? I think I think that there's always the

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Hon. N. Sharma: You know what? I think that there's always…. The point of introducing a bill and modernizing legal professionals is to work on the changes that will help make processes better, with feedback from our partners, and that's certainly what we did in the discipline process.

I mentioned already that one of the key things was to enshrine work the Law Society was already doing on independence and an independent disciplinary tribunal, which puts it in there. There are better tools that I hope we will get to when we get to the section. I'm happy to talk through, when it comes to those repeated disciplinary actions by the same individual lawyer and better tools for that, and just to make sure that that whole system operates with the independence and no conflict of interest necessary, which I can get through in a clause-by-clause when we get there.

M. de Jong: Thanks to the Attorney. Helpful.

For the purpose of the conversation around the definition and the need for change, though, what I'm seeking to better understand from the Attorney is to what extent, if at all, she and the government felt there was a systemic issue.

Maybe I can ask the question a bit differently. I was part of a government that eliminated self-regulation for teachers. And, candidly, one of the reasons was a real concern around whether or not disciplinary procedures were either in place to the degree that they should have been or being followed to the degree that they should have been.

Have there been…? Are there concerns relating to the existing and present disciplinary process for legal professionals? I'm asking now about lawyers. A similar question is applicable for notaries.

Hon. N. Sharma: The member asked if there were serious concerns that I have, and my answer to that would be no. We maintain self-regulation in this matter. When we get to the sections on discipline, we can talk about how the structures that we put in place would ensure there was no conflict of interest and that there was an independence that was associated with the disciplinary process, along with tools to better ensure, especially with frequent repeated infractions — better tools for the new regulatory body.

M. de Jong: The Attorney and the government apparently have decided that that disciplinary process needs to be enshrined, to a greater extent, legislatively than has been the case in the past. Why is that?

The Chair: I believe that is clause 89 the member is referring to. We are on clause 1, but of course if the Attorney wants to address that…. I just believe that's the way the bill rolls out.

Hon. N. Sharma: The sections that appear later in the bill talk about enshrining a tribunal, which is an independent disciplinary body. I'm happy to go through that once we get to that section, but really, like everything, it's about looking at what exists and making it better, which is part of what's in this bill.

[3:50 p.m.]

M. de Jong: So two terms…. And I don't actually have the existing…. I may have it, but I don't have it open, so I'll ask the question.

The Legal Professions Act. Do those definitions appear in the same way in the existing Legal Professions Act?

DRAFT SEGMENT 029

M. de Jong: Two terms, and I don't actually have the existing…. I may have it, but I don't have it open. So I'll ask the question. Legal Professions Act. Do those definitions appear in the same way in the existing Legal Profession Act?

Hon. N. Sharma: It's just a matter of drafting difference. Those two terms — disciplinary committee, disciplinary hearing — are not defined in the current Legal Profession Act, but are defined in this bill. So can't compare.

M. de Jong: No, I understand what the Attorney is saying. But the question, of course, is what has provoked the decision to include and enshrine the definitions statutorily was, presumably, the Attorney and the government were convinced or satisfied that that was necessary, that there was a problem that arose because of the absence of the statutory definition earlier. I'm just probing what that problem was — or is.

Hon. N. Sharma: I'm told that the way…. Really there's no problem that's trying to be solved by defining these two terms directly in terms of a definition. It's really just that the current LPA is under modern drafting requirements or guidelines. Under those modern drafting guidelines, these are clarifying terms — discipline committee, discipline hearing — that help to clarify the use of them in the bill.

M. de Jong: This might be a theme that we come back to. I take it these were terms left to, in the case of lawyers, the Law Society to define in the Law Society rules. Is that correct?

Hon. N. Sharma: Just note that the two definitions that the member is talking about are pretty benign in their content. It just is a referential definition that defines, basically, what's under section 8 or section 90. I'm told by the drafters that this is just modern drafting practice, whereas these terms were used before, in the current Legal Profession Act, the modern drafting guidelines now would require that there just be a definition that's referential and largely benign, but just for clarity.

M. de Jong: To the Attorney: one of the points that the Attorney has made repeatedly during the course of the exchange over the last couple of days is the importance of protecting the public interest. I don't think anyone in the committee has argued that objective and the importance of that objective.

[3:55 p.m.]

What I'm trying to do in focusing on the definitions included here is to ascertain whether or not, in a general way, the Attorney and the government believed that there were and are deficiencies in the existing disciplinary processes that require

to ascertain whether or not, in a general way, the Attorney and the government believed that there were, and are, deficiencies in the existing disciplinary processes that required addressing in this legislation?

Hon. N. Sharma: Chair, I believe that was asked, and I answered that specific question.

M. de Jong: Forgive me if it…. I don't question what the Attorney said. I must have missed the answer. Could she re-enlighten me?

Hon. N. Sharma: The member asked me pretty directly if I had any serious concerns about the process. I answered, "No," and then I went on to talk about the what's enshrined in section 89, which I hope to get to, about independence and better tools for repeat violations and things like that.

M. de Jong: A couple of more general questions. I can advise the Attorney and the committee that, just before four o'clock, my colleague from Kamloops will have some questions while I duck out, momentarily, for some other responsibilities and duties.

The Attorney had an exchange with the official opposition critic, from Vancouver-Langara, that touched on the role of the Attorney General within our existing legal professions' regulatory structure, and how, if at all, it will change under the regime proposed in Bill 21. Can I pursue that, for just a moment, by asking the Attorney to summarize in her own words what she sees as the role of the Attorney General, any Attorney General, vis-à-vis the public?

Hon. N. Sharma: Chair, I take your guidance on how this applies to any of the definitions in section 1. I have answered this question quite directly from a previous member about the role of the Attorney General and how I see this addressing the public interest.

The Chair: Yes. I think this question was asked by the member for Vancouver-Langara more than a few times in a couple of ways. But if we could draw it back to clause 1, I'd appreciate it.

M. de Jong: Can the Attorney differentiate for me how that responsibility, vis-à-vis the public, differs or is complementary to the responsibility/authority she has with respect to legal practitioners?

Hon. N. Sharma: Chair, I seek your guidance again. I don't think the Attorney General Act is before the Legislature here for debate that sets out my roles.

[4:00 p.m.]

I talked about how I'm certain that this bill is in the public interest and that we balanced the interests of legal professionals throughout the province.

The Chair: Of course, we would hope that all questions are relevant to Bill 21.

We are on clause 1, and so questions relevant to clause 1 and the bill are relevant, of course, ideally under the

public interest and that we balanced the interests of legal professionals throughout the province.

The Chair: Of course, we would hope that all questions are relevant to Bill 21. We are on clause 1, and so questions relevant to clause 1 and the bill are relevant, of course, ideally under the clauses that are appropriate. So we're here on clause 1.

P. Milobar: I'll just be following up from my colleague there for a little while.

I can understand government's frustration sometimes, on the questions from opposition, but I can assure the Chair and the minister that this comes after lots of discussion with people in the legal professions, in terms of their concerns around the bill; trying to guess what clause we may land on, or not, and end on; and trying to figure out…. At a minimum, some clarity around definitions is important.

Again, we heard the same frustration on Bill 25 at the end of last week, with the minister saying how many hours they've been on a bill. These are important pieces of legislation that are going to have impact for a long time. It's important that not just the legal profession but the people that access legal professions understand what exactly is happening, in this case, in Bill 21.

Although it may be frustrating to a minister, last I checked we're here till Thursday. If the government wants this bill passed, it will pass. If they want it to be with closure, it will be with closure. The minister and Chairs may get frustrated, but this is actually the work that we're here to do.

It's the one time opposition can decide what they feel is of importance within a bill and just try to highlight it. It may not line up with the government's view of what they feel is important within a bill, but it certainly shouldn't be diminished, in my opinion, by the government, by any means, in terms of opposition trying to actually do their bill.

All that said, the minister will probably be thrilled to find out that what I'm about to say next is that I really don't have questions until clause 3. So we can move forward to clause 3, if the Chair is willing.

Clauses 1 and 2 approved.

On clause 3.

P. Milobar: As we rocket along to clause 317 or whatever it is of this bill, clause 3 says: "The following professions are designated as legal professions for the purposes of this Act: (a) the profession of lawyer; (b) the profession of notary public; (c) the profession of regulated paralegal; (d) a profession designated by regulation."

Would the minister outline for the House — and more importantly, for the broader public — what other legal professions are being considered to be designated by regulation?

Hon. N. Sharma: I thank the member for the question on clause 3.

It's one of the benefits that we see, strongly, of this bill, which is to give the government and the regulator new flexibility when it comes to conceiving of legal professions.

[4:05 p.m.]

I don't have examples right now, except for one that I think may emerge in the future, and that would be legal tech — there being this influence of technology on the legal profession, like many other professions, and an understanding of how you can conceive of, in the future, the need for a legal tech professional that has a scope of practice or a regulated role in legal professionals within the province.

What this does…. It doesn't set it out, but it gives, under this section, the

and an understanding of how you can conceive of, in the future, the need for a legal tech professional that has a scope of practice or a regulated role in legal professionals within the province.

What this does…. It doesn't set it out, but it gives, under this section, the flexibility of that in the future without having to go through legislative changes or amendments to do that. It would be up to the regulator as it rolls out in a conversation with government about how that would be. It wouldn't impact the board structure — that would require legislative change — but it would give the tools to provide that.

P. Milobar: Well, in fact, it doesn't appear that it would give the regulator the authority to do that. It would give cabinet, the minister, by way of order-in-council, the ability to do that. Is that correct?

Hon. N. Sharma: Okay. It's important to remember the starting point of this. Right now, if there's a new legal profession that's created in the province, it's by legislation. You think about the Notaries Act. That's how it was done before, which is actually, I would argue, a slower mechanism to be able to change and to expand or to include new legal professionals in the province. It's taken a long time for any of those changes to be made.

Rather than requiring the legislators to come and draft a piece of legislation like the Notaries Act that says, "here's a new legal profession in the province and here's their scope of practice," it's done by regulation. It's done — and it's set out in the sections that we're getting to — where the government must consult with the regulator. How we see this showing up in practice is the regulator bringing a proposal or something through their work to government and working with government. There's a requirement to consult — so, have it be a more integrated or set out collaborative process to have a regulation to add a legal professional.

P. Milobar: Thank you. That didn't actually answer the question, though. The question was…. The minister says this gives the regulator more flexibility, but in actual fact, this gives cabinet, this gives order-in-council, the executive branch of government, more flexibility in the ability to pick and choose when they want to add a legal profession by way of definition of what is a legal profession.

Is that not the case?

Hon. N. Sharma: Well, just to start with…. The regulator right now, or the self-regulator, in the province doesn't have any role in setting out a new legal profession. Government could come and establish, like with the Notaries Act, through legislation a legal profession in the province. What this does is actually create a role between the self-regulator under the Legal Professions Act and government to work together with government through making the regulation.

P. Milobar: Again, I get that it gives government the ability to talk to the regulator and work with the regulator. But they don't have to. It strikes me that 3(d) is giving the executive branch of government the authority to designate a legal profession by regulation, which, in effect, is giving cabinet the ability to determine who can practice law, regardless of qualification, regardless of what the board determines is in the public interest.

Is that not correct? That cabinet has the ultimate say as it relates to 3(d)?

[4:10 p.m.]

DRAFT SEGMENT 033

Hon. N. Sharma: Section 4 sets out the process that requires government to consult, which, again, is new from the current one, in which government could just create a piece of legislation with the scope of practice. It also gives a role of the regulator to add to the scope of practice that's set up by the new legal profession through their rules, the new legal professional that may arise, and also through the self-regulator to set up the competency criteria for that new legal profession.

The Chair: On clause 3, Member.

P. Milobar: I'm trying to be on clause 3. The minister has pushed back and been frustrated about the length of time of trying to get through this bill. I've asked a very straightforward question on 3(d) three times now, 15 minutes, going on 20 minutes, and the minister refuses to answer it. It's simply: does 3(d) not give…? I get the regulator. We'll get to that in four. But 3(d) creates the structure that gives the power of the executive branch of government, the cabinet, the authority to designate a legal profession by regulation, which, in effect, gives cabinet the ability to determine who can practice law, regardless of qualification and regardless of what the board determines in the public interest.

I get that we'll have questions in clause 4, but 3(d) is about a profession designated by regulation. Unless someone else can set a regulation for government other than cabinet that I'm not aware of — the

minister could shed light on that — I don't understand why the government just won't give a straightforward answer that, indeed, a regulation can only be set by cabinet, as it's worded in 3(d).

Hon. N. Sharma: I'll answer in a smaller number of words, because I believe I have answered.

Yes, it gives the government the power through regulation, which now would be legislation. It switches that to regulation, which we think is more flexible.

P. Milobar: Regulation is definitely more flexible. Does regulation get the same public scrutiny before it becomes law and enacted as an order-in-council, as a piece of legislative change, which would result in this type of back and forth and discussion in the broader community and a timeline and being able to actually consult with others before it gets enacted?

Hon. N. Sharma: Section 4 of the bill, which I think we're going to come to next, sets out the constraints on the exercise of that ability to enact a regulation, and that sets out the process that the government needs to be guided by, including in consultation with the self-regulator before making that regulation.

P. Milobar: I thank the Attorney for that again.

Again, I'm not in 4 though. We've been asked to try to stick to the clauses. That's what I'm trying to stick to. The Attorney's answer on 3(d) was that it gives more flexibility by allowing cabinet the ability to use regulation instead of legislation to designate who a new sub-class would be as a designated legal profession.

[4:15 p.m.]

Right now, it's only lawyers and notaries public and the profession of a regulated paralegal; 3(d) will give the government more flexibility and be easier to enact. So does 3(d) not make it so that on a Friday afternoon, by order-in-council

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notaries public and the profession of a regulated paralegal; 3(d) will give the government more flexibility and be easier to enact.

So does 3(d) not make it so that on a Friday afternoon, by order-in-council, regardless of what consultation has or hasn't happened or what people may or may not want to see happen, if cabinet wants to see something happen, a new designated legal profession can be created with a signature on an OIC? Versus the process we're going under right now, which would be a legislative change to actually now insert something as significant as designating what would be considered as a new legal profession within British Columbia.

Hon. N. Sharma: I know the member is saying that I'm not, but I am actually trying to answer the question under 3. But I can't do that without reference to section 4, because section 3 sets out what's designated a legal profession, including, to what the member asked, a profession designated by regulation. Section 4 is tied to that section, which sets out the constraints that government has to exercise when enacting that regulation. So they actually work together.

As I'm attempting to answer the member's question, I need to refer to clause 4 to do that, because it sets out the requirement to consult and the steps that must be taken in the decision-making of that regulation. That's transparent because it's listed in the bill itself.

Clause 3 approved.

On clause 4.

P. Milobar: Well, I'll ask again: "4(1) For the purposes of section 3 (d), the Lieutenant Governor in Council may, on the recommendation of the Attorney General, make regulations designating a profession as a legal profession."

Again, the minister said this gives more flexibility. I'm asking a basic procedural question, more so for the understanding of the public that are watching, on the difference between cabinet having the ability to sign an order-in-council and release it on a Friday afternoon, maybe even without a press release, that we now have a new designation of who qualifies as a legal profession in B.C….

I get that it's more flexible for the government, but I'm trying to understand the reasoning why that is more critical than having it go through a legislative change like we are doing right now.

Why did the government feel — if it's taken this long to change this act in the first place, and it's already been met with so much resistance, and the minister can't say what a new legal profession would even be, except for possibly maybe in the future, a legal tech — it necessary to give themselves the ability to sign an order-in-council to insert something as significant as a new profession that would be designated as a legal profession, versus needing to go through a legislative change and provide that level of scrutiny and understanding as to the significance and need for that change to happen?

Hon. N. Sharma: I'm just going to take a step back and explain how the government and regulatory bodies, including under the current LPA, work.

[4:20 p.m.]

Although government could pass legislation, in order to practise in that…. Setting out a scope of practice…. In order to practice, the self-regulator would need to set up a scope-of-practice competencies for that to happen. What you have is a situation where under the single regulator, you have this process of a potential of new licensing

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legislation in order to practise in that, setting out a scope of practice in order to practise, the self-regulator would need to set up scope-of-practice competencies for that to happen.

So what you have is a situation where, under the single regulator, you have this process of a potential of new licensing and new categories of licensing and the government needing to work with the self-regulator in order to do that. Both have to work together, because not only could government — and yes, by regulation — pass a regulation that sets out that scope of practice, the regulator in this instance, the single regulator, would have to set up the competencies and the skills in order for that profession to practise. So both have to work together. I think what the issue has been in the past is this lack of flexibility in our ability to adapt as legal professions.

Now, I think and I hear from lawyers that there is a huge potential for changes in business models and practices in this province if you can think of an ability — and it goes in the bill about different business models that are possible — for there to be an expansion of legal professions and the self-regulator and the government working together to do that.

Now, yes, a regulation is more flexible, and it's done in a different way, as the member pointed out, as legislation, but section 4 sets out what the Attorney General, whoever it is at the time, must do in order to enact that regulation. And then I mentioned the self-regulator and the government have to work together anyway because that regulator will then be tasked to set out the competencies and the standards for that in order for that new legal professional to be able to practise.

P. Milobar: Well, 4(2) says:

> "Before making a recommendation under subsection (1), the Attorney General must (a) consult the board, and (b) consider all of the following: (i) whether the designation is likely to facilitate access to legal services in British Columbia without posing a significant risk of harm to the public; (ii) whether the activities performed in the practice of the profession are similar to, or overlap with, those performed in the practice of law; (iii) whether failing to designate the profession would undermine the regulator's ability to regulate the practice of law in British Columbia; (iv) whether the practice of the profession is regulated in other jurisdictions; (v) whether the designation would have an undue impact on the independence of licensees under this Act."

Now, the minister is correct that under this, the minister or the Attorney must consult. It doesn't say the minister or the Attorney must enact based on what has been provided to them for information. In other words, if the government decides that a profession shall be designated as a legal profession, there's

nothing in 4 that says if the regulator or others consulted don't agree with that, the government has to listen to that advice.

In other words, the government, the cabinet, would still have the ability, despite whatever advice or consultation was provided to them, to designate a new legal profession, a new profession as a legal profession, regardless of that. Is that not correct?

Hon. N. Sharma: Just to go back to what the member read out under section 2(b), from my perspective, whoever the Attorney General is considering that at the time, these are excellent considerations for somebody that's focused on access to justice interests of the public, which are laid out pretty clearly in terms of not only protection of the public but how it could be set up and, actually, the independence. That is something that's very important, and it's actually listed in there, the independence of licensees.

[4:25 p.m.]

These were very well-thought-out factors to be considered that will be important. In reality, the way self-regulation works, the government needs to work with the regulator in order to set up the eligibility criteria for that

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so these were very well thought-out factors to be considered that will be important. In reality, the way self-regulation works, the government needs to work with the regulator in order to set up the eligibility criteria for that scope of practice. As I mentioned when I answered to the question before, that has to happen together. So government can set up a regulation that sets out a scope of practice for a new legal profession and then the self-regulator will set out the eligibility requirements for that person in order to practice in the province.

So this is something that, although sets up a structure for more flexibility and practice, would be something that the parties would work together on. I think it's actually a pretty exciting development, because if…. I know the Law Society has done really interesting things through the Innovation Sandbox to understand what's possible for the future of legal professionals in the province and lawyers. If we have that ability to be flexible to add another legal professional and license them for a scope of practice, I think it's only going to further the interests of all parties.

P. Milobar: I respect that the minister feels these would be great things and logical things to take under consideration for any Attorney General. But the question was, there's nothing there that actually binds the Attorney General or the cabinet to actually have to follow whatever the outcome is.

In other words, the Attorney of the day feels legal techs should be deemed to be a profession. They consult, they talk with, they facilitate other discussions, they get advice saying whether failing to designate the profession would undermine the regulator's ability to regulate the practice of law in British Columbia. All of the advice they get is contrary to the Attorney's and the cabinet's opinion that legal techs should be part of the profession.

Does cabinet not have the ability to override and basically ignore all of that advice and input and consultation and still forge ahead and make the designation?

Hon. N. Sharma: I would just say that what the member has articulated is a common practice with government. It's a basic principle of democracy that you can't bind future governments or democratic institutions in legislation. And although consultation is required and we've set out the things they have to look at, there's no ability to say the minister…. and bind them in a way that the member suggests, because that's not how legislation or democracies work.

P. Milobar: Well, I'm not suggesting a cabinet should be bound. I was simply trying to get an affirmative answer that, in fact, nothing in this prevents cabinet from regulatorily making the designation of who is a legal profession, regardless of what outside voices might be telling the government of the day and the Attorney General of the day.

Because this legislation is designed or intended to last a long time — I would assume the government is hoping — which means it will see many Attorney Generals have to shepherd it through,

which means there will be many other professions likely knocking on the door of government and saying: "Well, it's just a regulatory change. We want to be included as a legal profession." When that standard of being included becomes much easier, the lobbying from other professions get started.

It is important to ask these questions, because last I checked, it's not like this bill has been heralded unanimously out there by lawyers and the legal profession as something they wanted to see. Yet government is pressing ahead, regardless. And that's with legislation, not just regulation.

I get that you wouldn't normally bind the hands of government, and the way to not bind the hands of a future government is to make things by way of regulation as opposed to by way of legislation.

[4:30 p.m.]

So again, to the minister, knowing that there was pushback from the legal community, knowing that there were concerns about this new structure, knowing on the heels of what we've seen under a few years now with the reshaping of how engineers are dealt with in B.C., Bill 36 with the health care professionals and the concerns there, why was the government so insistent

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to the minister, knowing that there was pushback from the legal community, knowing that there were concerns about this new structure, knowing on the heels of what we've seen under a few years now with the reshaping of how engineers are dealt with in B.C., Bill 36 with the health care professionals and the concerns there, why was the government so insistent in 3 and 4 to give cabinet the ability to, essentially, designate a legal profession of their choosing, instead of going through this process to update and amend a piece of legislation?

Heck, it could have been buried in a miscellaneous statutes housekeeping bill, as this government has done with other fairly significant pieces from time to time. And all governments tend to do that; I'm not trying to make that a partisan comment. That's the way politics works, and it's opposition that needs to read those misc stat bills and find out if there's something of consequence in it or not. I get that.

[J. Tegart in the chair.]

But there are lots of ways that this could be amended moving forward. Why did the government choose — in the backdrop of everything else that's been going on with this bill, the concern about whether we'll have enough time to even debate it or not, as an example, because of what we're hearing outside of these walls — to give them the maximum flexibility and ability with the least amount of problems to create, essentially, designate new legal professions in B.C., instead of just sticking to the profession of lawyer, the profession of notary public and the profession of a regulated paralegal given, especially, if the Attorney General can't say that there's a definitive list.

I could almost understand this if there was a definitive list of two or three other professions that were in active talks with government right now, and they just weren't ready to go by the time this legislation came forward. But that didn't seem to be the case when I asked that question on the front end.

Why is the government insistent on giving themselves so much flexibility on this when you have 14,000 lawyers nervous about the implications of this and what it may or may not do to their practice?

Hon. N. Sharma: I'll start by saying that the legal marketplace is changing. The legal profession is changing. I think it's something that the Law Society, the CBA and many members of different jurisdictions around the world have been grappling with — what those changes mean. What clearly has come through is a need for a modern regulator that oversees legal professions.

I'll just note that right now, any version of a government would have the power to legislate and set up a separate regulatory body for that. Like let's say, if it was a legal tech professional, by legislation it set up a legal tech professional self-regulator, as happened with the notaries. But that is cumbersome. It's inflexible. It doesn't respond to the changing marketplace.

What this does is instead give flexibility. It's a tool for both the regulator and government. Because we anticipate that what will happen in the course of this is that the self-regulating body will identify the need according to the principle set out of how they're meant to do their work in the public interest,

access to justice, seeking underrepresented people, protecting the independence of professions. All the things that we set out in the bill. They will identify the potential for another legal professional and come to government for that.

This is a tool for both parties to be able to be flexible. We think it's important in how fast things are changing in our society. And the need for access to justice for six out of ten British Columbians that don't actually go to a lawyer. They look for legal services, and they're in need of legal services, but don't do that. So actually, these are things that we think are very important to modernize the legal professionals in the province.

P. Milobar: While the government was giving itself this power within this bill, between 3 and 4, to, just by way of regulation, deem who would be considered a legal professional, did they consider at all that by making this easier, it actually opens the door to more confusion by the public, ultimately, moving forward?

As you add a fourth or fifth designated legal profession…. I get this Attorney's intention would be to have great and wonderful wide open public consultation and everything else. Nothing says you have to….

[4:35 p.m.]

There's no prescriptive way you have to consult. It just says: "consult." Governments do that differently all the time on that topic. I can think to the Land Act. The government consultation portal for the Land Act changes was buried in between "Click here to give your input on a reimagined Royal B.C. Museum," and then there was the Land Act changes — "Click here to give us your comments

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I can think to the Land Act. The government consultation portal for the Land Act changes was buried in between "Click here to give your input on a reimagined Royal B.C. Museum," and then there was the Land Act changes — "Click here to give us your comments and see what's going on with Land Act changes" — followed by public consultation on the B.C. Parks licence plate program.

So there are all sorts of ways governments consult. Some are a little more upfront and in people's faces, and others a little bit more hidden and behind the scenes.

Some of the concerns we've been hearing, though, are that if there are more professions added — yes, I understand, to be clear to the Attorney, I'm not talking about the scope they may or may not have — the average person is going to hear: "Oh, there's a new legal profession."

Does the Attorney not see how that could create actually substandard access, in a way, if people think they're accessing one form of legal services when in fact, by regulation, they're going to be restricted on what that person can practise, but they think they're actually getting the services of that full-package lawyer or even the services that a notary would normally provide?

Hon. N. Sharma: I'll start by saying that we did public consultation on the bill that's before the House right now, that we're debating, and the what-we-heard report sets it out. By and large, the public was in favour of access to justice and different tools for us to do that. That's why it's guided by a big piece of this work.

The other thing that I would say is that the Law Society did an innovation sandbox where they talked about the idea of limited licensing, the fact that you could license somebody for a limited area — the idea being, and I think this was in discussion, that that could, through that limited licensing by the self-regulator, lead to the development of a legal profession just through that trial of learning what's working in that field or how the limited licensing is working. That would be the way that that could develop pretty naturally through self-regulation.

The other thing I would say is it's up to the self-regulator to have set up practice standards. So if you are having regulated paralegals, for example, as is contemplated in this bill, you would have a practice standard — competencies that that regulated paralegal would have to do in order to be able to practise, like continual education, if that's a part of it, and standards of ethics. Then there would be a disciplinary process that would be triggered if that person breached them, just like lawyers today.

P. Milobar: On 4, I don't see anywhere where it's required that cabinet consider whether designating a new profession would undermine the regulator's ability to actually regulate the practice of law.

Failing to designate a profession is listed as a relevant consideration, but government seems to not see it as relevant as to whether designating a profession would affect the regulator's duties and abilities. Why was that?

[4:40 p.m.]

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Hon. N. Sharma: That section that the member's talking about — part 2, 3 — is to prevent from a specific thing happening that's happened in other jurisdictions, where you could imagine a situation where there were a group of, I guess, professionals that were basically practising law or practising it in a way that should be regulated under the legal professions but aren't. So failing to designate that profession undermines the regulator's ability to regulate the practice of law in British Columbia. Having this group operate and provide services that you would determine legal services without being regulated is hampering the regulator's ability to do their work.

Then you could imagine a situation where the self-regulator says to government: "Hey, there's a whole group of people that are doing this type of work." Let's say paralegals that aren't registered, and they're providing legal services, and we have no way to set standards of practice, do the work of making sure the public is protected. Then you would say government should regulate a scope of practice so then the self-regulator can actually set out what the competencies and ability of that person to operate in that space are.

M. de Jong: Well, I depart for a bit, and we've launched ahead to section 3, I think.

Interjection.

M. de Jong: Four — 3 and 4. Let me further explore the theme that the Attorney has been canvassing with my colleague from Kamloops. I'll ask the general question first.

It strikes me that if we look at the construct here and look at some of the themes of statutory construction at play here, a lot of what was formerly in the existing Law Society rules — so things like non-practising versus practising lawyers and the classes of licence, all these things that heretofore have been in the Law Society rules — are being embedded in legislation. Ironically, with respect to section 4, some of the largest questions are being dealt with by regulation — in this case, the designation of an actual legal profession, as in the case of sub 4(1).

Does the Attorney find that…? Obviously, she's comfortable with it or she wouldn't have sponsored the legislation. But the big questions about whether something should be considered or designated a legal profession versus more administrative matters…. Shouldn't the big questions be dealt with by legislation? I mean, isn't that…? Or is the Attorney telling the committee that these things might change far more quickly than they have in the past? I mean, it's not as if there has been a proliferation of new legal professions. Wouldn't that logically be something that the Legislature itself would want to consider?

[4:45 p.m.]

Hon. N. Sharma: We had a chance to canvass this question with the previous member that was asking questions, and I'll just repeat it.

The legal marketplace is changing pretty rapidly, and the goal of having

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to consider.

Hon. N. Sharma: We had a chance to canvas this question with the previous member that was asking questions, and I'll just repeat it. The legal marketplace is changing pretty rapidly, and the goal of

having a single regulator is to have all legal professionals regulated under one body. With that comes the need to think about contemplating a new environment where you're thinking about the future of what legal professionals could be and potentially another type of legal professional.

We had a chance to go through this in detail, before the member came back, about, with the Law Society's innovation sandbox and the way they're looking at limited licenses and that potentially evolving into a new legal profession, why we think that this interplay between the government set out in 3 and 4 and the regulator that would have to set the competencies and the eligibility requirements for each new legal professional, working together in the context of the new changing legal marketplace — this model — will provide for the flexibility that was needed in order to do that.

M. de Jong: I am with the Attorney with respect to the advisability of the government, the regulator and the regulating body working together. What I didn't really hear, though, was an explanation for why the legislative branch of government should be excluded, going forward, from that important consideration. That is the designation of a new legal profession. Surely there is still a role for the legislative branch of our government to play a role in determining whether that is advisable and appropriate.

Hon. N. Sharma: This was a decision that was led by the fact that it's our view, and it's been, I think, proven over the decades that even this project has been in the works, and the CBA and one of the reports mentioned that it was three decades in the making to think about a new model for legal professionals through legislation. Given that legislation can take that amount of time and given, like I mentioned, the legal marketplace and how it's changing, we think this is an important tool in that development.

In practice, the way we expect it to show up is the self-regulator, through the course of their work and their principles that are adhered to in their work, has identified the need for setting standards for a new type of legal professional that's practicing or the potential of it and coming to government to figure out this regulation and scope of practice for that. Of course, government is guided by the principles that are set out in section 4 that lay out exactly, in a very transparent way, what will be considered before making a decision like that. It has that kind of checks and balances built into it.

M. de Jong: Great, except the only check and balance missing is legislative oversight, because if this legislation passes, all of those changes going forward happen independently of any consideration by this body. The Attorney can tell me if I'm going down the wrong path here, but were the regulatory powers that are being sought in this legislation and these provisions we're dealing with now…? If they existed today, much of what is in this bill wouldn't have to come before the House, unless I'm mistaken. The reconfiguration and the recognition of additional legal professions would happen separate and apart from any need to consult this Assembly.

[4:50 p.m.]

Hon. N. Sharma: To answer the member's questions, there is so much more in this bill that is about the modernizing of legal professional regulation in this province that is much bigger than these two particular provisions. Because of that content, it would be, of course, before the Legislature, as we are today in contemplating all those changes.

this province that is much bigger than these two particular provisions.

Because of that content, it would be, of course, before the Legislature, as we are today, in contemplating all those changes.

M. de Jong: Well, I respectfully disagree with the Attorney General. Surely, the recognition of a legal profession, and all that that implies, is huge? Huge for all sorts of reasons: protection of the public, competencies. The Attorney says it sort of minimizes the significance of these provisions.

Surely, the recognition of whether an activity constitutes, or should be recognized as, a legal profession goes to the heart of regulating the provision of legal services in this province?

Hon. N. Sharma: I'm not sure I caught the question, so the member will correct me if I missed the question. But as I mentioned before, we think the right checks and balances are in place to not only have a system that's more flexible through regulation, but sets out, to the public, what the minister will consider when making a decision with respect to a new legal profession in that scope of practice.

I laid out before about the ways that the regulator will have to work with government. I'll just say that, right now, I think it would illustrate the issue that is in need of having a new regulatory body. It's my understanding that under limited licences, under the innovation sandbox, the Law Society was issuing a no-action letter to people to test out new ideas in terms of limited licensing. But the issue with that is — and one of the reasons that it's built in to later on in the bill, and one of the many things that this bill will do — it didn't give them the tools then to regulate or discipline or set standards for that limited licence or practice.

There are ways that this bill expands the regulator's ability to hold legal professionals in this province accountable to standards, even through limited licences that don't exist today. With the conversation that the self-regulator will have with government, if through that limited licensing, the information that they've achieved through that is that there's a need for a separate licence category of legal professionals, then that also will give them the ability to be able to set standards and protect the public in the operation of that legal professional's duties.

M. de Jong: I don't think I'm explaining my concern very effectively. I apologize for that. Let me try to go about this a slightly different way. In the legislation before us, the government and the Attorney saw merit in identifying legal professions — involving lawyers, notaries, a practicing regulated paralegal — and saw merit in having this Legislative Assembly, the third branch, second branch, whatever number you want to use, of government to be directly involved in validating that. Going forward, under this regime, this body would have no role to play in determining whether or not a group of professionals should be recognized as a legal profession.

I'm suggesting to the Attorney General that that is problematic, that something as fundamental as that deserves to have legislative oversight. I take it she disagrees.

[4:55 p.m.]

What I haven't heard is why she disagrees with that.

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disagrees with that.

Hon. N. Sharma: I'll endeavor to clarify. So yes, we went with the regulation power and clause 3 or 4 in this bill for many reasons that I talked about — flexibility. In particular, I think to the member's point, the way we've ensured that the public has confidence in the decision-making that's involved in this through regulation is through what the Attorney General must consider.

This isn't unlike many regulatory-making powers, where you set out what the Attorney General should consider so it's in a transparent way to the public of what considerations have been made in deciding on that regulation. We think that section (2)(b) covers very, I think, important aspects of the decision-making process. I expect that whoever's making that decision, that's in my role in the future, will have had — and they must — consultation with the board, and this will be something that makes sense to British Columbians for access to public.

But on top of that, it'll be something that can change quicker than a legislative process, as we've seen over the last few decades. It took three decades to get to the single-regulator model. Access to justice is a serious issue in the province. We think that having the flexibility with the transparency and the clear factors that the minister must consider in making a decision is striking that balance.

M. de Jong: I fear, to my mind at least, that the Attorney is conflating two issues. On the one hand, she points out or makes the argument that this bill is about far more than determining what constitutes designating a profession as a legal profession. On the other hand, she says, "Well, we need the flexibility to, by regulation, address that issue of what is a legal profession," as if that has been the hangup over the last number of years.

I don't think that's the case. I think there has obviously been an issue that this Attorney and others before her have grappled with as it relates to the relationship between lawyers and notaries — scope of practice issues. The legislation, obviously, further in deals with the composition of the regulator in ways that have attracted a great deal of comment.

But something as fundamental…. Well, let me ask the question this way. To be fair to the Attorney General, I did hear a part of this answer as I was re-entering the committee, so I do apologize for asking her to expand on this a little bit.

Let's give the committee an example of how that rapidly changing landscape may give rise to the need for a recognition of an additional legal profession sooner rather than later.

[5:00 p.m.]

DRAFT SEGMENT 043

Hon. N. Sharma: I think this is going to be illustrated clearly in this example.

With the innovation sandbox, the Law Society, is my understanding, was thinking of limited licenses for a legal tech company that was providing services for making wills for people, right? Now, if you can imagine in a limited scope — the ability of a regulator to set standards and protect the public in an instance like that is limited. Are they a lawyer? Are they a paralegal? Are they a notary? What is the category of services they're providing, and how do I set standards?

Where I see one of the biggest potentials, and the reason it needs to be rapidly changing, is because the nature of technology is changing so much. I can see the Law Society or the legal profession, the single regulator just thinking about it. If there is a proliferation of legal tech companies that are out there providing legal services to people in a way that is providing a problem in the sense of, like, how is the public interest protected, how is there a standard of conduct being provided to assure the public that the right checks and balances are in place for that person providing that legal service, how do we do that?

Well, then the answer may be that we need, through using these mechanisms, three and four, the government to work with us on a regulation that sets out a scope of practice for legal tech platforms or tech companies that says that if you're providing this legal service, here's your scope. Then it would be up to the self-regulator to set out: what are the competencies? How do we protect the public? How do we ensure that that service is up to a standard, right, to protect the public interest, is one example.

What we're seeing in the legal marketplace is rapidly changing technology, the way people want to get legal services, where they might be getting legal information. So this regulator, under the single regulator, it really needs to be able to adapt over time to protect the public, access to justice, all the things that we want them to protect.

M. de Jong: Thanks to the Attorney for the helpful example.

Let me just take a moment to explore that a little bit, because what the Attorney has, I think, helpfully described for the committee is how a service is provided, through the use and advent of technology, how people are accessing that service. But, presumably, there is always a somewhere, a person or a person-populated organization behind that technology.

[5:05 p.m.]

To use the Attorney's example, does she see the legislation being utilized to allow for the designation of a legal profession based not on what it is providing to a client, in terms of legal information,

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example, does she see the legislation being utilized to allow for the designation of a legal profession based not on what it is providing to a client, in terms of legal information, not what the kind of advice is, but how that advice is being dispensed?

I don't quarrel with the example, but that strikes me as a pretty interesting distinction that the regulator will have a different approach depending on how advice is being provided and how a legal service is being provided, rather than what that advice and what that service is.

Hon. N. Sharma: The answer to that is actually very complex. Probably when we get to other sections of the act, which I can suggest would better explain the different tools that the self-regulator would have, to answer that question that the member asked.

But I will say that in the changing use of technology, in the changing way people access technology, the idea that there would be, presumably, a lawyer that has a standard of practice that licence could be removed from…. May be the case, may not be the case. Right? There may be somebody providing legal services, or providing legal services without any kind of regulatory oversight, on an online space.

This will, and I hope to get into it as we go further down in the tools of the regulator, give the regulator the tools to be able to more easily adapt. And if it came to the point of having to have a new legal profession under that — so if it was a legal tech platform, or a legal tech category, where there's a person that you can actually regulate that's providing legal services or setting a standard — it also gives the power that's carried forth in the other one to regulate a law firm too. You could think of how you define a law firm and how you provide that accountability.

We can get into that as we move on, about the different tools that the regulator has once that profession is set out.

M. de Jong: Yeah, it's interesting.

Am I wrong? I approach this…. And I recognize I'm not on the leading edge of the deployment of technology. But isn't there always…? Do we…? Is it fair for me to assume that in the provision of legal services, there is always, ultimately, a person — the person could be corporate, but there is always a person — that is ultimately to be held responsible or regulated? And when I say "person," again, I mean person, an individual or a corporation.

Hon. N. Sharma: I can bring up ChatGPT, which is an example of an AI-generated platform.

[5:10 p.m.]

But actually the solution, we think, or one of the solutions to that, is under this, which I will get to later on in the clauses, the ability of the regulator to regulate law firms — actual enterprises, rather than individuals. So you could think of a way to do that if you can't in the area of technology.

I'm happy to get into that when we get into that section.

M. de Jong: Just to make sure I understand this, when we are

DRAFT SEGMENT 045

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regulator to regulate law firms — actual enterprises, rather than individuals. So you could think of a way to do that if you can't…. In the area of technology. I'm happy to get into that when we get into that section.

M. de Jong: Just to make sure I understand this, though. When we are regulating law firms, we're not talking about the creation of a new legal profession, are we? A new legal…. The term we're referring to here. Yeah, legal profession. We're not talking about a new legal profession in that sense?

Hon. N. Sharma: The member is right, in a way, but I just think that it gets complicated once we get into the different tools that the regulator will have to hold people accountable or entities accountable in the breach of standards. When we get into that section, I'm happy to go through that in detail.

M. de Jong: All right. Trying to stay focused, then, on the section before us. Legal professions that fall within the ambit of the proposed regulator — lawyers, notaries, regulated paralegals. The Attorney has mentioned the possibility, in the future, of a technology-related legal service that might require designating as a legal profession and has said…. I accept what she's saying, that she will have more to say about that if and when we get to those provisions.

Is there another example of a separate legal profession that might need designating?

Hon. N. Sharma: I'm not going to speculate on that, because it really will be up to the working of what we expect is that the regulator will, through their limited licensing regime, start to see trends and identify things that may be happening in the legal professions, like a whole group of people operating in an unregulated way that we need to set standards on, and then come to government and that will be a dialogue about that.

M. de Jong: I'm not asking for the Attorney to speculate wildly. I am, to be fair, testing the proposition that says: "The reason we have to exclude the Legislative Assembly from the decision-making process around the approval of a new legal profession is because this can happen rapidly and with regularity."

I don't think I agree with the proposition of excluding the Legislative Assembly, but it is the approach that the government and the Attorney want to take. If it is so that this is anticipated to happen with regularity, I'm merely trying to explore how it might happen and in what areas.

Hon. N. Sharma: I mentioned the reason that we think regulation, working with the regulator is the better way to go in the changing marketplace. I won't repeat myself. We may just differ in that view.

But I will say that we think that the bill on its whole has many tools available to the regulator with limited licensing and the way to have a review built in on how it's meeting the access to justice and the goals of it. I'm happy to get into that once we get there. This is just one of the tools that I would expect. I'm just speculating with this: it wouldn't be used as often as the other tools that are in the bill.

M. de Jong: I'll do this quickly, but I feel honour-bound at this point to refer to the ghost of one Leonard Krog, who used to, in his time many years here, point to the trend — most of that time he was criticizing a government that I was a part of, to be fair —towards broader, more general regulatory powers in areas that are fundamental to the subject matter being dealt with by the bill.

[5:15 p.m.]

I would say, and I understand that the Attorney disagrees, that this is one of those areas that it would have been more appropriate to leave to the Legislative Assembly as the final arbiter of what

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fundamental to the subject matter being dealt with by the bill.

I would say, and I understand that the Attorney disagrees, that this is one of those areas, that it would have been more appropriate to leave this to the Legislative Assembly as the final arbiter of what constitutes a legal profession in the province of British Columbia.

I take it the…. I understand the Attorney is not nearly as exercised about that as I am or Mr. Krog would be or presumably still is. I don't think the Attorney…. Or maybe she did sit here when Leonard Krog was…. No, their time here did not coincide. So she has not heard that impassioned plea from Mr. Krog. I will not endeavour to repeat it here except to register on behalf of the opposition our concern around this particular provision.

The Chair: We are going to take a short break for ten minutes.

The committee recessed from 5:16 p.m. to 5:25 p.m.

DRAFT SEGMENT 048

The committee recessed from 5:16 p.m. to 5:25 p.m.

[J. Tegart in the chair.]

The Chair: We'll call the committee back to order.

Clause 4 approved.

On clause 5.

M. de Jong: The provision seems relatively clear in terms of the structure of the new regulator. I note the specific reference in 5(3) confirming that the provisions of the Business Corporations Act doesn't apply.

Does the Societies Act apply?

Hon. N. Sharma: No, the Societies Act doesn't apply. The reason for subsection 5(3) is because, you'll see in one, it defines it as a corporation, so it was necessary to put in subsection (3) to make sure that the Business Corporations Act was clear that it doesn't apply.

M. de Jong: Business Corporations Act doesn't apply. Societies Act doesn't apply. So any internal management provisions, anything to guide the operation of this corporation must be contained within this legislation: is that correct?

Hon. N. Sharma: Because independence was such an important factor related to this, particularly with legal professionals and lawyers, the rules are left up to the independent regulator to set out.

M. de Jong: When we say rules of the sort that would otherwise appear or be determined by a Society's Act or a Business Corporations Act, anything that isn't contained within the provisions of this bill….

[S. Chandra Herbert in the chair.]

[5:30 p.m.]

In terms of the administrative processes, in terms of disputes that might arise, those procedures, any rights that might exist to challenge, those are either all contained within this legislation or require the regulator, that this legislation reports to create, to set those rules that uniquely apply to the

either all contained within this legislation or require the regulator that this legislation purports to create to set those rules that uniquely apply to the legal professions of British Columbia.

[S. Chandra Herbert in the chair.]

Hon. N. Sharma: The member is correct. It's either…. If it's not in the act, then it's up to the regulator to come up with those rules.

M. de Jong: There are obviously many provisions of this legislation that touch on aspects of what the regulator, the authority, and the jurisdiction of the regulator….

Is there a particular provision, though, that relates specifically to the statement the Attorney has just made about the jurisdiction of the regulator in that respect?

Hon. N. Sharma: It's section 27. I'm happy to get to that, if we want to, next.

M. de Jong: Well, I can't take this to 27, but I think I can take this to 6.

Clause 5 approved.

On clause 6.

M. de Jong: Not an insignificant provision, insofar as it — clause 6 — purports to lay out the duties of the regulator. They are…. Well, I was going to say they are different. I guess, over the course of the next little while, we'll determine how different they are. They're certainly enumerated differently, and we'll ascertain to what extent that is reflective of actual differences.

The present Law Society's overriding duty presently is to uphold and protect the public interest in the administration of justice. It lays out various areas: preserving and protecting the rights and freedoms of all persons; ensuring the independence, standards and competence of lawyers; establishing standards

and programs for education for lawyers and students; regulating practice; supporting and assisting lawyers to fulfill their duties in the practice of law.

There is significantly different wording employed here. Let's, again, start with the general question: what is the difference between the duties of the present Law Society and what the duties of the new regulator will be?

[5:35 p.m.]

DRAFT SEGMENT 050

Hon. N. Sharma: The member points out the differences between the current Legal Professions Act and the bill before us, and I'll just maybe talk generally and then maybe more specifically about them.

The general intent and goal of the changes in this particular provision was to simplify and to clarify. It was based, also, on an exploration that my team did about what other modern law societies were saying in a simplified version of what the duties of the regulator were and also to make sure that that clarity involved duties to the public interest rather than, maybe directly, individual lawyers, so just to clarify the role of the regulator when it comes to the oversight provided for the practice of law and the protection of the public.

M. de Jong: I'll just deal with those maybe in reverse order. The last one the Attorney General mentioned…. I think what she said was emphasizing the duty to protect the public interest or the duty to the public interest. I, like the Attorney today, at one time, was, by virtue of the position, a bencher and, of course, as a lawyer, always tried to emphasize to people, as the Law Society does presently, that the overriding duty is to protect the public interest. That is something that I think the Law Society continues to take very seriously and always has, contrasted with an organization like the CBA, B.C. branch, who advocate on behalf of lawyers.

Has that, to the Attorney's mind, been in doubt? She made a point of highlighting that distinction. Is there a reason for that? Was there confusion about the Law Society having, as its primary objective, protection of the public interest? What has given rise to the need to distinguish that differently.

Hon. N. Sharma: Really, this was a way to simplify and clarify. I know that the Law Society situates itself in the public interest right now, but a lot of the language in the previous or current one is not really simplified or modernized or at the heart of the duty. So it was just really a way to…. The idea of a new regulator with single regulating of all professions — to just make it really clear, what we thought captured the essence of what the goals of a regulator should be without, maybe, too many provisions or too many words, just to capture it.

M. de Jong: I don't want to belabour this, but I thought the existing provision said something along the lines of upholding and protecting the public interest in the administration of justice. That seemed pretty unambiguous to me.

[5:40 p.m.]

DRAFT SEGMENT 051

Hon. N. Sharma: The reason for not using that — I think, maybe, a difference of opinion from the member — is that the "administrative justice" term as a term is not one that's, I would say, generally understood by the public. It's included in some of the law studies across Canada to have that term, administrative justice, and that provision; others are not. But really, the intention with this is to clarify the mandate and to focus that. So administrative justice is not defined in the current Legal Professions Act. It's a broad term that generally means the process through which the justice system works, and it's not a phrase that's understood by the public. That was the reason we didn't include it.

M. de Jong: All to say that the Attorney is telling the committee that there is no question today that the present Law Society has done anything other than operate to protect the public interest. This is merely meant to be a stylistic change, as opposed to some sort of substantive change.

Hon. N. Sharma: There's no doubt that I have that the benches and the members of the Law Society act honourably, and they do their best to protect the public interest.

What this bill does is provide better legislative guidelines and framework and modernize the language to situate the regulator in a way that is in accordance with a report that the Law Society conducted on its own volition under the Cayton review in 2021. That talked about ways you can strengthen the legislative framework and the regulator to make sure that all of those duties to the public interest are clear.

M. de Jong: To the Attorney, I think I know the answer to this, but I'll ask it anyway. Is she aware of any circumstances, or can she call to mind any examples or circumstances that she is aware of where she feels the Law Society has been guided by something other than a desire to protect the public interest?

Hon. N. Sharma: There is nothing that I'm particularly concerned about. But this is a journey, I'll note, that the Law Society has been on over the last few years to understand, not only with the Futures report, but also the Cayton review about what should be in a modern law society, and how that could look under a regulated body. I think this bill has a lot of those elements of improvement in it.

M. de Jong: In a couple of instances, and just a moment ago, the Attorney used the term "modern law societies," and I take it that some of this language — I think the Attorney has pointed out to the committee —has been taken or borrowed from what she would term "modern law societies."

Is there one in particular that has guided the drafters of Bill 21? And in the specific case of clause 6 that we're on, is that drawn from a particular example, a particular jurisdiction?

[5:45 p.m.]

DRAFT SEGMENT 052

Hon. N. Sharma: I would say, just generally, that what you have before you is a made-in-B.C. solution, although I did mention that we looked, as we always do, at other examples. Some of the ones we looked at were Alberta, Manitoba, Ontario and Quebec, along with other jurisdictions. But I wouldn't say that one was guided by the other.

What guided us was: before we made the intentions paper, we sat down with the notaries, the B.C. paralegals and the Law Society. It was very clear during discussions, and I think that that's in the intentions paper, that the duties of the regulator were an important aspect of this whole project, or one of the important aspects of the project. A lot of time was spent speaking with those key stakeholders when it comes to the content of what section 6 has in it.

M. de Jong: We were, I think, having this conversation specifically in the context of the reference in sub 6(2) to the protection of the public interest or the obligation to perform its duties in the public interest. I contrasted that with the existing phrase from the regulator, and the Attorney pointed out that the term "administration of justice" has fallen out of use. Sub 6(2) is reflective of more modern regulators. Is the sentence in sub (2) drawn from a specific jurisdiction?

Hon. N. Sharma: Essentially the same answer as before. What this section is, is a made-in-B.C. solution. So we went through that process that I described in my previous answer to arrive at that.

M. de Jong: Sub 6(1)(a) includes the phrase…. Well, on the surface it perhaps states what one would expect it to say to regulate the practice of law in British Columbia. However, it is a legal document written by and about lawyers. Is that phrase, "practice of law"…? I don't think that's a defined term. I'm curious…. Well, why don't I start with that? Is it a confirmation that it's not a defined term?

Hon. N. Sharma: It's under section 35. For a second there, I thought I'd have to go back to the definitions, but no. It's further down in the bill under section 35, where that's defined.

[5:50 p.m.]

M. de Jong: In sub 6(1)(b), there is reference to the establishment of standards and programs

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M. de Jong: In 6(1)(b), there is reference to the establishment of standards and programs that might apply to applicants, trainees, licencees and law firms. Is the specific reference to law firms differentiated from the existing provisions? If so, can the Attorney explain the significance of that inclusion?

Hon. N. Sharma: The member has identified a change that we talked about earlier, about the better tools. So, no, law firms is not included in the LPA. It's defined, but it's not included in terms of specifically calling out in that similar section that's been adapted. It's for the reasons that we talked about in detail about giving the regulator ability to do things with respect to law firms. That might come into play with things like legal tech companies or things like that.

M. de Jong: The Attorney has correctly talked about it in the context of future technical advancement. But beyond that, in an existing regime that regulated, in the case of lawyers, individual lawyers and imposed requirements on those individuals that were enforceable against those individuals, does this substantively…? I recognize that the Attorney has said yes in the context of technological advancements, but is this more significant than that in terms of what it means from a day-to-day regulation of law firms?

Hon. N. Sharma: Because of the nature of self-regulation in the Legal Professions Act and the broad scope of that, the Law Society currently has the ability to regulate about law firms. I wouldn't say it's a power that's been used rigorously at this stage, but as we were talking about a lot in this debate, we see that there will be a need in the future, or a potential need in the future, to that being a more robust role for the regulator in terms of setting rules and enforcing those rules against law firms.

You'll see it in the bill as something that has been not only in some sections brought clarity to but also strengthened.

M. de Jong: I don't want to over dramatize this, but does that represent a slightly expanded range of responsibility? I mean, it's a duty, so it's not something that the regulator might do or could think about doing. It is a duty. It is a specific duty that is now imposed upon the regulator. Does that…? The Attorney has offered one example of where that duty would operate. But it strikes me that it represents not just an expansion of things they might do, but an expansion of the things that the regulator must do.

[5:55 p.m.]

Hon. N. Sharma: It's not a must, particularly in this context, but it provides clarity that I think is necessary in the field of regulation of legal professions, that law firms is included in the area of establishing standards and programs and practices. The regulator has the following duties to do that. So

DRAFT SEGMENT 054

particularly in this context. But it provides clarity that I think is necessary in the field of regulation of legal professions that law firms are included in the area of establishing standards and programs and practices. And the regulator has the following duties to do that. So we leave it to the regulator, as we do with a lot of self-regulating professions, to set up those standards and to enforce and to regulate.

But as I mentioned before, I think this will become an increasing role for a regulator in the future. Certainly it's something that's built more prominently, I guess, into this bill but not in a way that it's a must.

M. de Jong: Sorry. At the beginning of her response, the Attorney said something and then right at the end, and I'm not sure I understood it either way. I thought what I heard was the Attorney saying that it's not a case of must, but I may have misheard her. My impression is that when something is a duty, the regulator must fulfil that duty. It's not an option. I may have misheard the Attorney.

Hon. N. Sharma: I thank the member for asking the question, just to clarify what I said. So as a duty, it does require that regulator to turn their attention to that, like the regulation of law firms, but there's no must in the sense of what those actions must be in order to fulfil that. So that's kind of…. Maybe I'll just provide that clarity.

M. de Jong: I guess to follow that through, though, what we can say is that under this provision, the regulator, as one of its duties, must establish standards and programs for the education, training and competence, practice and conduct of law firms. And I understand what the Attorney said. This doesn't particularize what they must be, but it does say that the regulator must now establish standards and programs in these areas, must establish those standards and programs for a law firm.

Hon. N. Sharma: I'll go back to the fact that this is also…. As I mentioned, it provides clarity, because the existing Legal Professions Act…. We would understand that scope to include law firms, and my understanding is that there have been some rules developed about law firms.

So the regular has the following duties to establish standards and practices and all that. But it's not a must in terms of what that actual content is. So, yes, they have that as part of their duties. It's not in addition to anything different that they have as an existing one, and then there are different provisions in the rest of the bill that would contemplate how that comes into play in decision-making.

[6:00 p.m.]

M. de Jong: So these duties to regulate the practice of law, as defined later in the bill, to establish these standards and programs, to ensure the independence of licensees, to protect the public interest…. And this now extends to all of the legal professionals as

all of the legal professionals, as designated here, and any additional legal professionals that may arise, pursuant to clause 3 that we've already dealt with.

Would the Attorney characterize that as representing an expansion…? If we take what the Law Society, for example, does today, does that represent an expansion of their area of responsibility?

Hon. N. Sharma: I wouldn't characterize it as an expansion, but I would say that the bill…. When we get further on in the provisions, it's a more explicit reference to the regulator's role with respect to law firms.

M. de Jong: To the Attorney, I have her point about law firms. I was going further with my question, to: this is a regulator whose responsibility will now include notaries, will include lawyers, will include regulated paralegals. I guess the question that has been asked is: to what degree, if at all, has any analysis been done to authoritatively answer the question about the workload involved and to what degree this represents an expanded workload?

Hon. N. Sharma: There are transitional provisions that I'm happy to go over in detail that talk about the process that we will get there for.

But I will just say that it's not a straightforward answer because right now we have two regulatory bodies for the notaries and one for the lawyers. So you would think that there would be two boards, two CEOs, two executives — two basic organizations that are geared towards regulation. What the transitional provisions set out, which are further on in the bill, is the process by which those analyses and processes will be made.

And we expect that, we've said this, it would take up to 18 to 24 months for that transition to happen.

M. de Jong: There will be an opportunity to discuss that — I hope there will be an opportunity to discuss that — further along, but we are talking about this essential aspect of the bill, section 6, and that is the duty.

So we're going to take two organizations that today operate independently — are, as far as I recall, self-financed — and then we are going to combine them to fulfil the duties required here. Has there been any analysis done on the cost of doing that?

[6:05 p.m.]

Hon. N. Sharma: That process is set out in the transitional provisions about how you would get to those kind of discussions and estimates.

M. de Jong: Yes, I've seen the

Draft Segment 056

Hon. N. Sharma: That process is set out in the transitional provisions about how you would get to those kinds of discussions and estimates.

M. de Jong: Yes, I've seen the transitional provisions. My question, though, was whether or not the Attorney and the government itself, the ministry, have done any analysis to consider what the cost might be.

Hon. N. Sharma: Not at this stage.

M. de Jong: Well, that is a bit troubling. I'm not suggesting that…. Well, maybe I am suggesting…. Surely, on a change of this magnitude, one of the considerations that the Attorney would want to have before her is the degree to which the changes being contemplated would impose costs on either the Crown or the organizations being regulated. To hear that there has been no analysis whatsoever associated with that is surprising, although, I'm sorry to say, in the last number of years, less surprising.

Hon. N. Sharma: There's a very important reason that we are having these discussions at a later date, and that's because independence is implicated as a clear factor related to this. As the member mentioned, self-regulatory bodies cover the costs of their own operations, and that includes the notaries and the Law Society at this stage.

We have had pretty deep discussions for a few years now on the move to a single regulator, and we've thoughtfully set out transitional provisions that have been part of that discussion about the process that it would need. But it's really important, given the importance of operational independence of the regulatory bodies, that any such arrangement would need to be very carefully considered, given the need for independence of government from the operation of the regulator.

M. de Jong: I'm just cognizant of time, but I don't want to be disrespectful, and hopefully I won't be. But there's another school of thought that takes what the Attorney has just said and says: "Well, these are self-regulated professionals. They cover their own costs today. They'll cover their own costs tomorrow. And by the way, they'll cover their own costs of the transition." So as government, we're not really that interested, because they're going to pay for it.

The Attorney can say: "Well, we want to preserve absolute independence." Sure, someone else can pay for it. Anyway, I don't want to get dramatic about this. It just strikes me that in a change of this magnitude, it would be normal for the government to have had a conversation with the present bodies that are in charge of regulation to say: "What do you think this is going to cost?"

And can I say this because I do…. I want to be fair. I think in the first year we did an estimates debate, the Attorney General did comment on this and said: "Well, we're prepared to have a conversation about the costs associated with the transition, because it's going to be individual members who have to absorb those costs." And I expect they're interested to know what kind of levy or what impact this is going to have on their fees. So, independence: fine.

[6:10 p.m.]

But I think there's another school of thought here that says that the government's not too concerned because it intends to have the members absorb all of those costs themselves. Or not. I'll wait for the

the government is not too concerned because it intends to have the members absorb all of those costs themselves. Or not. I will wait for the Attorney to reply.

Hon. N. Sharma: I'll just say that the transitional provisions are very well thought out in terms of how we get to those questions that the member is asking, and that I'll just remind the House that the project of a single regulator was agreed to by all existing regulators — so the notaries and the Law Society — that this was a project that would result in efficiencies and better processes in terms of regulation of legal professionals. That was an agreed to thing.

Now, the next question is how do we have a process where the regulator has their independence, and we figure out the transition to the new regulator? And that's set in the transitional provisions, which I'm happy to get to.

M. de Jong: Okay. One last observation, and it's simply this that, as logical as the Attorney might want to make that sound in terms of the sequencing, my recollection is when a change of this magnitude was being contemplated, the Treasury Board would be involved to assess whether there were any costs involved to the Crown and, if so, how those costs would be apportioned.

It sounds like none of that happened here. The Attorney is relying upon provisions that are contained later in the bill, and the government has decided to proceed in the absence of any analysis as to what the cost might be.

Hon. N. Sharma: I've nothing more to add than my previous answers.

M. de Jong: Nothing more to ask.

Clause 6 approved.

On clause 7.

M. de Jong: Guiding principles are…. I don't know how recent a phenomenon they are. I think at one time drafters were hesitant to include provisions like this that, by definition, were the kind of thing you would see in a preamble. We don't do preambles to legislation in this province. I don't think we have in a long, long time. But here they are. I'm not suggesting that it's unique. We're seeing these more frequently. But it is embedded within the main body of the legislation and talks about what the regulator must have in its mind as it embarks upon its duties, and it lists four general areas of concern.

The first one being facilitating access to legal services. I guess the obvious question since the government has chosen to include this in the section right after the duties of the regulator and provided this statutory direction…. Because that's what this is, it's a statutory direction to the regulator that says: "In exercising those powers and performing their duties, you have to have regard for the following principles. The first one: facilitating access to legal services."

What are the measures that the Attorney intends to rely upon in the days, months, years ahead to determine whether the regulator is meeting that objective?

[6:15 p.m.]

Hon. N. Sharma: The way that the guiding principles are incorporated in the act is set out not only in section 7, as the member notes to be in there, but also in the annual reporting, which is in section 23.

It would be government overreach for government to set out what the measurement and the way that the regulator will measure themselves against these principles, but they have to. They have to figure out a way to openly report on the annual report about how they're assessing their progress on it. We would expect that that would include data, which they are the keepers of, right, when it comes to

regulation, where they would have specific ability to do that, and measurements related to that principle, that they're set out into the world to implement through, independently of government.

M. de Jong: That's a good start. The Attorney says it will be for the government to set out pursuant to the provisions of section 23. Well, what better opportunity, in fact, the only opportunity we will have to gauge what is in the government's and Attorney's mind would be to pose the question right now around the specific provision…? What does the Attorney believe would be appropriate data, appropriate measures to indicate whether or not the regulator is facilitating access to legal services?

Hon. N. Sharma: At this stage, the Law Society has started to ask questions about measuring access to legal services, I guess, in a way. I think, in this debate, I've mentioned a survey that they conducted that said that six out of ten British Columbians, if they have a legal issue, don't access a lawyer. So this is the type of information that they could see — if it's changing the dial or moving the dial on over time.

I'll list a couple more examples of what I could see as potentials. The member would know that we have an Anti-Racism Data Act and collection of data when it comes to how demographics interact with things like the justice system or access to services. That data will be transparent and free, along with the coupling of data that maybe the new regulator will collect with respect to maybe underrepresented groups and access to services that they could track how that was happening or doing or how that was showing up over time.

Another particular one, which has more to do with 7(b), but you could say is implicated in different ways, is that we know through some of the research that, although there are maybe an increasing level of Indigenous law students that go through law school, there's a drop-off when it comes to how many of them become members of the bar, and there are statistics on that. If that was something that was showing up, then the question to the regulator is why and what's happening? Of course, they have a big spectrum of tools that come into…. Licensing, how the entry level…. All that is within their scope, so it's one of the things that they could measure.

I'm handed this piece of paper, so with that, I move that the committee rise, report progress and ask leave to sit again.

Motion approved.

The committee rose at 6:20 p.m.

[6:20 p.m.]

scope, so it's one of the things that they could measure.

I'm handed this piece of paper, so with that, I move that the committee rise, report progress and ask leave to sit again.

Motion approved.

The Chair: This committee is adjourned. Thank you, Members.

The committee rose at 6:20 p.m.

The House resumed; the Speaker in the chair.

Committee of the Whole (Section B), having reported progress, was granted leave to sit again.

Committee of the Whole (Section A), having reported progress, was granted leave to sit again.

Committee of Supply (Section C), having reported progress, was granted leave to sit again.

Hon. N. Sharma moved adjournment of the House.

Motion approved.

The Speaker: This House stands adjourned until 10 a.m. tomorrow.

The House adjourned at 6:21 p.m.

LEGISLATIVE ASSEMBLY
of BRITISH COLUMBIA

Hansard Blues

Legislative Assembly

Draft Report of Debates

THE HONOURABLE RAJ CHOUHAN, SPEAKER

5th Session, 42nd Parliament **Tuesday, May 14, 2024** **Afternoon Sitting**

The House met at 1:37 p.m.

[The Speaker in the chair.]

Orders of the Day

Government Motions on Notice

Hon. R. Kahlon: I move motion 34 on the order paper:

[That, notwithstanding Standing Order 2 (1), the adjournment time of the sitting of the House commencing at 1.30 p.m. on Wednesday, May 15, 2024, be modified to 9 p.m.

And further, that this modified time of adjournment extend to the application of Standing Order 3 and to the interpretation of the ordinary time fixed for adjournment of the House in the Sessional Order adopted by the House on March 4, 2024, enabling certain proceedings of the House to be undertaken in three sections.]

T. Stone: I just wanted to take a brief moment to speak to motion 34 that is on the order paper and, certainly, understand the intent of this particular motion, which serves to adjust the hours that this place sits by a couple hours tomorrow night, tomorrow being Wednesday. So instead of rising at 7 p.m., we would rise at 9 p.m.

I just want to say that on behalf of the official opposition, I do appreciate that there are — when we are in the last session of the year and there will be an election coming up this fall — some unique time requests from different members, mostly pertaining to retirements that have, I think, been well-accommodated by both government and the official opposition. A number of members in both parties won't be seeking re-election.

So as not to compromise estimates time — most notably, the Premier's estimates time, which is coming up and is set to start tomorrow and go through Thursday — I certainly understand that one option to facilitate that would be to add some extra hours onto the calendar.

But I do want to make the point as well…. Not to presuppose what might be coming next, because it hasn't been brought forward yet. But I have a Spidey sense that the Government House Leader may rise to his feet sooner than later and, recognizing there's only a couple days left in this legislative sitting, maybe asking this chamber to approve some time allocation in order to complete the remaining business that's on the order paper.

To the extent that I am not crossing too many lines in commenting on that here, I just want to say, again, that the management of this House is really the primary responsibility of the Government House Leader. I think we were all surprised, certainly the official opposition

in commenting on that here, I just want to say again that the management of this House is really the primary responsibility of the Government House Leader.

I think we were all surprised, certainly the official opposition was surprised, that two new pieces of legislation were only introduced in this House yesterday and are being subject to second reading today. It would appear to be the government's intent to have these pieces of legislation sail through this place and become law.

It's really just unfortunate that two pieces of legislation would be left to literally the dying days of the session with minimal time to debate that legislation — or, really, compressed time. I think it does demonstrate the approach that this government has taken over the years, which has been a continual erosion of the role that this chamber actually plays in debating legislation, having adequate time to do so.

For that to work, there is a good-faith sort of expectation between the government and the official opposition that the official opposition will be provided with the scope and scale of the government's legislative agenda by a certain point in the legislative session, usually by about the midpoint, and that would give the official opposition time to adequately determine how to best prioritize the legislation that's in front of this chamber.

That is certainly not possible when new legislation is introduced with a couple days left in the session. That's deeply regrettable. I think it, again, reflects a level of disrespect for this place, which is unfortunate.

Also, I want to note that there is one other piece of legislation that…. There is just no possible way that it is going to be able to be completed without time allocation, and that is Bill 21, the Legal Professions Act. My understanding is that this chamber is on clause 7 of what is a bill that has literally hundreds…. It's over 300 clauses. We are just in committee on clause 7 of this bill. There is no way that this bill will receive the scrutiny that it requires, that it demands.

The second reading speeches, I think, were quite notable from members in this chamber about the attack on the legal profession that this bill really represents, the erosion of independence of our judiciary and the legal environment in British Columbia. The pattern that this demonstrates yet again was health care professionals through Bill 36 previously. It was engineers before that, and now it's lawyers that this government is seeking to strip of their independence.

It's an important piece of legislation, and this Bill 21 will not receive the scrutiny that it's going to require because the government will have no choice…. With two days left in the session, only being on clause 7 of this bill, there is no possibility the government can get this done without imposing time allocation.

Again, time allocation, for those watching, is effectively…. It's otherwise known as the guillotine or the closure. It is a tool that the government has to unilaterally end debate on a piece of legislation, a stage of the debate and the legislation entirely, by a specific time and a specific day. That's what is coming. That is deeply regrettable and unfortunate and, again, I think reflects a disrespect for the proceedings of this place.

Mr. Speaker, thank you for the time for me to be able to register those concerns of the official opposition as we move forward in the final few days of this legislative sitting.

Motion approved on division.

Standing Order 81.1

amendment, as the case may be, to the House. C) Admittedly, thereafter, notwithstanding Standing Order 80, Standing Order 81 or any Standing or Sessional Order relating to the times of the day, proceedings of the House the question of all remaining of consideration of the bill shall be put forthwith without amendment or debate. D) If a division is called on the motion for a third reading of the bill, the division shall be proceed forthwith in accordance to Standing Order 16.

2) All remaining stages of consideration of Bill 26, intituled Name Amendment Act, 2024, be disposed by 8:30 p.m. on Wednesday, May 15, 2024. If at 8:25, the bill is still not considered at committee stage, the Chair shall forthwith put a remaining question to complete the consideration of the bill without further amendment or debate, which shall be deemed passed and which shall not be subject to a formal division call, but which may be taken in accordance with Practice Recommendation No. 1. B) Once the title of the bill is passed, the committee shall rise and report the bill complete with or without amendment, as the case may be, to the House. C) Admittedly, thereafter, notwithstanding Standing Order 80, Standing Order 81 or any Standing or Sessional Orders relating to the times of the day, the sitting of the House, the question of all remaining stages of consideration of the bill shall be put forthwith without amendment or debate. D) If division is called on the motion for a third reading of the bill, the division shall be proceeded forthwith in accordance to Standing Order 16.

3) All remaining stages of consideration of Bill 21, intituled Legal Professions Act will be disposed of by 8:30 p.m. on Wednesday, May 15. A) If at 8:25 p.m., the bill is still being considered at committee stage, the Chair shall forthwith put any remaining questions to complete the consideration of the bill without further amendment or debate, which shall be deemed passed and which shall not be subject to a formal division call, but which may be taken in accordance with Practice Recommendation No. 1. B) That notwithstanding standing section 3, if at 8:25 p.m., the committee has not considered amendment to the bill standing on the order paper in the name of the Attorney General, the amendment to clause 78 shall be deemed to have passed, clause 78, as amended, shall be deemed to have passed. C) That notwithstanding section 3, if at 8:25 p.m., the committee is not considered the amendment to the bill, the standing order paper in the name of the Attorney General, the amendment to clause 225 shall be deemed to have passed, and clause 225, as amended, shall be deemed to have passed.

[6:20 p.m.]

D) Once the title of the bill is passed, the committee shall rise and report the bill complete with or without the amendment, as the case may be, to the House immediately thereafter.

Notwithstanding Standing Order 80, Standing Order 81 or any Standing Order or Sessional Order relating to the times of the day or sitting of the House, the questions of remaining stages to be considered

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as amended shall be deemed to have passed.

(d) Once the title of the bill is passed, the committee shall rise and report the bill complete with or without the amendment, as the case may be, to the House immediately thereafter. Notwithstanding Standing Order 80, Standing Order 81, or standing order or sessional order relating to the times of the day, sitting of the House, the questions all remaining stages to be considered the bill shall be put forthwith without amendment or debate.

(f) If a division is called on the motion for third reading of the bill, the division shall proceed forthwith in accordance to Standing Order 16 and, further, that for greater certainty, a committee considering a bill in Section B may rise and report progress for the purpose of receiving a report from Section A or C in accordance with this order.

The Speaker: Members, the question is adoption of the time allocation motion moved by the Government House Leader.

Motion approved on division.

R. Kahlon moved adjournment of the House.

Motion approved.

The Speaker: This House stands adjourned until 1:30 p.m. tomorrow.

The House adjourned at 6:21 p.m.

The member says he was right about short-term rentals. Well, the member says that he has a better vision for short-term rentals, which is that people should be able to buy up strata buildings and buy up homes and neighbourhoods and rent them out as hotel rooms. He opposes our short-term….

Interjection.

Hon. D. Eby: I can tell the member's sensitive about it because he starts heckling as soon as I mention this. He is very clear about his intention, which is that people looking for homes will be competing with those looking to buy places to use as short-term rentals. If we hadn't put those provisions in place, we wouldn't be where we are now with 1,400 hotel rooms under development in Vancouver alone. Those 1,400 hotel rooms are where tourists should be staying, not in residential strata buildings in units that used to be a place for people to live but are now an unaccountable hotel room.

The member says he was right about public harms. Well, he's right that he opposed that bill. And the commitment that I made to Carson Cleland's family was that we would take every measure possible to hold these huge multinational social media companies to account for their lack of accountability in terms of the online platforms they operate where children gather, the lack of safety for kids like Carson. We would not be where we are today at a table with the biggest Internet companies in the world, the biggest app companies, announcing things like expedited intimate image takedowns for British Columbians. No other province has that. Why do we have it? Because of Bill 12. The member opposed it. We wouldn't have it if he was sitting on this side of the House.

The member talks about taxes. Here are the taxes that the member opposes. The new flipping tax to discourage speculators from driving up prices. The tax increase on big companies in the top 2 percent of income earners; he wants to cut their taxes. A luxury car tax; he wants to cut the luxury car tax. Tax on vaping products to discourage youth from vaping. The tobacco tax to fight smoking.

Here's the situation for families in British Columbia when it comes to taxes compared to when he was in government….

The Chair: Noting the hour Premier.

Hon. D. Eby: Thank you, hon. Chair. A 38 percent net reduction for families with incomes of $100,000. A 56 percent net reduction for families with incomes of $80,000. A 98 percent net reduction for families earning $60,000. And for those $30,000 or less, who used to pay taxes, well, now they're getting $2,420 back in their pocket.

Thank you, hon. Chair, for your patience with that.

I move the committee rise, report progress, and seek leave to sit again.

Motion approved.

The committee rose at 8:49 p.m.

The House resumed; the Speaker in the chair.

[8:50 p.m.]

DRAFT SEGMENT 089

Committee of Supply (Section B), having reported progress, was granted leave to sit again.

Report and Third Reading of Bills

BILL 26 — NAME AMENDMENT ACT (NO. 2), 2024

Bill 26, Name Amendment Act (No. 2), 2024 reported complete without amendment, read a third time and passed.

BILL 21 — LEGAL PROFESSIONS ACT

Bill 21, Legal Professions Act, reported complete with amendments.

The Speaker: When shall the bill be read a third time?

Hon. R. Kahlon: Now.

The Speaker: The question is third reading.
Division has been called.

[8:55 p.m.]

DRAFT SEGMENT 091

Bill 21, Legal Professions Act, read a third time and passed on the following division:

YEAS — 49

Chandra Herbert	Parmar	A. Singh
Babchuk	Lore	Chow
Beare	Kang	Ma
Heyman	Osborne	Cullen
Bains	Malcolmson	Bailey
Mercier	Brar	Russell
Routledge	Starchuk	Rice
Phillip	Yao	Leonard
R. Singh	Whiteside	Farnworth
Kahlon	Eby	Conroy
Sharma	Dix	Popham
Fleming	Rankin	Alexis
Sims	Simons	Elmore
Glumac	Routley	D'Eith
Greene	Anderson	Chant
Sandhu	Dykeman	Begg
	Walker	

NAYS — 21

Milobar	Stone	Falcon
Bond	Halford	Oakes
Paton	Davies	Morris
Kyllo	Shypitka	Sturko
Merrifield	Wat	Lee
Kirkpatrick	Stewart	Ashton
Sturdy	Letnick	Tegart

R. Kahlon moved adjournment of the House.

Motion approved.

The Speaker: This House stands adjourned until 10:00 a.m. tomorrow.

The House adjourned at 9:04 p.m.

LEGISLATIVE ASSEMBLY
of BRITISH COLUMBIA

Hansard Blues

Committee of the Whole – Section C

Draft Report of Debates

The Honourable Raj Chouhan, Speaker

5th Session, 42nd Parliament **Wednesday, May 15, 2024** **Afternoon Sitting**

PROCEEDINGS IN THE BIRCH ROOM

Committee of the Whole House

BILL 21 — LEGAL PROFESSIONS ACT
(continued)

The House in Committee of the Whole (Section C) on Bill 21; H. Yao in the chair.

The committee met at 3:38 p.m.

The Chair: Good afternoon, Members. I'm calling the Committee of Supply to order for Section C. We are currently on Bill 21, Legal Professions Act.

On clause 7 *(continued)*.

M. Lee: Can the Attorney General please describe what the risk of harm to the public posed by the practice of each legal profession is?

[3:40 p.m.]

Draft Segment 017

Hon. N. Sharma: This is a little bit of a different concept from what is in the current Legal Professions Act. It actually allows the new regulator to, if you will, regulate proportionately. For example, if the risk of harm of a certain activity to the public is lower, then you would expect the regulation to be lower or less burdensome, whereas if it's higher, the risks are higher based on the type of activity, and you could set out the regulation proportionately to that. So it gives the regulator that flexibility when assessing harm to the public.

M. Lee: Can the Attorney General please describe an example of each of the categories of legal professions? It refers to the practice of each legal profession. So can she provide an example of risk of

harm to the public posed by each of the regulated legal professions, including lawyers, notaries and licensed paralegals?

Hon. N. Sharma: Okay. So I'll go through each of the professions that would be either, in the future, covered or are currently under the new, single regulator.

One with lawyers. I think, as the member is aware, he would know one example of how you would want to make sure there are regulations around the use of trust funds and the misuse of trust funds and how that might be. And I think that holds true also for the notaries in that regard. Also, there are anti-money laundering rules or regulations we might want to put on around, and that would be for lawyers and notaries.

In terms of the paralegals, we wouldn't be able to speculate at this point because it would depend on the process and the scope of practice that's set out, but this tool of that section gives the regulator the ability to design a regulatory regime that's proportionate to the risk of harm.

M. Lee: This new bill has this provision in it. It also has a provision that we'll come to in clause 11, which refers to public interest but does not actually define public interest. Here the Attorney General is naming a number of things that, for example, are concerns — let's say, trust funds for lawyers. Is the Attorney General suggesting that the Law Society of British Columbia and the Legal Professions Act currently do not properly address the management of trust funds?

[3:45 p.m.]

Hon. N. Sharma: No, I'm not suggesting that, just that the new regulator would have to have the current tools of the current regulator for both

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DRAFT SEGMENT 018

Hon. N. Sharma: No, I'm not suggesting that. Just that the new regulator would have to have the current tools of the current regulator for both the notaries and legal professions. With improvements, we think, with the language to be able to do the same thing, which is to make sure that the risk of harm to the public with things like, for example, trust funds, they were able to regulate on that.

M. Lee: This provision is one of the examples in terms of the architecture of the bill that speaks to the concern relating to government control. This is a government controlled regulator that now is talking about risk of harm to the public. The actual clause is phrased in a way that suggests that the practise of each legal profession is somewhat harmful to the public. There's something inherent in the practise of law, the practise of notaries, or the practise of licensed paralegals that is risky. There's a risk of harm to the public. Is this the kind of concern that this government controlled regulator is intending to address in the way it's addressing and framing the legal profession?

Hon. N. Sharma: One of the articulated roles for the legislator, not only in case law, but also just in practise, is to be in the position of protecting the public. It's just a common practise that regulators for all professions, including the current Law Society, have a role to protect the public with respect to that practise. By and large people aren't going to break the rules but if there are a group of people that are, then the regulator needs to have the tools to do something about it.

I will note that these are…. To the member's comment about government control, which I disagree with pretty strongly, the rules that we list under these principles would be completely made by the regulator, not government.

Clause 7 approved.

On clause 8.

M. Lee: Is the Attorney General…? I presume she's had the time to or the opportunity to consider the letter that I see a copy of here. I received a copy copied from the Canadian Bar Association, British

Columbia branch. This is dated May 14, yesterday's date, relating to the progress in the Legal Professions Act. It has provided an update relating to the engagement.

We have spent a considerable amount of time on Bill 21. Certainly, in my participation on this bill at committee stage, talking about the lack of consultation, lack of transparency, the lack of engagement with the legal profession in this province. The CBABC branch again expressed grave concerns relating to the progress that's being made on this bill in the absence of true engagement and broad consultation. They've said that they've now held 13 consultation sessions, and that's given them some preliminary results and underscored the continued concern, which actually relates specifically to many clauses of this bill.

We just talked about one of them in terms of clause 7, but in terms of clause 8, the actual composition of the board of the regulator…. Again, as the Attorney General has heard time and time again, including for myself, the concern that the majority of that board needs to be elected directly from lawyers themselves. And that process would be reflective certainly of diverse voices, including Indigenous and racialized lawyers. But currently the composition of the board under clause 8 does not have that. It only has a minority which is five directors who are lawyers elected directly by the legal bar or the law profession itself.

[3:50 p.m.]

So what this letter from the CBA of British Columbia is addressing is that with the composition of this board, only five elected and four appointed lawyers…. That's not sufficient autonomy from the other board members, government and political influence to be classified as independent

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DRAFT SEGMENT 019

British Columbia is addressing is that with the composition of this board — only five elected and four appointed lawyers — that's not sufficient autonomy from the other board members' government and political influence to be classified as independent — that is, the appointed board members themselves.

Again, as the Attorney General has heard time and time again…. Certainly, I'm sure, she had heard that during the non-disclosure period where she was getting feedback. I don't know because it was behind non-disclosure agreements of course, and those organizations are still bound by those NDAs. But having said that, the CBA of British Columbia, having consulted with 8,000 members, to date, in their consultation session after Bill 21 was introduced, is speaking very loud and clear to the Attorney General to pause the progress on this bill in order to help reshape the legislation to ensure that the details are properly engaged on, in terms of the final form of the bill itself, and that the impact on the rights and freedoms of British Columbians…. They truly require greater transparency and more meaningful consultation, which has not occurred to date.

Can I ask the Attorney General if she could please respond to the concerns that I presume she has seen in this letter? I certainly have a copy of it if she wants to see a copy of the letter.

Hon. N. Sharma: I'll start by saying that all parties were in agreement of a single-regulator model. And when you step into the realm of a single-regulator model, you would expect there to be representation from all of the professions on that governing body and in that institution. So our discussions were also with the notaries, the B.C. paralegals and the lawyers in terms of the composition and makeup of this clause that we are talking about, which is the board of directors.

Through those discussions, we heard concerns from all parties. We heard issues that they wanted addressed, and we struck a balance in terms of the composition of the board. However, one thing that was very clear from the lawyers is that the independence of the legal professions and the lawyers is something that's very important, and we took that into consideration with respect to the composition of the board.

I'll just note, and I did in detail, about all the steps we took even before the intentions paper to sit down with bodies that are particularly interested, like the Law Society, the notaries society and the B.C. paralegals and we received submissions from the CBA and the Law Society after the intentions paper was released.

I want to note specifically what was submitted to us. This is from the CBA of B.C., in their submission. "In order to ensure self-regulation, the majority of the board must be licensees subject to

regulation, the majority of which should be lawyers. A smaller, more agile board composition is needed to be consistent with effective and modern regulatory operations and should comprise a mix of appointed and elected members."

In the Law Society submission, they noted, "In our view, self-regulation of the legal professions requires that a majority of the board that governs lawyers are themselves lawyers and a majority of the lawyer directors are elected."

[3:55 p.m.]

In the makeup that you see in section 8, we have met all of those criteria in the submission, in our view. Not only is there a majority of lawyers, the majority of the elected side are lawyers, and it's made up of a mix of appointed and elected members, and it's a smaller, more agile board. Not only that, it includes

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DRAFT SEGMENT 020

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see in section 8, we have met all of those criteria in the submission and our review. Not only is there a majority of lawyers, but the majority of the elected side are lawyers. It's made up of a mix of appointed and elected members, and it's a smaller, more agile board.

Not only that but it includes the representation of notaries and paralegals, I think, in an appropriate way. Government's composition and ability to appoint is reduced from the current model. The Attorney General is no longer a board member as of right, and the government's appointees, directly, go from six to three. We think that this was a very thoughtful approach, based on the balancing of not only all the professions but also the input that we received along the way.

M. Lee: I would think that this is really the nub of the issue here. We have the Law Society, the Trial Lawyers…. I've heard from the criminal law bar here in this province. We know about the B.C. Civil Liberties Association, the B.C. legal reform group, as well, and CBA of B.C. They're all saying the same things to this government. A number of these bodies are poised and engaged to bring a constitutional challenge on Bill 21.

This is the reason why we spent the length of time understanding how this government got here, despite all of the concerns that have been raised. The Attorney General's response just now continues to demonstrate a gap in understanding and a gap in clarity here. This is how this government is prepared to compromise, in effect, on the independence of lawyers to ensure that there is self-regulation preserved.

It's very clear, having seen Bill 21 and clause 8 in terms of the composition of the single regulatory board, that it is deficient — that it will take away self-regulation for lawyers in our province. It will undermine, as a result, our justice system, because as Chief Justice Hinkson has said, without an independent bar, there cannot be an independent judiciary.

I don't know and I don't understand why our Attorney General of this province continues to ignore the clear statements that are being made. This board needs to have a majority of elected lawyers. The number of directors who are on this board need to be…. The majority of them need to be elected directly by the lawyers themselves. Right now, we have a minority — five out of 17. It's very clear. Four other lawyers are appointed through some kind of merit-based process that we will get to. But clearly, there is not the independence by virtue of having lawyers form the majority of this board who are elected directly.

As I've spoken at length on Bill 21…. This is what happens, currently, under the Law Society board: 25 out of 32 members are elected directly by the legal profession. I don't understand why this Attorney General continues to not understand this one point. As a result, this Attorney General under this Premier is completely undermining the independence of our legal profession and our court system in this province.

This government is prepared, as it has done with other professions, to centralize control under government — of our health care professionals, of our engineers. But the difference here is that we're talking about lawyers who defend those who in our law enforcement system — those who might be racialized, those who might be Indigenous — have some concern relating to the state. The difference is that lawyers perform the functions that hold government accountable, that can represent the interests of citizens of our province.

[4:00 p.m.]

That's the reason why I believe this Attorney General and this Premier refuse and are ignoring the clear concerns and what has been expressed by the Law Society of British Columbia, the B.C. Civil Liberties Association, the Trial Lawyers Association of B.C., the criminal lawyers branch….

[R. Leonard in the chair.]

It persists to continue on

Draft Segment 021

and is ignoring the clear concerns and what has been expressed by the Law Society of British Columbia, the B.C. Civil Liberties Association, the Trial Lawyers Association of B.C., criminal lawyers branch. It persists to continue on to completely take away the independence of our legal profession and undermine the independence of our judicial system.

[R. Leonard in the chair.]

I'll ask the Attorney General. Why is this Attorney General refusing to understand and appreciate that? Perhaps she can comment back here as to how, in the face of a clear statement that there needs to be a majority of lawyers elected directly by the legal profession themselves…. Just like 25 out of 32 members are currently elected for the Law Society board.

Why is clause 8 written this way and not hearing the concerns that have been expressed very clearly by all of the associations that I've spoken about?

Hon. N. Sharma: I'll just start by saying that there is a divergence of views in the legal community. I certainly hear from lawyers that are very in favour of the improvements that we're making to the regulation of legal professionals.

Just to comment on the issue at hand, in particular. Lapper, who served as the CEO of the Law Society of Upper Canada, mentions that there's a general sense that because we don't have a majority of elected lawyers, it somehow means the regulator won't be independent. But I don't see a line drawn between that and asking how this actually affects a lawyer's ability to independently advise and advocate for their client.

What independence of lawyers means is a lawyer's ability to fiercely advocate for their client without state interference, and that is fundamental to our democracy. I think we agree on that. In our review, the structure of the board maintains that ability in a strong sense.

[4:05 p.m.]

With respect to elections, I want to comment on that. We recognize that elections are a very important part of the legal profession and certainly the Law Society as it currently stands. Elections continue to be a strong component of the board structure in the model in this bill.

There have been many commentators that have mentioned that elections are imperfect. Particularly, the CBA, nationally, in a report in 2014

Draft Segment 022

of the legal profession and certainly the Law Society as it currently stands. So elections continue to be a strong component of the board structure in the model in this bill.

But there have been many commentators that have mentioned that elections are imperfect. Particularly, the CBA nationally, in a report in 2014 mentioned that although elections are important, sometimes they can affect the ability of a governing body to have the right level of diversity they need and to complement that diversity. I think it's generally accepted in modern governance practices, and

also in the current Law Society, that a mix of elected and appointed is a normal and good functioning board. This strikes that balance of a mix of both of them.

I also want to say that 14 out of the 17 members of this board will be legal professionals. I won't suggest the member is suggesting this, but I want to say that all directors that are on the board, including the notaries and paralegals, have an interest in ensuring that there's independence of licensees.

The argument that sometimes is put forward I think fails to recognize that notaries and paralegals who are also elected and also on that board will have a strong interest, not only from the duties that they will have to undertake explicitly in the act to maintain the independence of the licensees, but also an interest in doing that. They will be part of the conversation. So 14 of 17 of those members of the board will be legal professionals.

M. Lee: There's a lot to unpack in the statements that the Attorney General makes, But she's not directly addressing the concern that I've raised.

What does the Attorney General say to the Law Society of British Columbia, that has called for the majority of lawyers to be elected directly from the lawyers themselves?

Hon. N. Sharma: It's my understanding, in the consultations that we had, that the Law Society did not call for that. In fact, what they asked for, and this is in one of their submissions, is, in our view….

Self-regulation of legal profession requires that a majority of the board that governs lawyers are themselves lawyers, and a majority of the lawyer directors are elected. The majority of the elected proportion of the component that's elected are lawyers, and the majority of the overall board composition is lawyers.

The Chair: Just a reminder to keep your comments and questions to the clause at hand, which is clause 8, and not to the processes leading to it.

M. Lee: Thank you, Madam Chair. I am talking about the current regulator, the Law Society of British Columbia, which regulates the legal profession. They have written letters to the Attorney General, including on April 26, 2024. They've expressed their concerns that this Bill 21 will disrupt and diminish the effectiveness of legal regulation in this province and that Bill 21 fails to protect the public's interest in having access to independent legal professions governed by an independent regulator that is not constrained by unnecessary government direction and intrusion.

I can tell you, Madam Chair, that I understand directly from the Law Society that one of the key examples of concerns is this provision, clause 8. Has the Attorney General, since April 26…? Maybe this is a challenge to the Attorney General. The pace of change here, the fact that we had the NDAs, the fact that we had the consultation process being what it was….

There hasn't been sufficient engagement and understanding, even with the Law Society of British Columbia. What does the Attorney General understand, then, since receiving this letter on April 26, in terms of what the concerns are of the Law Society of British Columbia relating to how Bill 21 fails to protect the public's interests in having access to independent legal professions governed by an independent regulator, which is not constrained by unnecessary government direction and intrusion?

What does that statement mean to the Attorney General? What is her understanding of what the Law Society of British Columbia is saying to her?

[4:10 p.m.]

Hon. N. Sharma: I understand, and I acknowledge, that we may not agree with the Law Society in terms of how we landed, or the benchers in particular. But we went over in detail, I think, the last time we had a chance to engage about the consultation and the amount of input that we received.

We made a decision as government, and my job as Attorney General is to protect the public interests and certainly move forward in access to justice.

of how we landed or the ventures in particular, but we went over in detail, I think, the last time we had a chance to engage about the consultation and the amount of input that we received. We made a decision

as government, and my job as Attorney General is to protect the public interests and, certainly, move forward on access to justice.

After hearing from all the parties, I don't think that every party is happy with different the components of this bill, but I am confident that we heard and listened to everybody's concerns and then made a decision based on what we thought was not only protecting the independence of lawyers and protection of independence of legal professionals but moving forward access to justice, modernizing legal professions, providing exciting and new ways for the regulator to act on behalf of the public and the professions.

The Chair: Member, just a reminder that this is a question on clause 8 and not on the process.

M. Lee: My questions are relating to the substance matter of clause 8 in terms of having a minority of directors elected who are lawyers from among lawyers. This is clause 8(1)(a).

Clearly, the view of the Law Society of British Columbia as the current regulator of the legal profession, that letter signed by all the benchers of the Law Society…. This clause completely takes away the self-regulation of lawyers and undermines the independence of lawyers and the legal profession.

The Attorney General has said in committee stage before that her focus is on access to justice and the public interest, not protecting lawyers. I would like to understand at this time, because the Attorney General had stated…. She used the term "public interest" in her response just now. Can she define where this bill, 21, defines public interest?

Hon. N. Sharma: The government did not want to dictate what the definition of public interest is. Clearly, when you have a self-regulatory body that's elected by the members and appointed in the makeup, they have the ability to establish rules and understand standards of practice and how they're being maintained, but they also have the obligation to present the public interest.

Public is generally, and I think everybody would agree, not in a position to assess the quality, often, of legal services or what the standard of legal services should be. That's a role of the regulator, to make sure that's understood and that legal professions that have the duty and honour of practicing that profession live up to that standard. So that is something that we will have the regulator do once they're established.

M. Lee: Madam Chair, you can understand the concern of the Law Society of British Columbia, for example, when we're talking about government interference and intrusion. There is no definition of public interest. It is going to be up to the regulator, which is governed by this board of 17 members, which has government interference and appointment, no self-regulation, no election directly of majority of lawyers, which preserves the independence of legal profession. And this is the concern.

[4:15 p.m.]

This is the reason why, when the Attorney General insists on providing responses that talk about balance that…. I have said before that she has the role under the Attorney General Act to be

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this is the reason why, when the Attorney General insists on providing responses that talk about balance…. I have said before that she has the role under the Attorney General Act to be the chief legal officer of this province, the official legal adviser to the Lieutenant-Governor and legal member of the executive council. The Attorney General must see that the administration of public affairs is in accordance with the law.

Well, as we've talked about, even in that Justice Estey quote, the importance of a legal regulator must be done "so far as by human ingenuity it can be so designed, be free from state interference in the political sense with the delivery of services to the individual citizens in the state." This is a quote that I quoted at length in my second reading speech. It is also quoted, of course, in many different ways, including by the Law Society of British Columbia in their April 26 letter.

This is wording coming from the Supreme Court of Canada. This is the law of our land. We need to ensure that a legal regulator, so far as by human ingenuity it can be so designed, be free from state

interference in the political sense with the delivery services to the individual citizens of the state. This is what the chief legal officer of our province ought to be focused on, which is our administration of justice in this province.

I appreciate the need for diversity, the role that the Indigenous counsel can play, the understanding of access to justice in the sense of increased access to justice and legal services as provided by expanded scope of practise and notaries and licensed paralegals. But none of that requires, in any way, the elimination of self-regulation for lawyers. Don't see that in Ontario. Don't see that in Quebec. Don't see it anywhere else. This clause 8 is not structured anywhere else for any other regulator in the common law.

So this Attorney General continues to fail in her duty and responsibility as the Attorney General of this province. It's a very serious concern, and it's the reason why I cannot fathom and understand why the Premier and our Attorney General, in face of the strong indications in writing, in communications, is continuing to persist with this bill and call closure on this bill.

At this point, I have just over four hours and ten minutes. I appreciate the time that the B.C. United official opposition has spent on the bill today, but it was necessary to understand how we got here. Because all the concerns that have been expressed through the initial intentions paper, the pre-consultation the Attorney General has talked about, the what-we-heard report, the NDA process, has ended up in a place where there's still a complete disconnect with the Attorney General and the Premier of this province. There's a reason for this. Why is the Premier and the Attorney General, the Premier as the former Attorney General of this Province…?

This Attorney is ignoring what the Law Society of British Columbia is saying. Is it because they relish the opportunity to have their laws proved to be unconstitutional just like, under the Premier when he was Attorney General, has seen time and time again? Or is it because he has a real disdain for the rule of law in our province, as demonstrated repeatedly in the last seven years that I've seen? This continues. This is the reason why we as the B.C. United official opposition are completely opposed to the elimination of self-regulation for lawyers.

[4:20 p.m.]

The elimination of the independence, the undermining of independence through clause 8. This is one of the principle clauses. I've asked this question, but I need to ask this question in the context of clause 8, in the face of what is being communicated to her right now

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clause 8. This is one of the principal clauses.

I've asked this question, but I need to ask this question in the context of clause 8. In the face of what is being communicated to her right now, is the Attorney General not concerned that she's not meeting her duties under the Attorney General Act?

Hon. N. Sharma: I'm just going to start by saying I'm very confident that I'm fulfilling my role as the Attorney General of this province with this bill.

The member quoted a Supreme Court of Canada decision. I think it's helpful to put on record the rest of that decision, because it clearly defines a role for the Attorney General and the government to protect the public interest through regulation. The reason is — and this is a quote from the same decision the member quoted: "The general public is not in a position to appraise unassisted the need for legal services or the effectiveness of the services provided in the client's cause by the practitioner, and therefore stands in need of protection. It is the establishment of this protection that is the primary purpose of the Legal Professions Act."

Now, the decision goes on to talk about different ways that the legislatures see fit to protect the public interest in bills like is before us. It mentions that in some provinces, some lay benchers are appointed by provincial governments and in other provinces the Attorney General is seized with the duty, as an ex officio bencher, of safeguarding the public interest.

It goes on to say, "It is for the Legislature to weigh and determine all these matters and I see no constitutional consequences necessary flowing from the regulatory model adopted by the province" in that case.

We are confident that we have not only protected the independence of lawyers but also the public interest and moved a lot of things forward.

I also want to say that there's a lot of work around the world, particularly in Commonwealth nations, to update and upgrade regulatory bodies for legal professionals. In fact, Canada is one of the last countries in the Commonwealth to maintain a self-regulation model for lawyers — so to even have a self-regulator. We are continuing the model of self-regulation in this bill.

The member also mentioned Quebec. The model of Quebec, in my understanding, is that there is a government oversight body over the regulation.

It is over the natural course of government action, and the balance of protecting the public interest and allowing for independence and regulation, for the Legislature to set standards and rules related to that and the regulator — in this case, the self-regulator — to go about and set their own rules and do the work of regulating the profession. I think we've struck that balance.

M. Lee: The Attorney General well knows, of course, that under the current Legal Professions Act there are many provisions dealing with, under part 3, the protection of the public. The understanding of what the Law Society currently does is clear, in terms of what they do, including in dealing with restricted funds — trust protection as well.

As we talk about these concerns in clause 8, the representation that has been there, amongst the 14,000 lawyers around the province, does the Attorney General not see that proportionally, when we're talking about the number of notaries and the number of regulated paralegals being what it is, that there is a hugely disproportionate representation factor when you even look at just subclause (1)(a)(b) and (c)?

[4:25 p.m.]

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Hon. N. Sharma: So the balance of this board structure had to, as I mentioned before, make sure that all professions were represented and had a voice. There were different submissions by different professions of what the numbers should be in terms of what that was like.

But we knew that there were more lawyers than other professions, and I think that shows up in the numbers here. It strikes that balance. But also the need that we heard from everybody, including the CBA, to have a smaller, more agile board, which I think we also struck.

I'll just note that nine of the 17 members of this board, at a minimum, are lawyers. There may be more, depending on the composition of the others that are able to be appointed to that.

M. Lee: Just to understand this though, we're talking 14 lawyers represented by five directors, about 500 notaries represented by two directors, and some number, 50 or more, represented by two directors in terms of licensed paralegals. How is that proportionate in any way?

Hon. N. Sharma: So we again, similar to the answer I made before, had to strike a balance and take the perspectives of all professions that would be represented on that board, including the numbers. We think we struck the right balance.

It's important to say that their job on the board is to bring their perspectives from their profession in order to fulfil their duties, and I think that would require different perspectives and voices on the boards, even within lawyers. We think we struck the right balance in terms of numbers.

M. Lee: So we're talking about, basically, if it's 14,000 lawyers…. I think the number may be more than 14,000 lawyers. But even at 14,000, we're talking one director representing 2,800 lawyers. If we're talking about 500 notaries public, we're talking about one director representing 250 notaries.

[4:30 p.m.]

If we're talking about 50 regulated paralegals, we're talking about one director representing 25 regulated paralegals. So basically, regulated paralegals have ten times the

DRAFT SEGMENT 027

notaries. And if we're talking about 50 regulated paralegals, we're talking about one director representing 25 regulated paralegals. So basically, regulated paralegals have ten times the proportion of representation as notaries and more than 100 times the representation of lawyers.

When the Attorney General continues to talk about balance, even when we're talking about the number of directors here and we're focused on, again, a minority — five out of 17 lawyers that are elected from the membership of lawyers — that's the main concern. But even when we look at amongst the other directors who were elected from notaries public and paralegals, how can this Attorney General justify that there's balance between that breakdown?

Hon. N. Sharma: I think the member points to actually one of the points of reform, which is that in the Cayton report, it mentioned that "benchers serve for only two years before having to stand for re-election, so their attention is directed inevitably to their constituency of fellow lawyers rather than the public. I want to make a distinction here, just for clarity purposes, between an association like the Notaries Association and the notaries society that's the regulator. Or the difference between the Canadian Bar Association of B.C., which is a membership-driven lawyer organization, and the Law Society.

The Law Society has a very distinct role as a regulator to represent the public interest and to set rules for the practice of law. They are not representing constituents of lawyers. They're in fact regulating the practice of lawyers. So I think the way the member characterized how many people they represent maybe is a little bit of the perspective that we need to change when it comes to the new regulatory body. And it's happening in jurisdictions across the world where it's clear that the members of the board are representative of their professions and bring their skills and ideas and diversity of knowledge to the board.

They are there to fulfil the public interest and to fulfil the regulation of their profession that they oversee. The CBA, in contrast, is a membership organization that's there to represent the interests of their members, and in that case, there are lawyers.

M. Lee: I appreciate the distinction, of course, between the Law Society and the CBA B.C. branch. What I'm talking about are 14,000 lawyers. So with that in mind, because that's what I believe I've been talking about is 14,000 lawyers, that doesn't change the question. So how is it that with the proportionate breakdown, we're still talking about 2,800 lawyers represented by one director when there's only five elected directors. How is that proportionate to the representation of one for every 250 notaries public or for every 25 licensed paralegals?

Hon. N. Sharma: I believe I've answered this question. We believe we struck the right balance of composition that was in mind with the size of the different professions. At this stage, we don't know how many paralegals there are out there, but we certainly know there are no regulated paralegals. So once we get to that scope we'll be able to assess how many would meet that new scope of practice and standard threshold that would come over time. But I will say that I believe I've answered in terms of how we landed on the composition of the board and striking that balance.

M. Lee: The view of this government, in terms of the current picture of the legal profession of this province, is very skewed. I can't see it as balanced.

[4:35 p.m.]

I don't understand how the Attorney General can respond in this manner to talk about balance with the numbers that I just read out. The current composition of the Law Society — 25 elected members out of 32 — also is balanced, to use the

General can respond in this manner to talk about balance with the numbers that I just read out.

The current composition of the Law Society, 25 elected members out of 32, also is "balanced," to use the Attorney General's perspective, or word, relating to regional representation.

Where is the regional representation amongst the legal profession contemplated within this composition of elected members to the board?

Hon. N. Sharma: I'll just note that we're talking about the composition of the board. We only seem to be talking through the member's questions about one profession, and I think that's a shame.

The notaries are a well-established profession in this province and have been existing and operating in, particularly, smaller towns, providing key services across the province. They also raised their concerns about their voice on the composition of the board as a smaller legal profession, and, through this, are supportive of the bill and accepting a number of three notaries on that board.

I think we just need to keep in mind about that, also, that there are other professions represented on this board that we needed to consider. We needed to consider how their voice could be heard in that regulator.

The question that the member asks will be left up to the regulator to determine, and that's something that we would expect them to do once constituted.

M. Lee: I know that the Attorney General wants to continue to talk at cross purposes here, but it just further demonstrates that she's losing sight of her duties in terms of the administration of justice in our province under the Attorney General Act. I don't understand her responses in this respect.

The reason why I'm focused on lawyers is because, as far as I know, the judiciary is typically appointed by members of the legal profession — lawyers. So I'm concerned about the independence of our judiciary to be free of government control. I'm concerned about criminal lawyers who stand up to the state in terms of how citizens of this province, at times, have to deal with the state, law enforcement. I'm concerned about those citizens who want to stand up to the government when they have concerns about the lack of public process.

We see that with the Kitsilano Coalition in the Premier's riding at West 8th and Arbutus. We see that when this government brings in legislation that tells the government's own lawyers they can't belong to a union of their choosing. Freedom of association. They have to belong to this other union. Lawyers have a role.

When I look at the B.C. Civil Liberties Association letter, they are also concerned about what has been expressed here. The concern is that the government may not have fully grappled with the extent to which the independence of the bar is critical and a fundamental aspect of a free and democratic society.

I am at a point with this Bill 21 where there's a clear disconnect. The Attorney General clearly has a different focus. She said that. I think there are reasons for that. I think it stems from the Premier himself, with his repeated pattern of state control, centralized control, where government basically steps over all the rights of British Columbians in so many ways by even taking away the independence of lawyers and the legal profession to challenge government.

[4:40 p.m.]

Again, I understand access to justice and expanded scope of practice for the notaries and licensed paralegals. We may even get to the letter and the understanding of where the government has been in the area of the Attorney General Statues Amendment Act of 2018. I remember reviewing that bill with the Premier when he was

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We may even get to the letter and the understanding of where the government has been in the area of the Attorney General Statutes Amendment Act of 2018. I remember reviewing that bill with the Premier when he was Attorney General for five years. Expand the scope of practice in the area of family law hasn't happened.

We may get there, but the point is that what is at stake here, in this clause 8, is so fundamentally important that the Attorney General now is suggesting it's going to be up to the regulator to determine how regional representation might occur here. You'd think, with all the time that this Attorney General has spent since the intentions paper and before, that there would be clarity around that, with this not straightforward composition of the board.

The Attorney General says that it accomplished some sort of balance, but it undermines completely the independence of lawyers in this province, as we've talked about.

I would just ask here, on clause 8(1)(e): can the Attorney General, then, explain what the merit-based process will be for how directors will be appointed, including four who must be lawyers?

Hon. N. Sharma: This is another example of how it's not government that will decide. It's up to the board.

Merit-based process, in general, is fairly standard in a lot of statues. But for the purpose of the appointments made by the regulators board, it will be up to the board to establish those merit-based processes.

The bill empowers, but does not require, the board to make rules regarding a screening and nomination process for directors to be appointed by the board. I would expect the board, once it thinks about a merit-based process, to assess the current elected composition and figure out what skill sets, what diversity, what regional representation — those kinds of factors — to make sure that the appointments reflect how they can best do their work.

M. Lee: This merit-based process is to be designed by the board itself, which itself is not self-regulating in any way. It is there still under the control of government, through its composition.

Is the control on even how the four lawyers will be appointed…? What expectations are there in terms of what will be considered as to what is merit?

Hon. N. Sharma: Again, it'll be up to the board. I'll just note only three of the 17 are going to be government appointed. The Attorney General is not a bencher as a right, so that's a reduction from six to three in terms of government appointees.

That board, the elected board and the three government appointees, will sit and think about what the merit-based process should be for the rest of the board.

[4:45 p.m.]

M. Lee: We're still talking of the board composition being a minority of five elected

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DRAFT SEGMENT 030

M. Lee: We're still talking of the board composition being a minority of five elected directors out of 17. Three directors appointed directly by government, two each from notaries and two regulated paralegals. And then we get to a merit-based process for the appointment of the others.

With that, when you look at the numbers…. I know that there are transitional measures here as well. I would certainly welcome the opportunity for the Attorney General to refer to some of those transitional measures in terms of how we even get this board established. But even when you look at the composition of the board and take into account the quorum requirement of the board, which will be coming up in another subsequent clause, we're still talking about only five elected directors when there are seven who are not.

Three appointed by government, two amongst notaries and two amongst regulated paralegals. And five that are appointed through some sort of merit-based process that is designed by this board for which even the elected lawyers are a minority. These are the ways in which this government has designed and undermined the independence of the legal profession, in terms of this merit-based process that is not defined at all, in terms of the types of considerations that would be put in place.

And again, the way that this is situated, it does raise concerns about the level of government interference on the board itself. Again, when we look at reference to the requirements of the board and how it will function. Again I'd ask: how does she address the concerns relating to that level of interference by government on the actual merit-based process?

Hon. N. Sharma: I just want to bring some clarity into this conversation. The member is making statements about government control and government overreach. I would just want to put on the record that there's no connection between whether a board member is elected or appointed by those directors that are elected through a merit-based process that would enhance government control in any way or allow for the government to control anything in any way.

Those two, whether appointed or elected, do not change the ability of the government at all. I just wanted to make that clear. The merit-based process is something that we would rightly leave up to the…. And we have, again, two notaries, two paralegals and five lawyers that are elected and the three appointed government appointees that have a criteria to them. Once you have that, then they would

assess what the other appointments should be to allow them to fill in any gaps and understand in their own assessment of what the needs are of the board.

I think this is just a good governance practise.

M. Lee: Just in terms of the balance on the five directors elected among lawyers and the two elected from the minority of the public and the two from regulated paralegals, when the Attorney General talks about balance, on what basis and who was consulted to accomplish that balance? I understand that she heard from notaries and paralegals, but in terms of the legal profession, who was actually consulted for that balance determination?

[4:50 p.m.]

DRAFT SEGMENT 031

Hon. N. Sharma: I appreciate that the member, at the very beginning, asked me some really detailed questions, which were helpful to put on the record, of the way that we have consulted. It started from the creation of the intentions paper. Even previously, we were guided by the work that the Law Society did on the Cayton report about governance up to…. And I think I went over it in detail, so it'll be reflected in the record of this proceeding in terms of the details of conversations.

Governance was always an issue in relation to all of those, and we heard and we made clear our intentions in various forums, including up to the public document that we released.

M. Lee: What criteria, then, were utilized in terms of setting this balance under five elected lawyers, two elected notaries public and two elected regulated paralegals?

Hon. N. Sharma: We were guided by all of the submissions that we received and all the conversations that we had over the course of the two years that led up to the to the making of this bill. I think we already talked about some of the considerations we had in terms of the different professions and their perspectives related to their representation on the board and how they would be represented — whether it was elected or appointed or a majority — and how to protect the independence through the board composition. We considered all of those things, and we landed, I think, in the balanced way that will protect all of those interests.

M. Lee: In terms of the actual governance of the board itself, what resources will be provided to the board in the area of good governance?

Hon. N. Sharma: Well, I will say that because government does not want to interfere with the self-regulatory body, the government would be providing no resources with respect to how they would choose to govern themselves and the, I guess, practices or instruction that they would give to their directors.

M. Lee: So the current Legal Profession Act allows for Lieutenant-Governor-in-Council appointments of benchers but does not allow them to assume the position of president, first vice-president or second vice-president on the executive of the board. And there's contemplation of an executive committee here. Clause 8 of Bill 21 doesn't include any reference to any kind of restriction. Why is that?

[4:55 p.m.]

Hon. N. Sharma: The board will get to choose its chair. They can choose from the composition of the board of what's needed, based on the assessment of their needs and

DRAFT SEGMENT 032

Hon. N. Sharma: The board will get to choose its chair. They can choose from the composition of the board what's needed, based on the assessment of their needs and the functioning or the needs of the professions that they're regulating.

M. Lee: While we're on the composition of the board…. I appreciate that in clause 9, the mechanics of appointing a chair are there. But it just speaks to the concerns or considerations around the composition.

When we're talking about the composition of the board, which is set out in clause 8…. When we're talking about appointing the chair from among the members of the board itself, we're still talking without any restrictions. Therefore, for example, a regulated paralegal could be the chair of the board, or even someone who's been appointed by the Lieutenant-Governor-in-Council.

So under 8 (1) (d), there can be a government appointment that would be appointed amongst the membership as the chair of the board. Is that correct?

Hon. N. Sharma: I'm certain that the member is not implying that a paralegal or notary would be less qualified to be chair of that board.

I will say that a director is a director is a director, and they are obligated in the same ways as any other director regardless of their background. We have left it up to the board itself to decide who they would like to be their chair. We think that that's right because the government should not be deciding who that is.

M. Lee: But a person who's appointed by government can be the chair of the board. Is that not correct?

Hon. N. Sharma: If the board decides that that's who they would like to be chair, then that is up to them to decide.

M. Lee: Which gets us back to the way that the directors are appointed in the first place.

Again, we have a minority of elected directors who are lawyers. My comment about a person who is not a lawyer serving as chair of the board is more about the regulation of the legal profession and, furthermore, that that person who may not be a lawyer him or herself may also be a person who is appointed by the government under 8 (1) (d).

There's nothing that precludes that. Particularly when the composition of the board through a merit-based process that's not defined…. But it is defined by this board, for whose composition, again, is a minority of elected lawyers who are directors — that is, five directors who are elected directly from and among the lawyers.

This is the example for which there are significant possibilities of government interference here. With the way the composition of the board is structured, with the way that this merit-based process will be determined, with no prohibitions on or restrictions on a person who is appointed by government to serve as chair of the board, who then determines and leads the board in the sense of what a chair does, in terms of the actual governance process, which again will be determined by the board….

When we look at the appointment of the five initial directors, under 8 (1) (e), when it says the appointment of the five directors will be by "a majority of the other directors holding office," how will the initial five directors be appointed?

[5:00 p.m.]

DRAFT SEGMENT 033

Hon. N. Sharma: That process is set up in the transitional provision in section 223. Basically, the transitional board would be established through appointments by the existing societies.

For example, the Law Society would appoint four members, the notaries society would appoint one, the paralegals would appoint one, and the government would appoint one. That would be the makeup of the first transitional board, and then the transitional provision set up a process for holding the elections to fill out the board.

M. Lee: Madam Chair, because we were talking about the composition of the board and understanding how we even get to putting in effect 8(1)(e), it's important to understand how these five directors would be appointed under clause 8(1)(e). The Attorney General is addressing that by referring to the transitional provisions set out in clause 223 of Bill 21.

Under 223(2), there are two points there. One is if the members that the Attorney General set out are not appointed within two months after the date this section comes into force, the Attorney General may appoint the members after a merit-based process. There are three questions there.

One is: when will that section come into force? Number 2 is: what is the merit-based process the Attorney General would follow to appoint those members within the two months following that section coming into force?

This is a live question. Again as we've said, as I said during second reading and during the committee stage to date and today as well, in the face of the formal notice and communications that the Attorney General and the Premier have received that the Law Society and other associations intend to file a claim to question the constitutionality of Bill 21, if it passes…. That is going to take more than two months.

In the face of that litigation, will the Attorney General, by virtue of the transition period, be appointing directors to the regulatory board?

[5:05 p.m.]

DRAFT SEGMENT 034

Hon. N. Sharma: I'll start by saying that I believe that all participating professions in the single regulator project were committed to the idea of having a single regulator. With that, I have confidence that when it comes to the transitional provisions, even though we may disagree on portions of the bill, that the parties would come together on this idea of establishing the single regulator in a way that serves the public interest.

That being said, it's hard to speculate, because litigation takes different courses in different ways. If we were in that position, the Attorney General of that time, whoever it is, would have to decide the next steps taken.

I do think that there is a level of commitment from all professions on the single regulator model.

M. Lee: I just want to come back, before addressing the Attorney General's response, to: when is this section coming into force? What is the merit-based process that the Attorney General will follow if she has to exercise sub 223(2)?

Hon. N. Sharma: Okay, so the provisions would come into effect at royal assent.

We have the Crown agencies and board resourcing office, CABRO, that is responsible for many merit-based processes that government does, when it comes to all types of boards. I've no doubt that that process would be followed with respect to the appointment of anybody on this, if this provision was ever used.

M. Lee: Thanks for the first response, in terms of: on royal assent is the answer. Royal assent, of course, is expected tomorrow. Is that correct?

Hon. N. Sharma: Yeah, if the bill passes, that's what I would expect to happen tomorrow.

I will just say that we are very far down in the bill right now, with transitional provisions in section 223. I just seek the guidance of the Chair in that regard.

M. Lee: Really, as I was saying, I'm trying to access how the five directors would be appointed, because sub (8)(1)(e) says that five directors would be appointed. But how do you actually get to that point when the board hasn't actually been formed? That's the reason why the Attorney General herself referred to the transition period set out in 223.

[5:10 p.m.]

On the basis that this provision and transition is set out, that if the Law Society, the benchers, who will form a majority of the board…. We're talking four members appointed by the benchers of the Law Society, one member appointed by the directors of the Society of Notaries Public, one member appointed by the B.C. Paralegal Association and then one other member appointed by government.

Of the seven

DRAFT SEGMENT 035

who will form a majority of the board.

We're talking four members appointed by the benchers of the Law Society, one member appointed by the directors of the Society of Notaries Public, one member appointed by the B.C. Paralegal Association and then one other member appointed by government. Of the seven members, four of them are appointed by the benchers of the Law Society, the very organization, and the benchers themselves, that have signed the letter that have expressed grave concern on April 26 about this bill proceeding in the manner that it is.

I understand the Attorney General's comment, which is a general one about the recognition of a single regulator. Even though the Premier didn't give the opportunity, really, when he was Attorney General to the Law Society, to respond and review the recommendations in the Cayton report before the Attorney General, the Premier at the time said well we're just going to go this way. Same thing he said to the notaries public when they had their own alternatives about continuing with the Notaries Act we're going to go this way. Well, this way is a single regulator, which is what's expressed in Bill 21.

But the point about clause 8 is that it is fundamental to the concern expressed by the Law Society and other representation of legal organizations, regulatory or otherwise, about how self-regulation is being taken away and how the independence of legal profession is being undermined here. I think it is…. One word is naive for the Attorney General to say that believes that everybody will just get together after Bill 21 has passed and will continue along. Because that's the whole point. The whole point is that the government has been put on notice.

I'm not hearing at all that the government, the Attorney General…. Two months after royal assent starts tomorrow is going to be what? The middle of July. The Attorney General hasn't addressed the question as to whether she will proceed in the absence of the benchers themselves putting forward directors.

I cannot see how the Law Society would put forward directors for a single regulator when they're in litigation. Questioning the very regulatory model and the composition of the board. Why would they do that? Well, they might do it so that the Attorney General doesn't exercise her power under this bill under 223(2). That is what I'm hearing. The merit-based process that the government has said they won't oppose on the board, yet the Attorney General will under this provision.

Basically with this bill, whether the Law Society chooses to subsume themselves, in effect, through their transitional provision, under this new composition of a single regulatory board, which they've expressed fundamental concerns about for reasons that we've canvassed…. If they don't do that, the Attorney General has the power to merely appoint those members regardless and utilize what is the government's own merit-based process, which means, again, the composition of the board will then be government controlled.

Then this board, which is four directors who are lawyers out of the five and the other will now be eight directors appointed by government, five that are elected by the lawyers themselves, and then two from each of the notaries and the paralegals. We're definitely talking about the composition of the board at a 17 now to be a minority of elected lawyers — four appointed lawyers under the government's own appointment mechanism.

So this is the concern about clause 8. The way that it is expressed, the way that you even get the first formation of the board through the transitional measures. This is another example of the concern relating to government interference and influence on the single regulator — in the face of litigation, in the face of this very bill being challenged for the reason of the composition of the board.

[5:15 p.m.]

So again I ask: does the Attorney General not see the need to stand down this bill, not proceed, so that they're not in a situation where they're throwing the whole administration of justice in our province into disarray? Once this bill passes under this government's watch, this is going to throw the administration of justice in our province in disarray. Because now you have the Law Society suing the government

throwing the whole administration of justice in our province into disarray. Once this bill passes, under this government's watch, this is going to throw the administration of justice in our province in disarray.

Because now you have the Law Society suing the government for a bill that they see as unconstitutional.

Will the government not stand down this bill to have the discussion, to be clear about this mechanism around self-regulation, to ensure that the independence of the legal profession is not undermined, in the ways that the Law Society, the Canadian Bar Association and others have expressed, so we have clarity around this and we don't put our head in the sand, as the Premier and the Attorney General are doing?

Will she not pause this bill to enable that discussion to head off this litigation?

Hon. N. Sharma: The member asked whether or not we will stand the bill down.

What I will say is that I'm confident in the work that we've done that has led up to today with this bill, the conversations that we've had related to, particularly, board composition, how we ingrained independence of legal professionals within this bill, how we considered the current law and the perspectives of all professions, and how we considered access to justice and the potential that we could have to modernize the legal professions within this province.

And I think we landed in the right place.

M. Lee: We're spending the time we are on this particular provision, this clause, because clause 8 is, as I've been saying, a fundamental provision in Bill 21 that causes great concern amongst the legal profession that we've spoken to.

As the Attorney General had acknowledged, the Canadian Bar Association, B.C. branch, is there to engage with its members. We know from their letter dated yesterday, May 14, to the Attorney General that with the consultations they've done and the time that they've had on Bill 21, there are grave concerns about this.

The Attorney General may express that she is satisfied with where they are at. But the lawyers are not, in the legal profession. Furthermore, they still have the opportunity, of course, to take the government to court. Who knows whether lawyers will have the opportunity to do that in the future, to express the rights to ensure that we have administration of justice that is independent, impartial, fair and free from government interference and political interference, regardless of who is the elected government of the day. Who knows?

I think it is breathtaking, to say the least, that we have a government, in the face of what these legal professions are saying to the government, still proceeding, on the basis of the concerns that I've been trying to address on this particular clause as we work through the clause itself. Breathtaking is one word for it. Completely concerning.

This is the reason why this government has demonstrated, under this Premier, time and time again, a complete lack of respect for the rule of law, complete lack of respect for the judiciary — their own rules of court, to change the rules of evidence in the face to protect its chief litigant, ICBC, in so many ways.

[5:20 p.m.]

Now we have this Attorney General, under the Premier's leadership, bringing forward this bill and still ignoring the litigation that is going to come. I think that that is hazardous to a way for any government to be proceeding in this manner.

I have said that as we look at the appointments of the recommendations that are

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as hazardous a way for any government to be proceeding in this manner.

I have said that as we look at the appointments of the recommendations that are set out in (1)(d), there is language here about consulting the board "respecting the desired skills, attributes and experience of persons to be appointed," and, "(b) for the purpose of the appointment of a director who is an individual of a First Nation, seek nominations by First Nations."

How would the process be in terms of seeking nominations by First Nations?

Hon. N. Sharma: The provisions 8(4)(a) and (b) are clearly there to set out a process for the Attorney General to undertake when they're making their three appointments.

That is to ensure what I think all parties will want. That is that the new regulator will have the tools it needs to be successful. So (a) says that the Attorney General should consult with the board to ask what kind of skills are needed, attributes, experiences of persons so that any gaps could be filled by those appointments. This really points to the collaborative nature of that process set out.

The one about the nomination for First Nations for that position…. Likely we would do what we do with a lot of our work with First Nations. We would do a call-out to all nations governments and the First Nations Justice Council and seek applications for individuals that may be interested in serving in that capacity.

Clause 8 approved.

On clause 9.

M. Lee: As we were talking about…. We've talked about the appointment of roles on this board. The chair can be appointed by and among the directors. Again, in terms of the actual governance requirements, just to reconfirm, the actual governance protocols and mechanisms, board manuals, will be determined by the board. Is that correct?

[5:25 p.m.]

Hon. N. Sharma: Yes.

M. Lee: So how does the actual board, through the transition period, function in the absence of that

Hon. N. Sharma: Yes.

M. Lee: So how does the actual board, through the transition period, function in the absence of that governance manual?

Hon. N. Sharma: That would be up to the transitional board to determine, but I will note that in the transitional provisions is also the establishment of an advisory committee that would consist of the executive directors of the current regulators to help guide that transition.

M. Lee: I've made my point earlier about how the transition period may not be…. It may be defunct. It may not be able to function, given the litigation that will be taking place, so some of these points may well be moot in in terms of how that would actually occur. So if the advisory board, though, that's set out, presumably, in 225, includes the executive director of the Law Society and that executive director of the Law Society is not given any mandate by the benchers of the Law Society to participate in this, in view of the litigation, how will that advisory committee actually provide the kind of input so that the board could function?

Hon. N. Sharma: I would say that would be unfortunate. I can't speculate that that's even a possibility, and I would hope it wouldn't be, because we would need their voice in the transitional provisions to do that. Without that, their voice would be missing at the table.

M. Lee: This will obviously be something — I'll just have to ask the question — for the Attorney General to consider with her ministry. But in the face of the litigation that is coming as early as, possibly, tomorrow with royal assent, will the Attorney General stand down the next steps under this bill?

[S. Chant in the chair.]

Hon. N. Sharma: It's hard to speculate based on contents of litigation that I haven't seen the contents of. But it's our intention, as we've indicated since 2022 in our intentions paper, to move forward with the single-regulator model.

M. Lee: It is something that, as we look at the bill in this committee process…. We have three hours left now because of the closure that the government is bringing to this bill. It's important to understand the government's intentions here.

There are clear provisions that deal with the governance of this new board under clause 8 and clause 9, as we talk about powers and duties of the board. But how this board actually functions without the benefit of the transition process to get up and running, to appoint the further directors to be under the thumb of government…. If they don't appoint new directors — that is, the representative bodies, the Society of Notaries Public, for example, or the Law Society of British Columbia — the government will appoint these directors, and the government will continue to move forward.

The government will do it on the basis of their own merit-based process, which means, again, the board is not setting that merit basis. And the board is now continuing to function, going forward, on a basis where even the transitional advisory committee, under clause 225, of this bill may not be in place.

[5:30 p.m.]

So government will continue down this road in the face of litigation. And that presumably invites injunction applications to be made by the parties so that at least the dispute questioning the constitutionality of this bill is enabled or given time

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So government will continue down this road in the face of litigation. That presumably invites injunction applications to be made by the parties, so that at least the dispute questioning the constitutionality of this bill is given time and space to proceed without having a regulator come over top of the legal profession that's trying to sue the government.

Again, I've said it is breathtaking to understand that this government is proceeding in the face of this already, in terms of where we are in this committee process, to bring closure to this bill in order to pass the bill against the B.C. United opposition concerns.

Then it's communicating that even as it looks at these provisions that deal with the initial board, how it will function under clause 9 in terms of its powers and duties, that this government intends to continue to persist even in the face of litigation coming.

We can have a scenario where, of course, the new regulator stands itself up under government control completely. Because again, those five directors that we just reviewed under clause 8 are now appointed by government — in the absence and without the Law Society's input — and therefore now regulate the legal profession.

Is this the outcome that this government wants?

Hon. N. Sharma: I wouldn't be putting forward this bill if I didn't think it was in the public interest and that it would serve the interests of furthering the legal professions in B.C. We don't make public policy based on litigation threats. We base it on what we believe is better for the public. I'm confident that this bill is and that we balanced all of the interests, including independence of the lawyers, within it.

M. Lee: The Attorney General has made reference to the term "public interest" again. It is certainly utilized in clause 11 that we're coming up to, but we've talked about "risk of harm to the public" under clause 7.

I will just ask this question in the face of the use of the term "public interest" again. How is it that when the Attorney General's focused on public interest and access to justice, that that in any way involves eliminating the self-regulation of lawyers? How does the self-regulation of lawyers enable greater access to justice or is in the public interest? I'd like the Attorney General to explain that.

Hon. N. Sharma: As I think I've articulated in the various questions that the member has asked, we are not removing self-regulation in this province. This model is very much…. I think there were numerous examples where I answered questions saying: "That's not up to government. It's up to the new regulator." This is clearly a self-regulatory model.

I will note that Canada is one of the last jurisdictions in the Commonwealth to still have self-regulation for legal professionals. I think in places like the U.K., as an example, nobody would say that the independence of those lawyers is under threat. I think that would be a hard argument to make.

I'll just say that this does maintain a self-regulatory model, and we are not getting rid of that through this bill.

M. Lee: This is really where there is a big disconnect, for sure. Even when we look back at the intentions paper and the recognition of the importance of independence of lawyers, there is a disconnect in terms of how that is accomplished.

[5:35 p.m.]

We've been through clause 8. The Attorney General is basically saying that the access to justice…. Well, let me just rephrase the question, then. The access to justice and the establishment of a single regulator

the access to justice.

Let me just rephrase the question then. The access to justice and the establishment of a single regulator do not require the elimination of self-regulation of lawyers. Is that correct?

Hon. N. Sharma: Same answer as before. We are not removing self-regulation through this bill.

M. Lee: The Attorney General clearly fails to understand, certainly, the position of the Law Society and all of the other regulatory and representative legal profession organizations when she says that. So that's the position of this government.

But I think it does actually underline the point that the objectives of this bill relating to putting in place a single regulator, with the powers and duties of the board expressed under clause 9, do not require the elimination of self-regulation of the legal profession.

The Law Society of British Columbia and the representative bodies have said that that's the effect of this bill. The Attorney General says: "Well, no, it's not. Nothing's being eliminated here for self-regulation. There still is self-regulation." But I think, in one way, the Attorney General is at least acknowledging that the other objectives of this bill — greater access to justice and acting in the public interest of the province — do not require elimination of the self-regulation of lawyers.

And in effect, the way that the board is functioning, the way it's composed, the way that the chair can be appointed amongst the directors themselves and the fact that the board can appoint the tribunal chair — all the governance…. Both the composition of the board and the governance mechanisms are not necessary to ensure access to justice and acting in the public interest. Is that correct?

Hon. N. Sharma: Again, we are not removing a self-regulatory model for legal professionals in the province.

M. Lee: That's not my question though. My question is: the Attorney General has acknowledged….

The Chair: Sorry, recognizing the member.

M. Lee: Thank you, Madam Chair. The Attorney General has acknowledged that….

What I'm seeing and what I'm realizing here, of course, is that there's a disagreement. There's a disagreement as to whether self-regulation of lawyers, and undermining the independence of lawyers, the legal profession of the province, is undermined by Bill 21. That's going to be the subject of the litigation. There may be more points in litigation. I've not seen any parts of the claim. But I do understand that the constitutional challenge to this government will be around one of those elements.

But what I'm hearing the Attorney General say is that her position, on behalf of the Premier and this government, is that self-regulation is not being removed. There's clearly a disagreement there.

[5:40 p.m.]

Whatever that mechanism is that's a concern, that we're talking about in clause 8, clause 9 and the clauses that follow, including the oath of office in clause 11 and the transitional provisions that we've touched on, the merit-based selection process that we've touched on in subsequent clauses of this bill…. Whatever that governance mechanism is, it's not

The mechanism is…. That's a concern that we're talking about in clause 8, clause 9 and the clauses that follow, including the oath of office in clause 11, the transitional provisions that we've touched on and the merit-based selection process that we've touched on in subsequent clauses of this bill.

Whatever that governance mechanism is, it's not necessary for the objectives that the Attorney General's trying to accomplish relating to access to justice, which means a greater scope of practice for notaries and licensed paralegals, for example, the establishment of an Indigenous council and many of the other initiatives that are set out in this bill. It is not necessary to change the governance structure in order to enable those objectives. Is that not correct?

Hon. N. Sharma: Again, I'll say that we have this difference of opinion. This bill does not remove self-regulation in this province. The composition of the board is very carefully considered to promote not only the modernization of legal professionals, the singe-regulator model, but also access to justice in the province. They are intricately intertwined in terms of representation of the notaries, the paralegals, the lawyers, making sure Indigenous voices are included in that conversation, saying that one of the principles is to promote the representation of underrepresented groups traditionally.

The act itself is an instrument that will promote access to justice in the province. It's embedded in many of the provisions, including the government's. I think an important part of that is a representation of all legal professionals on that board, along with voices that we hope would help to promote that discussion in the province.

I just note that there are many lawyers that support these changes, and I've referred to them already in the course of our discussion. They see this as a very key tool, including Access Pro Bono. They see this as a key tool for promoting access to justice in this province, and so do I. I think it's going to bring about the regulatory components that are needed for that to accompany all the other steps we're taking to promote access to justice in the province.

M. Lee: Access Pro Bono is an organization that was established under the Law Society and the Law Society foundation. There are other examples that we talked about at second reading as well as in committee stage.

The access-to-justice initiatives under Bill 21 can move forward without the elimination, at least I say, of the self-regulation by lawyers. The voices and the representative nature that are set out in the powers and duties of the board suggest, of course, that there is a transfer of power and duties in terms of the legal profession. This is the question. This is the concern.

I still do not see how this transfer of power and duties to this board, which is of the composition that we have discussed at clause 8, will enable greater access to justice. Can the Attorney General again elaborate on how this will enable better access to justice?

Hon. N. Sharma: I believe I have answered this, particularly on clause 9, which is one small component of the whole bill where there are tools in there that are related to answering that member's questions.

M. Lee: As set out in clause 9(4)(d), "the duty to appoint a tribunal chair…." This will not be something that the board may delegate to the chief executive officer or to a committee of the board. So this duty to appoint a tribunal chair must be by the board itself. Is that correct?

[5:45 p.m.]

Hon. N. Sharma: Yes.

The Chair: Through the Chair.

M. Lee: Why is that?

Hon. N. Sharma: Yes.

M. Lee: Why is that?

The Chair: Through the chair, Member.

M. Lee: Why is that?

The Chair: Thank you.

Hon. N. Sharma: The reason for these exceptions that are (4)(a) to (d) because it was considered that there are certain very key decisions that the whole of the board should be involved deciding. If we remember the discussions we talked about in the terms of diversity of professions, diversity of perspectives and the composition that we feel would add to that decision-making process.

Clause 9 approved.

On clause 10.

M. Lee: Clause 10 contemplates the establishment of an executive committee, and it says that the executive committee must consist of no more than five members. One of those five members is a lawyer. Again, that person who is a lawyer can be a director who is not elected. Is that correct?

Hon. N. Sharma: Yes.

M. Lee: When we look at the executive committee composition, again, there are no elected lawyers on the executive committee. That is certainly a possibility.

Hon. N. Sharma: That's possible, but that would be another decision. Just like their chair that would be up to the board.

M. Lee: Up to the board for whom, again, five elected directors are the minority out of 17. We've got 17 directors, five who are elected. They will establish the executive committee, five members of the board. And as the Attorney General says, it'll be up to the board. Well, exactly. The point is that there's only five elected members from the legal profession on the board itself.

So when we talk about the executive committee composition, one of those directors who is a lawyer clearly could be someone who's just appointed, so to speak. Not someone who is elected, meaning one of the five elected. And the quorum requirement of the executive committee is four members. But we can have a situation as well where the executive committee can make decisions and operate without any lawyer present. Is that correct?

Hon. N. Sharma: I just want to note that the formation of an executive committee is a very common practice with respect to board governance. The reason before it is that there are times that executive committees can be useful, particularly when boards are quite large, but they also would help lead to the efficiency of board operations.

The board itself would be able to set up the requirements of this. I think, again, in this conversation, we're hearing a little bit of, I would say, disparaging comments related to the composition and how a paralegal or notary might fulfil their role on the executive committee. I expect they would do so with their utmost professionalism and uphold what's required of them under the rules set by that board.

[5:50 p.m.]

If the board itself has appointed these members to sit on the executive committee, I have no doubt that

or notary might fulfil their role on the executive committee. I expect they would do so with their utmost professionalism and uphold what's required of them under the rules set by that board.

If the board itself has appointed these members to sit on the executive committee, I have no doubt that each and every one of those members would fulfil their requirements in accordance with the roles and responsibilities in their duties, whether they're a lawyer or not. The quorum for that committee is four, so it would take four people of that composition of that committee in order for them to meet.

M. Lee: Perhaps the Attorney General in the next session will be bringing forward amendments to the Attorney General Act so she can amend her own duties and powers. The reason why I'm asking questions to the Attorney General is because under the act, which…. She has said she is satisfied that she's fulfilling and meeting all the duties and responsibilities, her own duties and responsibilities as the Attorney General of our province.

I think it's suggestive to respond in the manner in which she's responding. Clearly, as I've explained, I have a focus on the legal profession in the sense that the chief justice of our province has said you can't have an independent judiciary without an independent bar. He's not saying you can't have an independent judiciary without an independent fill-in-the-blank. So I don't understand, myself, why the Attorney General will insist on suggesting areas of non-focus as being areas that I ought to be focused more on.

I'm focused on the legal profession, for good reason, and she should be too. It's not about, in the words that the Attorney General has utilized at the committee stage, the protection of lawyers. It's the protection of our judicial system, the independence of the legal profession, for good reason — from this government or any government that will be in power in office in the months to come — that we need to have a legal profession and a judiciary that is free of government interference.

Because judges are typically selected, appointed, from the ranks of lawyers, this is why it's connected. This is the focus when I talk about the fact that an executive committee can function with the powers and duties of the board, other than what is set out in subclause 9(4) — that is, there are specific responsibilities for which a board cannot designate or delegate that power of duty to a committee of the board.

Every other duty and power of the board can be provided to an executive committee if the board so chooses. And that executive committee can function clearly as a committee of four members out of 17. So now we're down to the chair of the board, who can be someone who's appointed by government. We've talked about that. It's a director who is a notary public, a director who is elected or appointed under 8(1)(c), which refers to regulated paralegals.

Again, if the total number of regulated paralegals is less than 50, it's appointed by a majority of other directors holding office. If the total number of regulated paralegals in British Columbia is 50 or more, elected by or from among regulated paralegals. And the other director is someone who's appointed by government. So we can have a chair of the board who is appointed by government, another director who's appointed by government.

So two directors are appointed by government out of an executive committee of four that can function as a quorum — that is, with a notary public and a paralegal. This is the self-regulation model that this government is suggesting is self-regulation of lawyers, when you can have an executive committee of that composition — again, two members of the executive committee. The chair of the board can be a person who is appointed by government, one of the three; a director who is appointed also by government, one of the three.

[5:55 p.m.]

That's what this is setting out in subclause 10(2): one other director who's a notary public, one director who is a regulated paralegal, under sub (c), and no lawyer present, whether the person is elected — which is the concern that I first raised — or appointed. But let's just stick with elected. This is what the Attorney General is saying is

one director who is a regulated paralegal under sub (c) and no lawyer present, whether the person is elected, which is the concern that I first raised, or appointed. But let's just stick with elected. This is

what the Attorney General is saying is self-regulation. How can that possibly be self-regulation when there's not even a lawyer present on that executive committee with the quorum requirement being four or five members?

Hon. N. Sharma: I just want to say that I think the member and our discussion…. We have a difference of opinion. But repeatedly, I think, there's a failure to connect a government's ability and a power to reach into a self-regulated body and insert themselves in decision-making that would affect the independence of a lawyer to represent their client. The difference between elected and appointed doesn't give the government any more authority to reach into the governance decisions and make those decisions for them.

We went over already how the appointed members are selected by the directors that are elected and the three appointed. This idea that the composition of the boards is giving government extra power to interfere or influence decision-making I just would say is not made out by the facts of this bill.

Another protection that's in this that is noted right in there is that the board may establish an executive committee. They don't have to if they don't want to. The majority of lawyers that are on the actual board can make a decision of whether or not they want to use this tool as a governance tool that's pretty common in a lot of governance structures to do that or not. If it's a valuable part in their decision-making process or that period of time that they're going through, it gives them that ability. It doesn't require them to do it.

Then I will say, also, in this composition, there was only one member that's appointed by government. Even with that, appointments by government, which happen often in independent boards…. Their duties are to represent their position and what they pledged to represent as a director to that board. So I think that this idea that the structure is giving government more power to reach in and make decisions on behalf of the regulatory body is just simply not made out.

M. Lee: This is the reason why, of course, we've taken the time we've had to try and explain, question and probe to the Attorney General where these concerns lie and, with the bill itself, certainly as to how the government is presenting this bill in the first place in the face of the concerns that we've talked about.

We've talked about, at this committee session, clause 70, and we've talked a bit about the Attorney General's view on risk of harm to the public. This is certainly something to be defined by the regulator. That's what the Attorney General said. That will be up to the regulator to decide how to regulate the practice of each legal profession in a manner that is transparent, timely and proportionate to the risk of harm to the public posed by the practice.

When I asked the question as to, "What does that mean? What is the risk of harm to the public posed by the practice?" the Attorney General made some general references to things that are already dealt with under the Law Society of British Columbia, for example, under the current Legal Professions Act. But she did indicate that it will be up to the single regulator to determine where, how, and how to deal with the regulation of the practice in accordance with ensuring and being mindful, proportionate to the risk of harm, which is not defined. It is up to the board to define that.

This is the reason why we went through clause 8 in terms of the nature of the board itself. Three directors appointed by government under 8(1)(d). When you connect that up with 10(2)(a) and (e)…. As I asked before, the chair of the board under clause 9(2) can be a director who's been appointed by government. There's no restriction on that. So when it says the chair of the board, it can be one of those.

[6:00 p.m.]

I think that the nature of appointments by governments of designated directors on public bodies might typically see those who are appointed by government directly to carry the mandate for it. It would not be uncommon to see a person who's been appointed by government, one of the three directors, serve as chair of the board or, in this case, the chair of

might typically see those who are appointed by government directly to carry the mandate for it. It would not be uncommon to see a person who has been appointed by government, one of the three directors, to serve as chair of the board, or in this case, the chair of the board of the regulator. It's possible.

So as I say, the way that the executive committee composition is set out, clearly the chair of the board can be a government appointee, and (e) is saying specifically that it is a director appointed by government. Now we are going from three directors, out of 17, who are appointed by government to possibly two out of five, and two out of four because the quorum requirement is set as four members.

Certainly in my 20 years of corporate governance advising Crown corporations and statutory organizations in our province of British Columbia, I certainly understand how boards govern themselves at a Crown corporation level and on a statutory basis. I've done that for 20 years, prior to joining this House. I do understand how boards can function.

When I look at this bill and it says "may establish…." As the Attorney General has already indicated, it'll be up to the board, but it is a common practice to have an executive committee. When I look at the powers and the duties that we've covered in clause 9 just now, those are general powers and duties, not to appoint a chief executive officer, not the tribunal chair, not to pass resolutions and make rules or establish other committees of the board.

There are other decisions, of course, the executive committee can make. Those are set out in the additional clauses set out in this bill, to actually implement the actual clauses of the bill. For example, when we come to clause 11, I don't see "the oath of an office must be established by the board." Who knows whether that falls within a rule or not, or a resolution, but the fact of the matter is, on its face, it doesn't fall into those words.

That's just an example that comes up. Is that something that the executive committee will determine in terms of what is the public interest? Are they going to determine what the test for "risk of harm to the public" means from a policy basis? This is talking about rules and resolutions. What about policies? What about code of conduct? What about the board manual itself? Those are not necessarily resolutions or even rules.

The scope of the authority of the executive committee is fairly broad because the only thing that's been set out in clause 9 (4) is restrictive. It's only the list of four items that I can see — "…except for the following."

In fact, it does say: "…the board may delegate any power or duty of the board or the regulator to the chief executive officer or to a committee of the board…." Well, the only committee of the board that's mentioned in this bill — that I can see, at least, in the clauses reviewed to date — is the executive committee itself. So other than the chief executive officer, the committee of the board that may be delegated these powers and duties is actually the executive committee.

Again, I don't see how this Attorney General can say that this board, and this mechanism of Bill 21, even as we look at clause 8, 9 and 10…. I know we have a disagreement about the elimination of self-regulation, but this may be why — because she cannot understand or see how even the composition of the executive committee could cause a challenge to lawyers. Because a lawyer may not even be part of the decision that is made by the executive committee, because they're not required as part of the quorum requirement.

Again, I'll just give another opportunity to the Attorney General to see any of the concerns that I've expressed. Does she not see those concerns at all relating to the composition of the executive committee and how it actually does remove self-regulation for lawyers?

The Chair: At this point, we will take a ten-minute recess. I ask everybody to be back in their seats at 6:15, please. Thank you.

The committee recessed from 6:04 p.m. to 6:18 p.m.

The committee recessed from 6:04 p.m. to 6:18 p.m.

[S. Chant in the chair.]

The Chair: Okay, I call the committee back to order. We are on clause 10.

Hon. N. Sharma: I'll just note a few reasons why I don't have concerns that the member raised in the question.

Under section 9, it says that the board may establish committees to assist the board. So there's a power in there to establish committees, if they want to, including the composition of those committees.

With respect to section 10 that we're on, the board, which is a majority lawyer board, can decide if they want to establish that executive committee and who sits on that committee. It gives them that flexibility to decide.

M. Lee: I appreciate what the Attorney General is saying in terms of what is set out in clause 9 and clause 10, but that is my point, though — the point being that the board may establish committees to assist the board, under sub 9(3). The board may "delegate any power or duty of the board or the regulator…to a committee of the board," except for the following things that we've talked about. The board may impose conditions and restrictions on any delegation made.

[6:20 p.m.]

Other than that, when it comes to the executive committee itself, the composition is unchanged. In fact, once the board "may" establish an executive committee, if it chooses to do so, the executive committee "must" consist of the following — not "may." It "must consist of no more than 5 members," of whom the following five individuals or members of the board will be the composition.

It doesn't say

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executive committee, if it chooses to do so, the executive committee must consist of the following, not may. It must consist of no more than five members of whom the following five individuals or members of the board will be the composition. So it doesn't say "may" there either, though, I would say. It says it can't be more than five members, and it must be this, as we've talked about, and the quorum is, not may be, four members.

So I ask again for the Attorney General to address my concern that what that is setting up — and when you read clauses 9 and 10, as we just both did — is that it actually enables an executive committee to be comprised of five members as set out. I've gone through that composition scenario. The fact is that the quorum requirement is only four members. That could result in two government-appointed members, one of whom is the chair of the board, a licensed regulated paralegal and a director who is a notary public making decisions for that executive committee, because that's what is required to form quorum.

Hon. N. Sharma: I'll just note that in a situation where the board is as concerned, as the member raises, about having a notary and a paralegal and an appointee in an executive committee and only one lawyer…. If that, in the view of the board, in that extreme circumstance, is affecting the independence of a lawyer to represent their client, then the decision that they would make is not to have the executive committee, and then they have a power to strike other committees.

But I will say that I've already noted my disagreement in the fact that having a notary or a paralegal or another legal professional that is also interested in protecting the independence of legal professionals on there would be somehow against lawyers. I would just say that I don't think that's true on its face, and I wouldn't expect that notaries or paralegals would say that that was true.

I just want to quote Alice Woolley, who is now a judge and a former scholar and has written extensively on regulation and independence. She has this to say: "Ultimately, I would argue that there is no particular virtue or vice in having non-lawyers or lawyers involved in the regulatory process. The key point is that whoever is involved should be committed to all of its objectives without undue emphasis on one over the other. That suggests perhaps the desirability of both lawyers and non-lawyers being involved with emphasis on avoiding constituency-type governance structures."

M. Lee: I appreciate that there are points of view on governance and how regulators ought to be and that perspective that the Attorney General shared. But I want to come back to a comment that the Attorney General made before sharing that quote. We're talking about self-regulation, though. My question relates to how this composition of the executive committee, the quorum requirement that we're

talking about in clause 10 of this bill, does take away self-regulation for lawyers, because there's no lawyer present at the decision. How can that possibly be self…?

We're talking about self-regulation, right? We're talking about self-regulation, which means by having a majority of the regulatory board being elected by the members of the legal profession. So we've already gone through that in clause 8. But here we're talking about on the executive committee not even having a lawyer present for the purpose of the quorum requirement. So I can't see how this Attorney General or any Attorney General can justify, rationalize, how that would be self-regulation.

Again, to the Attorney General, how can she see…? Or in terms of addressing the concern around self-regulation, which is lawyers' self-regulation, how can this possibly be functioning to meet that requirement?

Hon. N. Sharma: I just want to say that there is no common view that self-regulation means what the member describes, that it has to be a majority of elected lawyers in order to promote the independence of the bar.

[6:25 p.m.]

I don't think that's a commonly held legal view or a commonly held view in government structures, including the person that I quoted just now in my previous answer. But self-regulation is the ability of the profession to regulate itself. And in this case, in a single regulator, it's the professions, so the paralegals and notaries and the lawyers

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view or a commonly held view in government structures, including the person that I quoted just now, in my previous answer. But self-regulation is the ability of the profession to regulate itself, and in this case, in a single regulator, it's the professions. So the paralegals and notaries and the lawyers set up their own rules and standards and discipline and all of the things that would keep their independence and not have government making those decisions for them, and that's clearly the model that's in this bill and that we've put forward.

M. Lee: Again, here's the nub of the discussion. When the Attorney General says there's no common understood view…. Well, this is the view, of course, expressed by the Canadian Bar Association, B.C. branch, the Trial Lawyers Association of British Columbia, the Law Society of British Columbia. These are three main bodies that are expressing the view that self-regulation of lawyers needs to be preserved, certainly, and maintained.

That means the election of the regulatory body, a majority of those members, those directors, directly from lawyers themselves. But even as we've had that debate, and the Attorney General still continues not to accept that view that's being expressed and that will be expressed in the constitutional challenge to this bill…. Even putting that aside, I'm saying, here, in the executive committee example, that there's not even a lawyer present.

Why is it that an executive committee can function based on the fact that…? Okay, two of the three legal professions are represented on the executive committee with the quorum requirement that it is. It could say the quorum of the executive committee is four members, provided that one of the four members is a lawyer, one of the members is a notary public and one is a regulated paralegal. That would be an example of ensuring that there was self-regulation on the executive committee, but it doesn't actually say that.

So the potential of having a board chair who is someone who is appointed by government, doesn't have to be a lawyer, can be a board chair…. Under (e), it's, again, a director appointed by the Lieutenant-Governor-in-Council, doesn't have to be a lawyer. It doesn't say that. It says just appointed by Lieutenant-Governor-in-Council, as three directors may be under clause 8(1)(d). So you can have the result where there is no lawyer part of that executive committee decision because of the quorum requirement being set what it is without defining who makes up the four members that constitute quorum for this executive committee.

So that's what I mean. I hope that the Attorney General is understanding the point that I've been trying to make to her about how this cannot possibly be seen as self-regulation for lawyers. There's no possible way.

Hon. N. Sharma: I do understand what the member is asking and saying, and I disagree, because I think it's not based on the composition of the bill or the provisions that we are talking about.

The board, if they wanted to, can strike an executive committee. It's one decision that's in control of the board. The composition of that committee could be up to three lawyers. That is the chair of the board, the director who is a lawyer and the appointed member of the Lieutenant-Governor-in-Council. Those three could be lawyers if that's the choice of the board.

I guess I disagree with the member that this creates a situation where, barring one lawyer not showing up at an executive meeting, it would crumble the independence of the bar and their ability to represent their clients with that level of independence, particularly because all of these decisions are in the control of the board.

M. Lee: We're talking about the regulator itself. We're not talking about individual decisions that are going to get in between a client and a lawyer necessarily, unless we're talking about a particular review decision through the tribunal, the details of the bill to come. But we're talking about what defines public interest, what defines risk of harm to the public posed by the practice. We're talking about the regulation of the profession itself.

[6:30 p.m.]

That's what clause 7(d) says: "Regulating the practice of each legal profession in a manner that is transparent, timely and proportionate to the risk of harm to the public posed by the practice." That is regulation of the profession. So when we're talking about self-regulation, we're talking about the ability of lawyers to self-regulate their own profession.

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transparent, timely and proportionate to the risk of harm to the public posed by the practice. That is the regulation of the profession. So when we're talking about self-regulation, we're talking about the ability of lawyers to self-regulate their own profession.

The Attorney General refuses to accept the point that I'm making, which is structured…. I'm only reading through the bill the way the bill reads. The Attorney General can construct another scenario, clearly — and I don't disagree — that amongst the membership of the board, there can be lawyers that are appointed to the executive committee. That is clearly one possibility. The possibility I'm getting at, though, is the opposite possibility, which is also true. So this government has set up a mechanism that it's possible where lawyers will not be part of executive committee decisions because of the quorum requirement.

I can see why we're at where we're at right now. There's been a complete lack of understanding and appreciation for the position of the Law Society, the Canadian Bar Association, the trial lawyers, any of these other organizations that I can only imagine because I wasn't part of these discussions that were under NDAs.

This is the reason why there needs to be a broader consultation, because clearly there's a real lack of understanding. I can't even get through these provisions to have the Attorney General understand the concerns that I'm trying to express because there is a fundamental disconnect. That disconnect is going to be subject of litigation.

Why this government continues to proceed with that fundamental disconnect at play when we can't even get through provisions that recognize the concern of what is going to be subject of litigation, a constitutional challenge to this bill, is merely demonstrating, example after example, clause after clause of this bill, how defective this bill is.

I wish we had more time, but the government has brought closure in two more hours. This is something that's fundamental to the legal profession and the administration of justice in our province.

I don't have any more questions on clause 10.

Clause 10 approved.

On clause 11.

M. Lee: On clause 11, I would ask the Attorney General to consider what her understanding of public interest is as defined under the Legal Profession Act, the current one.

Hon. N. Sharma: The term "public interest" is used in the current Legal Profession Act, and it's not defined. In the Cayton report that was issued by the Law Society, Cayton said it's notoriously hard to define public interest because it is contextual and dependent very much on the evolving nature of issues and time periods and the exact issue that is being looked at. So even the current Law Society, in practice, does not have a definition of public interest.

[6:35 p.m.]

It is a common practice to not define public interest, and we have held that practice. We are entrusting the regulator, including our guiding principles, to help give context to inform the idea of public interest. But we are trusting the regulator to do the work of understanding

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It is a common practice to not define public interest. We have held that practice. We are entrusting the regulator, including…. Our guiding principles help give context to inform the idea of public interest. But we are trusting the regulator to do the work of understanding and seeing when something impacts the public interest as situations and things evolve.

M. Lee: Under section 3 of the current Legal Profession Act, it says:

> "It is the object and duty of the society to uphold and protect the public interest in the administration of justice by (a) preserving and protecting the rights and freedoms of all persons, (b) ensuring the independence" — independence — "integrity, honour and competence of lawyers, (c) establishing standards and programs for the education, professional responsibility and competence of lawyers and of applicants for call and admission, (d) regulating the practice of law, and (e) supporting and assisting lawyers, articled students and lawyers of other jurisdictions who are permitted to practise law in British Columbia in fulfilling their duties in the practice of law."

Clearly, under the current Legal Profession Act, there's an application of the importance of upholding and protecting the public interest. Here, when we look at clause 11, that requirement to uphold and protect the public interest is not even there.

It says: "The board must establish an oath of office for directors that must include a commitment to act in the public interest." But the words that go beyond the commitment are the public interest in the administration of justice.

Is that no longer a concern for this government, that the public interest in the administration of justice is fundamentally important under the current Legal Profession Act? Under this proposed Bill 21, there is no commitment to the administration of justice when we talk about public interest.

Hon. N. Sharma: This question was directly asked and answered when we dealt with clause 6, by the previous member, where I explained administrative justice and what that change was about.

M. Lee: But we are on Clause 11, and it uses the term "public interest." This is the oath that is going to be established by the board for directors, presumably all directors, that there must be a commitment to act in the public interest. Clause 6 says: "The regulator must exercise its powers and perform its duties under this Act in the public interest."

In either case, when we're talking about the recognition of the importance of administration of justice by the directors who are directing the regulator, to whom the chief executive officer is reporting, from whom the board may delegate powers or duties to the chief executive officer, there is no mention of administration of justice as part of that oath.

So I'm asking the Attorney General: why is that the case?

Hon. N. Sharma: We did talk about this in quite big detail with the member from Abbotsford, under section 6, on why we stopped using the administrative justice. It's not a matter of not caring or not seeing that as important. It's a matter of it being a term that is not modern in the sense where it's not defined, it's not clear, it's understood differently by people, and it lacks a solid way to apply it.

[6:40 p.m.]

The current benchers oath does not even reference administration of justice as a term. So we didn't feel a need to put it in there and we have changed that, removed that language from both 6 and 11.

M. Lee: I guess

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The current benchers' oath does not even reference administration of justice as a term in the current benchers' oath. So we didn't feel a need to put it in there, and we have removed that language from both 6 and 11.

M. Lee: I guess my question that I posed earlier about whether amendments would be brought forward by this government if it's re-elected, to the Attorney General Act, will be coming. If the Attorney General doesn't know what the words "administration of justice" mean and how it could be applied in the context of regulation of the legal professions of our province, which underpin our judiciary, how does she actually meet her duties and powers under the Attorney General Act, which under 2(c) says: "must superintend all matters connected with the administration of justice in British Columbia that are not within the jurisdiction of the government of Canada"?

I know I talk all the time about the importance of the chief legal officer of this province, certainly when the Premier was Attorney General. It explains a lot of things as to why this government doesn't seem to care at all about administration of justice. It doesn't want to define it. It doesn't want to use the term in the very bill that regulates the legal professions. How is that possible? Is the Attorney General suggesting that the administration of justice used in her own act that gives her powers and duties and responsibilities has no meaning?

Hon. N. Sharma: Although I appreciate that the member is going to great lengths to try to explain my role to me and what the Attorney General Act says, I can assure him that I have no need for that type of explanation. I'm fully aware of my roles and responsibilities with respect to my position and also the content of this bill. Again, the member seems to repeatedly say that I don't understand what he's saying. I do understand clearly. I just don't agree with it.

I already mentioned how we removed administrative justice. It's got nothing to do with what I understand as Attorney General. It has to do with what you put in a bill so the public will understand what it means to have the powers under this bill.

M. Lee: This bill, of course, is speaking not just to the public but speaking to the regulator and the board who has to operate under this bill.

The more we talk about each clause of this bill, the more concerned I get about the Attorney General's own understanding about the administration of justice, her role to protect the administration of justice and the public interest — what it means under the current Legal Professions Act.

It's no wonder that we've ended up with a bill like this. So I cannot understand why, when we look at the current Legal Professions Act, which talks about the importance of upholding and protecting the public interest in the administration of justice by preserving and protecting the rights and freedoms of all persons…. Well, I would have thought that preserving and protecting the rights and freedoms of all persons is understandable by the public.

I think the second component, of ensuring the independence, integrity and honour and competence of lawyers clearly is not understood. Even though the Attorney General recognizes the word "independence," as we've said throughout on Bill 21, it undermines the independence of lawyers. That may well be the reason why the independence, integrity and honour and competence of lawyers, or even the legal profession, is also not here.

Was there any consideration in terms of setting out the description of the oath of office to at least include and incorporate parts of what's in the Legal Profession Act? And if not, why is that the case? Why were these important principles, objects and duties eliminated when it comes to the drafting of clause 11?

[6:45 p.m.]

Hon. N. Sharma: We spoke about this at length when we were at clause 6. The reason we spoke about it at clause 6 is…. Clause 6 very clearly defines the duties of the regulator. One of those duties is to ensure the independence of licensees.

M. Lee: So it's not a duty, though, of a director to ensure the independence of licensees.

Hon. N. Sharma: I think I would say to this…. Putting it as a duty of the regulator quite specifically is the stronger position than under the oath.

The current oath of the benchers, I'm advised, doesn't talk about the Minister of Justice or the independence of the licensees as a core principle. Under section 5(b), the regulator is the board. It's in a lot of ways that it's clear that it is protected. We would expect that the regulator, once they define that oath of office, will have the tools necessary to make sure all of these elements are put into that oath of office.

Clause 11 approved.

On clause 12.

M. Lee: Clause 12(1) sets term limits of no more than three years and may not serve more than six consecutive years.

A tribunal chair is someone who is a former director of the board. Is that correct?

[6:50 p.m.]

Hon. N. Sharma: That's not correct. This section is particularly about board members. It doesn't talk about tribunal members.

M. Lee: We're just talking about term limits here. There are terms of other roles

correct. This section is particularly about board members; it doesn't talk about tribunal members.

M. Lee: We're just talking about term limits here, and there are terms of other roles with this regulator. I'm just confirming, for these term limits on directors, that…. Well, put another way, the term limits for directors in clause 12 do not apply to the tribunal chair. Is that correct?

Hon. N. Sharma: That's dealt with — that particular question that the member has — in section 96, where it says that a director is not eligible to be a tribunal member for at least a period of a year.

M. Lee: "…until one year after…the director ceases to be a director" — that's what it says. So to be clear, that means that the tribunal chair is not a director. Is that correct?

Hon. N. Sharma: That's right.

Clause 12 approved.

On clause 13.

M. Lee: This clause, 13, deals with the removal of directors, which is a pretty important role or power. It says the director who contravenes the oath of office…. What components…? On what grounds would a director be removed for contravening the oath of office, given that it's not known?

Hon. N. Sharma: This provision gives guidance to the board, but it doesn't dictate when the board may have a situation that requires the removal of a director. It is a practice of good governance to have

that ability, in the instance that there is a director, as in 13(2), where some actions are "…sufficiently serious to justify the director's removal." Under the board's consideration, this is a power that they can use. Under 13, it says that "the board may remove a director…" if it sees that it's a necessary thing.

M. Lee: This is the reason why, with the lack of definition around the oath of office, it isn't relating to public interest in respect of the administration of justice or protecting or preserving the rights and freedoms of all persons, ensuring the independence and integrity, honour and competence of lawyers or legal professionals. Without some of these key components, it is an ill-defined, not defined, oath of office.

This bill, under clause 13, is providing to the board the power to remove a director, which includes directors that are elected by lawyers. Again, the composition of the board, under sub 8.1(a) is lawyers that may well be directors, of course, elected by the legal profession, who can be removed for an oath of office that is unclear, undefined and not relating to the administration of justice.

There is no understanding or appreciation for the importance of that, or even protecting and preserving the rights and freedoms of all parties — which does speak to the importance of independence. When we talk about government control and government influence, this is another example where directors, even if they're elected by the legal profession, can be removed in some way because there's a contravention of an oath of office that has not been defined.

[6:55 p.m.]

The oath of office, as we went through in clause 11, does away with current provisions that set out the importance of upholding and protecting the public interest in the administration of justice — yet another example of how this framework, which this government is proceeding with, enables greater government interference — well, interference, in the sense that the director can be removed.

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of justice. Yet another example of how this framework that this government is proceeding with enables greater government interference — well, interference in the sense that the director can't be removed.

There's a lack of certainty here, certainly, under this oath of office. We don't know what it is. We don't know why it has been changed in the manner that it has.

What are the other components of the oath of office, other than including a commitment to act in the public interest?

Hon. N. Sharma: I'll just say that I find the line of questioning a little bit…. It lacks clarity, to me, because in some situations, the member is asking that we reach in and define things in a stronger way as government and dictate to the board what certain things mean, and in other ways, he's saying that the whole bill is designed for too much government overreach and too much power.

We've been in this discussion for different sections. I've said clearly that this is something that we're leaving up to the board and the regulator to decide, which, in my view, is an example of the government saying: "It's not our job. It's your job to do it."

I think this question that is currently before me is premised on the idea that no government should exactly set out an oath of office and define what the duties are and be more prescriptive about when you can remove, and if you can remove, a director, which I would suggest would be government overreach. We decided not to go in that direction. We are leaving this up to the board to decide, including what the content of the oath of office is.

M. Lee: The Attorney General has just proven my point. I'm talking about the current provisions under the Legal Profession Act. That's what is already set out under the laws of our province. Her act that governs herself talks about the importance of the administration of justice. These are the words that are in the Legal Profession Act itself now. Those words are removed. My point is: why has that been removed?

I asked her the question on clause 11. My concern is that the composition of the board under clause 8 sets it up where there can be government interference. And because the oath of office is not even defined…. It's defined in a better way…. The objects and duties of the Law Society, the legal profession,

are set out under section 3 of the current Legal Profession Act. That is being eliminated by this government — eliminated. This gives greater flexibility, lack of definition, for this board to operate in.

Again, as I said before, as far as I can see, the executive committee — for which there could be no lawyer present, because of the quorum requirement: four members — could set that oath of office. That executive committee could determine the oath of office. There could be not even any lawyer involved.

My concern is the fact that a director who's elected by the legal profession — the five of the 17, the minority — can be removed for lack of clarity around an oath of office that's not even defined in this bill, particularly when in the current Legal Profession Act, we have clarity in what that means. We have clarity around the administration of justice.

Administration of justice is not even part of this anymore. It's not even there in this bill. It doesn't matter.

The more questions I ask at this committee stage, it only raises more and more concerns about Bill 21 — every single provision.

As we look at the code of conduct for directors established under section 18, "Code of conduct and conflicts of interest"…. When I look at section 18, the code of conduct, we see that it is relating to policies and procedures relating to the following: "…identification and disclosure of conflicts of interest."

[7:00 p.m.]

What else can a director be found to be removed as a director for contravening a code of conduct other than a conflict of interest?

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can a director be found to be removed as a director for contravening a code of conduct other than a conflict of interest?

Hon. N. Sharma: Again, this is left up to the board with the guidance of this act that is similar to existing provisions in the Legal Profession Act. So the subsection (1) has to do with the code of conduct that's developed by the directors themselves. So that is under section 18. That code of conduct will set what's expected of a director of that board.

And the next section (b) is related to…. We would expect, if you're a licensee, whether you're paralegal — once there are registered paralegals — the notaries, our lawyer, and you breach your own professional code of conduct…. That would be pretty serious if you're sitting on the self-regulating body. That would be a reason for removal and bankruptcy.

These are similar to, I think, provisions in the current one but it gives the power to the board to do that but also gives them the flexibility to establish their code of conduct with respect to each other.

M. Lee: Focus though on 13(1)(a) which says code of conduct for directors established under section 18. When I look at section 18, there is no guidance given in the bill to what the code of conduct must include. So I'm asking: other than dealing with conflicts of interest, what other elements would the code of conduct established by the board that a director could be found to contravene? What other elements were expected in that code of conduct?

Hon. N. Sharma: Just to correct something I said, there's no current provision like this in the current Legal Profession Act but the Cayton report recommended something like this. So we looked to the current code of conduct to give some examples.

[7:05 p.m.]

Although it's not certain, I suspect they would continue in a new code of conduct developed by the board itself, and they would include disclosure of confidential information, relationship with staff or disrespectful relationships, things like conflict of interest and not personally benefiting from the position as a director

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suspect they would continue in a new code of conduct developed by the board itself and they would include disclosure of confidential information, relationship with staff or disrespectful relationships, things like a conflict of interest and not personally benefiting from the position as a director, things like that.

M. Lee: What is the difference between the code of conduct referred to in subsection 13(1)(a) and the code of professional conduct in subsection 13(1)(b)?

Hon. N. Sharma: There are some key differences between the two.
One is a code of conduct, so that's the subsection (1)(a), that is established by the board itself under section 18. And subsection (b) is the professional code of conduct. So as a lawyer, you have a professional code of conduct that you should abide by.

M. Lee: When we talk about "sufficiently serious," what is that test?

Hon. N. Sharma: That is a discretionary provision that's up to the board to determine.

M. Lee: Is that a common test that's been used in other legislation?

Hon. N. Sharma: It's taken out of section 30 from the Professional Governance Act.

M. Lee: In terms of reasonable notice, what constitutes reasonable notice?

Hon. N. Sharma: That would be up to the board.

Clauses 13 and 14 approved.

On clause 15.

M. Lee: In terms of vacancies under clause 15, what preserves the composition of the board in the event of a vacancy?

Hon. N. Sharma: These provisions would preserve the composition of the board.

M. Lee: In what way?

Hon. N. Sharma: These sections require vacancies to be filled promptly, and it sets out that process.

M. Lee: In terms of by-elections, how would the by-election be administered under 15(1)?

Hon. N. Sharma: Those decisions would be up to the regulator.

M. Lee: So the regulator would administer the holding of the by-election. Is that correct?

Hon. N. Sharma: Yes.

M. Lee: Again, the requirements of holding the by-election though, as to how it's administered, is going to be administered by the board itself.

Hon. N. Sharma: The board would make…. We expect they would make the rules for the by-election, and they would likely delegate the oversight or implementation of that by-election to staff.

[7:10 p.m.]

M. Lee: And that is what…. It's not clear in (8)(1) as to how the election of directors would be done. Is the Attorney General confirming then that it would be done in the same manner that she

described in case there's a vacancy?

and that is what…. It's not clear in 8(1) as to how the election of directors would be done. Is the Attorney General confirming, then, that it would be done in the same manner that she described in case there's a vacancy?

Hon. N. Sharma: This section refers to the requirement that the by-election must be in accordance with section 8. That's 15(1)(b) that refers to that. That would mean that if it's a lawyer, a lawyer vacancy needs to be filled. If it's a notary, the notary vacancy would need to be filled.

M. Lee: All I'm saying, Mr. Chair, is the Attorney General indicated that in terms of how a vacancy would be done, the lead-in language says the board must hold the by-election. But the lead-in language to 8(1)(a), (b) and (c) doesn't say the board must do it. It just says what the composition is. So where are the election requirements of the board set out? They're not there under clause 8. Where is the election mechanism as to who must hold the actual election to get to the board as composed in 8(1)(a), (b) and (c)?

Hon. N. Sharma: It's under 28(2)(a) that that power lies.

M. Lee: Okay, thank you.

Clauses 15 and 16 approved.

On clause 17.

M. Lee: In terms of quorum, now we're talking about the board itself under clause 17. It is subject to 28(j). The quorum of the board is 12 directors, once again not setting any composition requirement of the 12. So it's possible for the board of 17 directors to have only a quorum of 12, as it says, and for the five elected directors, among lawyers, not to be present for that board to function.

Just like I was saying on the executive committee provisions, which are set out in clause 10, again here is another example of how the self-regulation of lawyers is undermined by the bill itself. The board can function with a quorum of 12 directors out of 17, meaning it can conduct its business in the public and do so on the basis where none of the five elected lawyers could be present. If they're not present, the board can continue with this business.

That's the entire board, and that means, again, there is no ability of lawyers who are directly elected from the membership, from the legal bar in British Columbia, to be present in the work of the board and the governance of the board, which includes appointing a tribunal chair, appointing a chief executive officer, passing resolutions and making rules, and establishing committees of the board. These are all powers that the board reserves to itself that aren't at the executive committee.

So all the powers and duties, whether at the board level or the executive committee, can be dealt with without any of the elected lawyers present at the meeting of the board or even the meeting of the executive committee, because of the quorum requirements set out in 10(3) and 17(3).

[7:15 p.m.]

Again, to the Attorney General, just to give her the opportunity to reply to my concern that this is yet another example of how self-regulation is being eliminated because the quorum requirements don't even require the five elected directors to be present for the board to function.

Again, to the Attorney General, just to give her the opportunity to reply to my concern that this is yet another example of how self-regulation is being eliminated, because the quorum requirement doesn't even require the five elected directors to be present for the board to function.

Hon. N. Sharma: I'll just start by saying that we believe that every director has a duty to act in accordance with the duties that are outlined in the act, which includes positioning themselves to make sure that the independence of the licensees is protected.

I think a lot of the discussions about quorum or not quorum assume that each director doesn't hold that duty, whether they're a lawyer or not. I would challenge that, to say that no matter what, it's the duty of a director — and a director is a director is a director — and their job is to uphold the duties that are outlined in them. We would expect that from everybody, just like you would on any governance board.

I'd also expect that there would be a duty for directors to attend their meetings, and a good CEO would make sure that they were scheduling and outlining their meetings at a time where everybody could attend.

Also, they have the ability in their code of conduct to set out the code of conduct that's required by directors with respect to how they show up and how often and if there's a problem with vacancies or somebody not attending.

All those things are protective measures to make sure that an appropriate number of voices are there.

I'll just also say there are at least nine lawyers on this board — possibly more, depending on how the appointments are. At least nine lawyers is a majority of the 17. Certainly with a quorum of 12 directors, we expect lawyers to be well represented.

M. Lee: The Attorney General said that there are at least nine lawyers and possibly more. How is it that there might be possibly more when the bill itself doesn't spell that out?

Hon. N. Sharma: The three order-in-council LG appointments.

M. Lee: If that's the case, why didn't the government just spell that out, because it does spell out that one of the individuals must be an individual of a First Nation?

Hon. N. Sharma: Although it's not a requirement, it's possible. I would say that it also…. We talked, when we were at that section, about how the Attorney General would consult with the board before making those appointments to understand the board's needs.

M. Lee: We're back, though, regardless of the fact that there's only five elected lawyers that will serve as directors of the regulatory board…. Again, I know the Attorney General likes to talk about the fact that there are nine lawyers on the board, but the fact of the matter is only five are elected directly from the lawyers themselves. That's the core tenet around the self-regulation concern.

I appreciate the Attorney General trying to talk about the possibilities of what might be in the code of conduct attendance requirements or expectations.

I will say, though, in terms of the duties of directors…. We have the duties of the chief executive officer spelled out. We have a code of conduct that doesn't say anything other than conflicts of interest. We have the powers and duties of the board, and we have the oath — even with the oath, of course, we've talked about.

[7:20 p.m.]

We don't have a clear indication of what the duties of the directors of this regulator are. What are those duties?

of the directors of this regulator are. What are those duties?

Hon. N. Sharma: Section 5(1)(b) makes it clear that the regulator consists of the board, so it links that. The duties of the regulator are the duties of the board, and the duties of the regulator are listed under section 6.

M. Lee: When we look at the duties of the regulator as being the duties of the directors here, and we're talking about the quorum, the Attorney General is suggesting that it doesn't matter whether they're

elected or not, that all directors have the duties of the regulator and establishing standards and programs for the education, training, competence, practice and conduct of applicants, trainees and licensees and law firms.

It's the expectation of the Attorney General that the board, for example, without five elected lawyers who are directors of the 17-member board because of the quorum requirement can proceed to set standards for law firms. That's what the Attorney General is saying. Is that correct?

Hon. N. Sharma: I would expect that those elected directors would show up to meetings, so I'll start with that.

The other one, I would say, is what I said before, which is every director has the same duties despite the backgrounds that they might have. One of those duties is to uphold the independence of the licensees.

Because of the makeup of the board, with at least nine lawyers present out of the 17 — at least, there could be more — it's highly unlikely that lawyers wouldn't…. Well, I think it would be numerically impossible for lawyers not to be part of that quorum somehow.

M. Lee: I'm just talking about the five elected lawyers, though. It is numerically possible, as the Attorney General just said…. Because the quorum requirement is set as 12 directors out of 17, it is numerically possible to not have any of the five elected lawyers present when they're making a decision around setting standards for the conduct of law firms. Is that not correct?

Hon. N. Sharma: Yeah, it is numerically correct. But I'll just say again: I think the line of questioning seems to be accusing appointed lawyers, paralegals, notaries and any member of the public, including representations from Indigenous communities that would be on the board, as having some kind of ulterior motive or different play in the public interest in representing legal professionals or fulfilling their duties on the board. I would say that wouldn't be accurate and, actually, wouldn't show up.

It also points to some difference between directors that are appointed and the elected that are lawyers. I would say that also is a false separation.

[7:25 p.m.]

Every director that would be on that board would have the same duties and responsibilities as every other director. We expect them to fulfil all of them and the mandates that are set out, for not only legal professionals but also for the public.

M. Lee: In the time that we've had — we've got an hour left now — I've tried to establish examples of where the bill has failed with...

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every other director, and we expect them to fulfil all of them — and the mandates that are set out for not only legal professionals but also for the public.

M. Lee: In the time that we've had — we've got an hour left now — I've tried to establish examples of where the bill has failed in an aspect of governance to preserve any aspect of self-governance for lawyers, based on the fact that there's a minority of lawyers who are elected directly by lawyers themselves on this board, the five of 17. And in terms of meetings of the board and governance of the board, the Attorney General again acknowledges that she does not see the difference.

That is another way of expressing it — that she does not see the difference whether a lawyer is elected or appointed. That is a fundamental disconnect and disagreement, for sure. I think we've made the points that we can on clause 17.

Clause 17 approved.

On clause 18.

M. Lee: So we're back at clause 18, and we've had the discussion about what codes of conduct for directors mean. Of course, we are bringing forward three regulated types of legal professionals into the same regulator. And when we're talking about conflicts of interest, do those conflicts of interest extend to the different interests of the three legal professions?

Hon. N. Sharma: It's the conflict of interest as we would understand it — also as lawyers, I think, the member and myself — in terms of the prevention of any director of the board having some aspect of personal gain from a power that they would exercise or have the ability to exercise in the course of their duties.

M. Lee: So this conflict-of-interest-type provision is only based on the personal interests of directors as opposed to some other interests. Is that correct?

Hon. N. Sharma: Maybe I'll best illustrate this through the Cayton report that identified conflict of interest as an important aspect of governance for the board. He said: "The principles around conflicts of interest are well understood. When a board member knows that they have a personal, professional or financial interest in a decision, they should declare it and withdraw their involvement."

[7:30 p.m.]

M. Lee: In recognizing a disclosure of interest, as a board member receives the agenda for an upcoming board meeting…. And this is contemplated that there be at least four meetings a year, on a quarterly basis. A member of one of the legal professions, or more than one of them, has a professional interest in the item that is being addressed

and this is contemplated that there be at least four meetings a year on a quarterly basis, and a member of one of the legal professions, or more than one of them, has a professional interest in the item that is being addressed at the board meeting, relating to areas that might be rules or regulations of another legal profession for which there might be scope-of-practice considerations between the two professions…. Is that an example of a professional interest that those directors must withdraw from or disclose their interest under what is contemplated under clause 18?

Hon. N. Sharma: I mean, I think we have similar duties as elected officials with respect to conflict of interest. If a director, and we would expect this, is involved in a decision or has a role to play in a decision that has an impact on their own financial interests, and they are opposing it or are participating in that decision, then I would hope that that would be declared a conflict of interest, and that person would not participate in that decision.

Clauses 18 and 19 approved.

On clause 20.

M. Lee: So here we have the appointment of the chief executive officer and the establishment of a committee to nominate persons for the purpose of the appointment to be the chief executive officer.

The committee under sub 20(3) is comprised of "no more than five members, of whom at least one is a member of the Indigenous council." And then also: "Before appointing a person as chief executive officer…the board must consult the Indigenous council."

So in the bill itself, this is a provision that's appearing before part 4, which relates to the Indigenous council itself and the composition, the role, the policies, procedures and the like.

Now we have the interaction between the board that we've talked about at length on clause 8 and what follows and the Indigenous council itself. There is a role that a representative of the Indigenous council plays in the nomination of a chief executive officer of the regulatory body and that the board itself must consult, on the whole, with the Indigenous council before making the appointment or rescinding the appointment.

In terms of rescinding the appointment, once a person is appointed as the chief executive officer or the regulator, there's a role that the Indigenous council plays in deciding whether the board of the regulator can rescind the appointment of that CEO. We typically expect, of course, the board of a regulator to be fully empowered to deal with and hold accountable the CEO. This is a different accountability mechanism that says that the board itself or the regulator can't rescind the appointment of the chief executive officer and needs to consult with the Indigenous council.

[7:35 p.m.]

This provision appears in the bill, as I said, before the Indigenous council itself. So we haven't yet had the opportunity to describe or get into the composition of the Indigenous council and its role.

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in the bill, as I said, before the Indigenous council itself. So we haven't yet had the opportunity to describe or get into the composition of the Indigenous council and its role, but if I look at the role, because it's related now to clause 20, and I see….

I look at the role to advise and work in collaboration with the chief executive officer, advise on a matter referred to the Indigenous council by the board or the chief executive officer, participate in strategic planning, advise, exercise the approval powers conferred on the Indigenous council by this act, advise the board on the appointment of Indigenous members of the licensing committee and the tribunal.

Is it spelled out anywhere in this bill as to what the basis is for how the Indigenous council will be consulted, meaning what perspective, from a governance point of view…? When we're talking about rescinding the appointment of the chief executive officer, on what basis…? Are we talking about sharing information now, from the regulator to the board, with the Indigenous council, as to the performance of the CEO, concerns on an HR point of view outside the board with the Indigenous council? Is that the mechanism that is being established here when we're talking about the fact that the Indigenous council must be consulted with prior to any rescinding of the appointment of the CEO? Is that what is contemplated here?

Hon. N. Sharma: First, I want to start by commending the work of the Law Society over the years. They have really put reconciliation as a focus when it comes to making sure that Indigenous voices are heard and represented, even developing a course with respect to a requirement for every lawyer to take with respect to the history of Indigenous people in the province and law.

I think all parties agreed that it was important to integrate and further this work within the bill that we have before us today. There are certain key ways that it does this — that is, by establishing an Indigenous council, but not as a token organization that has no role in the new regulator to actually effect change. We see this as a big access to justice component and issue, and I think all parties agree with respect to that.

So in this regard, with respect to one of the key decisions, which is a CEO, the Indigenous council, the composition of which is appointed by the board itself in accordance with further provisions, is a key component. Although it says that the board must consult with Indigenous council, the act does not prescribe the steps or the content of that consultation. It just sets out that as one of the requirements for the key decision.

M. Lee: I certainly recognize the efforts of the Law Society and law societies across the country in terms of reconciliation with Indigenous peoples and First Nations and the work that the Law Society of British Columbia has done.

Perhaps, given that the Attorney General cited that, let me just ask, in the context of addressing clause 20, which does refer to the Indigenous council, certainly the role that it plays vis-à-vis the chief executive officer….

I'm recognizing that we haven't yet got to part 4 of the bill, under clause 29, but in any event, because the Attorney General just mentioned the Law Society, can I ask what the level was of consultation and understanding, even under the NDA, in respect of the establishment of the Indigenous council in the context of Bill 21, with the Law Society?

[7:40 p.m.]

Hon. N. Sharma: As a government, we've never been quiet about our commitment to reconciliation, and neither has the Law Society. In the conversations that I've had, I know that the Law Society does agree with that role of reconciliation, particularly when it comes to access to justice, and therefore I am very hopeful that they agree with where we landed in the context of this bill.

I will note that the CBA of B.C., in the letter that the member quoted earlier on in this debate, said that they support the creation of an Indigenous council to play a meaningful and substantial role in the work of the legal regulator.

M. Lee: But with the Law Society itself, though, were the details of the Indigenous council, the way it's constructed and incorporated into Bill 21 — was that provided prior to the first reading of the bill?

Hon. N. Sharma: Out of respect for the discussions that we had under that confidentiality, I'm not going to disclose the content of the discussions we had with the Law Society in that regard.

M. Lee: The details that are set out in clause 20 and the Attorney General's previous response in terms of how the Indigenous council will be consulted are not defined at all in this bill — what the expectations are, what the role of the Indigenous council is, the information that would be provided. It suggests that because it just says "consult," the scope of the consultation is not spelled out.

Given that the governance parameters of the board are also not spelled out — the oath, the code of conduct — there are a lot of details to be set out. But it is an area where clearly, even as I was discussing with the minister responsible for Indigenous Relations and Reconciliation, even when I use the word "consultation" in a different context…. I think it just underlies the point of what consultation means.

Certainly, when you juxtapose that against Indigenous council or Indigenous bodies or First Nations, as we all recognize, the words "consult" or "consultation" take on a very high standard. So I think this is more than just a check-the-box kind of consultation, I'm sure. If it's a meaningful consultation, it would suggest that we're talking about sharing details around performance, and perhaps it's even performance to meet the objectives relating to what's set out in the duties of the chief executive officer, which does include a focus on reconciliation.

So maybe I should just ask the question that way to the Attorney General. Is the consultation with the Indigenous council focused on the duties of the chief executive officer, for example, which is to support reconciliation with Indigenous peoples, as well as identifying, removing and preventing barriers to the practice of law that has a disproportionate impact on Indigenous persons? Would it be that the consultation with the Indigenous council, when it comes to the removal, the rescinding of the appointment of the chief executive officer, will relate specifically to areas that affect Indigenous peoples?

[7:45 p.m.]

Hon. N. Sharma: Okay, so I'm going to start by making it clear that the use of the word "consult" is not in the constitutionally defined jurisprudence related to consultation with First Nations. It's used in a plain language meaning of consult.

Then just to say that the Indigenous council, to situate it maybe a little bit differently than the member is talking about, is part of the regulator. So the Indigenous council is not an external advisory board or committee. The Indigenous council is part of the regulatory body, so an established structure within that, and appointed members are appointed by the board.

We would fully expect that in the operation of regulatory decisions, particularly when it comes to a key decision like the CEO, one of the things that came from the work that the Law Society is doing is a clear statement by them. It's clear that there needs to be a trust-building exercise with First Nations, particularly in how the legal system has worked throughout the history of colonization as one of the primary tools of it.

In that acknowledgment comes the thinking that a CEO is a key decision-maker and a key authority when it comes to furthering that trust or establishing an organization that is committed to doing that work. So as one of the key decisions of the regulator, and the structure of that, we think it's appropriate that that internal structure of Indigenous council is consulted. We leave it to the board to decide, although we expect it would be meaningful to decide the content and what that looks like in terms of the process.

Clause 20 approved.

On clause 21.

M. Lee: On 21, in sub (c), how will the CEO be expected to work "in collaboration with the tribunal chair to ensure independence of the tribunal from the regulator," when the tribunal chair can be someone who is a former director, at least having left being a director for one year? How will the CEO ensure independence of the tribunal from the regulator, given the structure of who can be eligible to be the tribunal chair as a former director?

Hon. N. Sharma: The current structure involves a bencher sitting on the tribunal, so clearly to set up an independent structure. It was some of the guidance the governance reviews had provided. It would mean that you would have a level of independence for tribunal members.

If the directors felt like, in practice, a person that is a director should never sit on the tribunal, they could make that decision. What this bill is designed to do is to at least include a cooling-off period where, if you were a director, it would be a year, at least, after, before you could serve as a tribunal member. That creates a level of independence that doesn't currently exist with the tribunal.

[7:50 p.m.]

Also, the bill contains structural independence of that tribunal, which is set up in various provisions.

Clause 21 approved.

On clause 22.

M. Lee: Just to the Attorney General

exist with the tribunal. Also, the bill contains structural independence of that tribunal, which is set up in various provisions.

Clause 21 approved.

On clause 22.

M. Lee: Just to the Attorney General, when I see the efforts, of course, to focus on reconciliation initiatives, particularly the implementation of DRIPA….

Well, let me just ask for clarification. Is that not meant to say the implementation of the Declaration on the Rights of Indigenous Peoples Act? That is the instrument of government that actually implements UNDRIP.

Hon. N. Sharma: This is an important distinction that shows the independence of the government from the regulator.

DRIPA is an obligation of government. It's not an obligation of an independent governing body like the regulator. So the reason for 22(1)(a) listing that is to ensure that the new regulator incorporates that declaration into their work.

M. Lee: When Bill 41 was reviewed in the Legislature 4½ years ago…. When I participated in that review, it was with an understanding that the way that the government of British Columbia was adopting and implementing UNDRIP was through the Declaration on the Rights of Indigenous Peoples Act. There were very much clear understandings as to how that would be adopted and implemented.

To see UNDRIP just incorporated here on a stand-alone basis suggests that there will be a broader application of UNDRIP without the government's own positions that it has taken. Even the Mineral Tenure Act review…. It's an illustrative document that is to be led through the lens of section 35 jurisprudence. It is providing no new rights as a result.

Is the way that this is expressed here intended that the regulatory body will have a broader application beyond even where the province of British Columbia is adopting and implementing UNDRIP through DRIPA?

Hon. N. Sharma: Okay. I think it's clear what the wording of this provision does. It fulfils government's commitment to DRIPA by incorporating this through the act. The chief executive officer….

There must be reconciliations led by the regulator, including initiatives related to the following. It doesn't prescribe what those initiatives would be or say, in particular, how they would undertake that. That's just an obligation of the regulator.

One of the things to, I think, mention again here is this idea…. We are not prescribing things to the regulator.

The member talked about the actions that we've taken and how we've undertaken to implement DRIPA through our government and our government decision-making. That's a government decision that an independent regulator will have to make their own decisions about.

Those two paths of precedence or policy or guidelines must be completely separate. We wouldn't impose that on the regulator. Just to make sure we're fulfilling our commitments to UNDRIP in our legislation…. We would put this in legislation to make sure it's part of the role of the regulator, however they see fit to implement or perform those initiatives.

M. Lee: This is an area of Bill 21 that deserves more attention in terms of how government is proceeding with the adoption and implementation of the Declaration on the Rights of Indigenous Peoples Act.

[7:55 p.m.]

We know that there are 89 actions in that five-year action plan that the government is now in the third year on. The way that this bill is provided is a broader

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we know that there are 89 actions in that five-year action plan that the government's now in the third year on. The way that this bill is provided is a broader application in a broader sense.

Let me just say that…. To complete the question before coming to another question: is the Attorney General of the view, though, in terms of the requirement under section 3 of DRIPA, that this Bill 21 aligns with the UN declaration on the rights of Indigenous peoples?

Hon. N. Sharma: Yes.

M. Lee: What specific articles of UNDRIP does this bill align with?

Hon. N. Sharma: The ministry has taken numerous steps to ensure alignment with the UN declaration. To the member's question, which specific articles are relevant and we think we're in compliance on are articles 2, 5, 18, 19 and 34.

M. Lee: The work that's being done to implement DRIPA, in accordance with UNDRIP…. We've had Dr. Roshan Danesh, who has provided an important role, who has been engaged by the government to advise government on section 3 alignment with DRIPA. Has Dr. Danesh been involved with this Bill 21?

Also, similarly, we know that Doug White, as special counsel to the Premier, has had significant work for the First Nations justice strategy and the First Nations Justice Council. Has Mr. White also been involved in any way with Bill 21?

Hon. N. Sharma: No to both of those questions. It was the First Nations Justice Council and direct discussions with First Nations that led to this work.

Clauses 22 and 23 approved.

On clause 24.

M. Lee: In terms of the independent review, what is contemplated here in terms of who would conduct that review?

Hon. N. Sharma: It would be a decision that would be up to the board to decide.

M. Lee: And in terms of the scope of the review, it is to conduct a review of the extent to which this act, the regulations and the rules facilitate access. Is that the only point of the review, or are there other points of this review?

[8:00 p.m.]

Hon. N. Sharma: We'll just note that the board, just like the current Law Society or notary society, can do a review whenever they want, just like the Cayton review. They could select an independent

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Hon. N. Sharma: I'll just note that the board, just like the current Law Society or notary society, can do a review whenever they want, just like the Cayton review. They can select an independent reviewer or review something related to either their duties or something that's happening in their professions that they would like to take a look at, and that is in their purview.

This is something that's specific about the things that we see need to be fixed in the provision of legal services, which is access to justice. So they must appoint a person to understand the way this act and the rules facilitate access to justice in this province, and we prescribe "the date unto which that must be found." It's a key component of the work that we are doing and the work that we want to see done by a regulator. Their own studies have shown that six out of ten people don't go see a lawyer when they have a legal issue. So this is why we saw fit to put it specifically and prescribe it in the bill.

Clause 24 approved.

On clause 25.

M. Lee: So 25 makes reference to 38(1)(f) or (g), which just relates to individuals who are trained in another jurisdiction. In terms of mobility rights in this province, what does that…? In terms of other practitioners who are authorized to practise in British Columbia, those rules are set out where?

Hon. N. Sharma: So the rules are not set out. It just is enabling them to make rules in that regard. Specifically, section 38(f) and (g) that the member was mentioning was about people authorized in other jurisdictions who are also authorized in B.C. to practise law and a practitioner of foreign law who is authorized to practise in B.C. So it just gives that clarity of the scope of the rules but doesn't prescribe what they are.

Clause 25 approved.

On clause 26.

M. Lee: On 26, once again, it refers to the board having to consult with the Indigenous council "respecting the extent to which the rule accords…" or before making a rule. This also relates to even the first set of rules that needs to be established. Again, as I have done with previous provisions in this bill, I had a discussion with the Attorney General about some of the transitional rules that govern how we get to the first set of rules. That is set out in 226, that there is a requirement that the transitional board and the transitional Indigenous council must collaborate to develop the first set of rules.

[8:05 p.m.]

So the question is…. Presumably, of course, here we have in clause 26: "Before making a rule, the board must consult the Indigenous council respecting the extent to which the rule accords with the principles set out in section 7 (b) and (c)."

There are other requirements, as well, in terms of, as I just mentioned, the role of the Indigenous council. So to the Attorney General, when we're talking about collaboration, the requirement

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which the rule accords to the principal set out in sections 7(b) and 7(c).

There are other requirements as well in terms of, as I just mentioned, the role of the Indigenous council. When we're talking about collaboration, the requirement for the transitional board and the transitional Indigenous council or even the board and the Indigenous council to collaborate or consult with one another…. What happens if there's a disagreement between the board and the Indigenous council, if there's an impasse between the two bodies in respect of a transitional rule or otherwise?

Hon. N. Sharma: I'm just going to start with the reasons for these provisions. I think it's our view, and it certainly was the view of the First Nations Justice Council, that the establishment of the first rules provides an unprecedented opportunity to set a set of rules and guidelines that removes colonization, removes the negative impacts of the legal systems and those rules and procedures that may exist for Indigenous people and furthers the promotion of reconciliation. So it's a key component of that work. This is why it's structured that way.

The key term under section 226 is collaboration. We expect that with the council, who is part of the regulatory body, the Indigenous council and the board, would work collaboratively on those rules. That's going to involve listening to all perspectives and understanding it. Actually, a lot of the rules may be very similar to existing rules. It's getting at those ones that I think are problematic.

The member wonders at what would happen if there is an impasse. We would hope that, just like with all difficult decisions that a regulator may or may not encounter, all the directors and Indigenous council members, I'm sure, would endeavor to solve those with the commitment and dedication they have to not only the cause but the work they do. I'm sure that would be the case. If asked to help, government would certainly assist in working through any impasses that might come up in that conversation.

M. Lee: There is no dispute resolution mechanism in the bill. The Attorney General has cited that there's a hope that, through the spirit of collaboration, the Indigenous council and the transitional board would collaborate and find consensus on the key issues that are of concern.

[8:10 p.m.]

But we also recognize, of course, if we get to clause 30 with the 20 minutes I have left, that there are different objectives and different focuses between the Indigenous council and the

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consensus on the key issues that are of concern.

We also recognize, of course, if we get to clause 30 with the 20 minutes I have left, that there are different objectives and different focuses between the Indigenous council and the regulatory board itself. Even though the regulatory board has some reference to reconciliation initiatives, as we just talked about, with the CEO and also in the guiding principles under 7(b) of the bill, there likely are some very specific focuses that the Indigenous council has.

Just because the Attorney General addressed this, in terms of the First Nations Justice Council, what role did they play in the development of Bill 21? Were they subject to an NDA as well?

Hon. N. Sharma: The First Nations Justice Council is actively involved in implementing our Indigenous justice strategy, which is very important. Certainly, I think the idea of what the new regulator would be would be an important component of furthering that goal.

Yes, they played a role in not only the pre kind of discussions on the idea of how this regulated, but also, under an NDA, looking directly at the bill.

Clause 26 approved.

On clause 27.

M. Lee: So 27(b) talks about establishing classes of licences, persons, entities, different rules for different licences and persons. This is an expansion of classes that might be part of the legal professions.

What, at this juncture, does the Attorney General anticipate will be how the board will proceed in terms of establishing other classes of licences, persons, entities, things, activities under this Bill 21?

Hon. N. Sharma: This is a very general rule-making power that's to provide the authority of the board, just in general, with the discretion to make rules, whatever rules it deems necessary, for the effective functioning of the regulator. It's very broad in its making, and it would just be that ability for the board to make the rules it deems necessary for legal professionals.

Clause 27 approved.

On clause 28.

M. Lee: I've just been informed that I was five minutes off. I have 12 minutes left.

So sub 28(2)(b), in terms of establishing a process for screening candidates. This is the merit-based process, but now it's referred to as a screening. What is the screening process that will be established here?

Hon. N. Sharma: This is in the category of "may." The board may make rules with respect to directors, and that's the establishing a process for screening of candidates in the election of directors, which is sometimes a common practice when it comes to candidates. Certainly, you can conceive of a situation where you may want to make sure that all candidates don't have any serious disciplinary action against them, for example. So just a process that they may take up, if they want to.

[8:15 p.m.]

M. Lee: I'll just quickly note that this is another element of the bill where, again, we've had this fundamental disagreement about self-regulation — elected members of the board, the minority of five directors of the 17 and all of that. But when we're talking about the board establishing a screening process for candidates, this is the challenge.

The challenge is that, again, we have the

that this is another element of the bill where, again, we've had this fundamental disagreement about self-regulation — elected members of the board, the minority of five directors of the 17 and all of that. But when we're talking about the board establishing a screening process for candidates, this is the challenge.

The challenge is that, again, we have the minority of five elected lawyers who are directors of this regulatory board. And this establishment of a process for screening candidates is another element where the board itself is establishing this process, which is not with the majority of elected lawyers having that presence on the board itself. But I'll just note that.

Clause 28 approved.

On clause 29.

M. Lee: On clause 29, there are lots of questions I could be asking about this Indigenous council, of course, but let me just start with this. In terms of the reference to Métis peoples, when it says, "… nominated by Métis peoples or entities representing Métis peoples," we know, of course, that the entity that represents Métis peoples in the province of British Columbia is Métis Nation B.C. Why is that not the entity that is contemplated here to be representing Métis peoples?

And then secondly, was the Métis Nation justice strategy consulted in the same way that B.C. First Nations Justice Council was consulted? Were they given an opportunity, as well, to provide input on Bill 21?

Hon. N. Sharma: The Métis Nation of B.C. was provided opportunity to give input on this bill, and we appreciate that. The reason for the drafting choice is because names of organizations can change, and those kinds of structures can change over time. So with legislation, when you stick with one, you'd have to have a legislative amendment in order to adapt it or change it. Because of that, it was important to capture Métis people and entities representing Métis people, so that's the reason for the wording that's been selected.

M. Lee: I continue to note, as has been the dialogue with the government, about the lack of recognition of Métis Nation B.C. We've seen this government, through the Minister of Indigenous Relations and Reconciliation, put out one letter to recognize them in May of 2023 and then two weeks later reverse the position. But I will leave that there.

I will also note that B.C. First Nations Justice Council is referred to in sub 29.1(c), and presumably they might be also subject to a name change, but I'll leave that point there.

In terms of the Indigenous council itself, the Attorney General talked about the fact that if there's an impasse between the Indigenous council and the regulatory board, government may assist with the process. That is not actually spelled out in Bill 21, so how will the government assist in this process if there is an impasse between the Indigenous council and the board of the regulator?

Hon. N. Sharma: Again, it's not prescribed in the bill because we want to leave it up to the independent regulator to set up those policies, procedures and, in the instance, maybe mediation or something that would assist in coming to it. I don't think it's government's job to prescribe those types of processes in this scenario. But we do think it's important that collaboration is spelled out so that that is something that we know is going to happen.

[8:20 p.m.]

Like I said before, if there is a role for government to assist in the, hopefully, largely unlikely event of an impasse on the collaboration, then we would be happy to do so.

Clause 29 approved.

DRAFT SEGMENT 073

is spelled out so that that is something that we know is going to happen.

Like I said before, if there is a role for government to assist in the, hopefully, largely unlikely event of an impasse on the collaboration, then we would be happy to do so.

Clause 29 approved.

On clause 30.

M. Lee: I wanted to get to clause 30, because it suggests, when we're talking about the role of the Indigenous council…. The Attorney General just gave a response on what would happen in the area of an impasse. It has not set out mediation or any other dispute resolution in the bill itself. The Attorney General said it will be up to the regulator to determine and set that out.

Well, if that's the case, when we look at clause 30, does that suggest, as the Attorney General indicated before, that the Indigenous council is part of the regulator? Where does the Indigenous council sit, then, in the organization chart, so to speak, of the regulator? When I'm looking very quickly at these provisions, as I ask this question, we're talking about it: "(c) participate in the regulator's strategic planning processes, (d) advise the board…and (e) exercise the approval powers conferred on the Indigenous council."

In effect, is the Indigenous council underneath the regulatory board, in terms of organizational structure?

Hon. N. Sharma: It's designed to operate within the regulatory body as a council, as I mentioned before, to provide input and expertise on operational and governance issues. Some of those points are set out in the bill.

In terms of organizational structure, that wouldn't be something that we would set out in the bill. That would be a decision of the regulator, to see how that sits within their internal functioning, rules and procedures that they have a role in developing. The certain things that we've put in here are at places where we think it's important that there be, for sure, an ability for interaction between the council and the governing body.

M. Lee: This may well be my last question, but I just wanted to finish this line of inquiry. I appreciate that the Attorney General has addressed the questions, to the extent that I was able to pose them, in Bill 21, in this process — and the team around her.

Just on this point, when I look at subclause 30(b)(ii), it's "a matter referred to the Indigenous council by the board or the chief executive officer." That wording suggests, of course, that the Indigenous council is part of the regulator and that there will be matters referred, but it does still leave a point of lack of clarity here structurally, on whether the Indigenous council is sitting side by side with the regulatory board or underneath the regulatory board.

It's important, because the Attorney General is suggesting — in case of an impasse and a lack of agreement, let's say, between the Indigenous council and the regulatory board — that the regulatory board itself will determine how the impasse will be dealt with, how decision-making processes will be dealt with, or how consultation-making processes will be dealt with.

That's suggesting to me that the Indigenous council is actually sitting underneath the regulatory board and is, effectively, still governed by the rules — even though they're collaborating somehow on the transitional rules or are being consulted with on the CEO, for example — and that the Indigenous council is sitting underneath the regulatory board. Is that not correct?

Hon. N. Sharma: Chair, this may be my last answer. I appreciate the dialogue that I've had with the member here today.

[8:25 p.m.]

What I would say is that I think, instead, in the way we're viewing the Indigenous council, it will evolve as the regulator sets itself up and makes its rules and goes about figuring out what's referred to the council and what's not. It's an innovation, in a new structure in the regulator. I don't think we look at it in terms of an organizational chart of where it sits and how it sits.

Likely, it would be integrated into the work of the

figuring out what's referred to the council and what's not is that it's an innovation. It's an innovation in a new structure in the regulator, and I don't think we look at it in terms of an organizational chart of where it sits and how it sits. Likely, it would be integrated into the work of the regulator in ways that maybe I can't think about at this point but will come up in the future.

The Chair: Hon. Members, it being 8:25 p.m., pursuant to the motion adopted by the House yesterday, the committee will now proceed to finalize clause-by-clause consideration of Bill 21.

In accordance with the time allocation motion, I will now put the question on all remaining clauses of the bill.

Members, a division on the remaining clauses and title cannot be called, but in accordance with practice recommendation 1, members may indicate passage on division.

With that, we will proceed.

The Chair: Member for Vancouver-Langara, can we go from clause 31 to 77?

M. Lee: I have nothing more to say because we've closed, right? So I don't have to be asked.

The Chair: You still can call on division if you want to call on division.

M. Lee: We're still voting on this.

Clauses 30 to 77 inclusive approved.

The Chair: Members, pursuant to the time allocation order adopted by the House yesterday, the amendment to clause 78 standing on the order paper in the name of the Attorney General is deemed to have passed.

Clause 78 as amended approved.

Clauses 79 to 224 inclusive approved.

The Chair: Members, pursuant to the time allocation order adopted by the House yesterday, amendment to clause 225 standing on the order paper in the name of the Attorney General is deemed to have passed.

Clause 225 as amended approved.

Clauses 226 to 317 inclusive approved.

Title approved.

The Chair: Thank you so much, everyone.

I now recognize the minister to move the motion.

Hon. N. Sharma: I just want to start by thanking the team that's not only sitting here today but that is listening somewhere and has been for the last many days and many hours, for their tremendous work on this piece of legislation that I know will be transformative. I really just want to raise my hands to them for the countless hours and exceptional work that they put into this.

I move that the committee rise and report the bill complete with amendment.

Motion approved.

The committee rose at 8:28 p.m.

M. Lee: I seek leave to make an introduction.

Leave granted.

The Chair: Please proceed.

Introductions by Members

M. Lee: I invite all members of this chamber to invite Jeevyn Dhaliwal, KC, the president of the Law Society of British Columbia, joined by Don Avison, the executive director and chief executive officer of the Law Society of British Columbia.

[3:30 p.m.]

They're here to witness royal assent that will be happening this afternoon to Bill 21, the Legal Professions Act, that, regrettably, was brought a closure on in debate yesterday when we only got through 30 of 317 clauses. In the face of the notice that has been provided by the Law Society

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DRAFT SEGMENT 067

They are here to witness royal assent that will be happening this afternoon to Bill 21, the Legal Professions Act — which, regrettably was brought to closure on debate yesterday, when we'd only got through 30 of 317 clauses — in the face of the notice that has been provided by the Law Society of British Columbia, the Trial Lawyers Association, as well as the Canadian Bar Association, B.C. branch, of pending litigation.

The Chair: Members, if we can just have an introduction.

Debate Continued

Hon. D. Eby: Welcome to the members from the Law Society.

Thank you to the member for the question.

There are definitely at least two perspectives in this House on resource development. Some people want us to say: "Let her rip." That perspective is certainly well represented on the opposition benches. And there are some parties — the member has been consistent; I will definitely say that — that want us to say no to all development, regardless of the impact on the province.

The challenge between those two perspectives is that we are in fact needing to move, as a province, towards decarbonization — needing to have employment for people, needing to fund public services, and needing to be able to address all of these things at the same time. It is a big ship, and it turns slowly. We need to support people through that whole process.

The members were part of our work in establishing a North America–leading climate plan. Our requirement for LNG Canada was that it fit within that plan, and we have put in place a new energy action framework that ensures that any additional LNG facility needs to have a credible net-zero-by-2030 plan.

The member raises the important issue of methane emissions. We've reduced methane emissions in the province by 50 percent. We're ahead of our targets on that. We do need to transition away from fossil fuel infrastructure, which is why we're pushing so hard on critical minerals and on hydrogen as the future for our province. We created a clean energy and major projects office to fast-track investment in the clean energy sector.

At B.C. Hydro, we established a task force to accelerate electrification of our entire economy and to benefit from our affordable, available zero-carbon electricity for new industries like hydrogen and whatever will come next. What we're certain of is that it will need a lot of electricity.

So we're turning the ship. We're moving away from that fossil fuel infrastructure. For that which is getting built, it needs to meet the highest standards around emissions — to the best of my knowledge, in North America and, possibly, internationally. We're going to continue to expect the best, the lowest-carbon and the lowest-polluting projects while we move towards that low-carbon future.

Members, I'll take this opportunity to thank all members for your participation, following the rules, working together with each other, your friendship, coming to my office every day. It was good to see you all. It's a privilege that we have each other, working together for British Columbians every day. I wish you all the best summer vacation, if you want to call it a vacation. Otherwise, have a good summer. Keep working hard for British Columbians. Thank you very much and enjoy. I hope to see you soon, shortly after the election.

Her Honour the Lieutenant-Governor requested to attend the House, was admitted to the chamber and took her seat on the throne.

[5:30 p.m.]

Royal Assent to Bills

Clerk of the Legislative Assembly:
Tenancy Statutes Amendment Act, 2024
First Nations Mandated Post-Secondary Institutes Act
Legal Professions Act
Safe Access to Schools Act
Anti-Racism Act
Energy Statutes Amendment Act, 2024
Haida Nation Recognition Amendment Act, 2024

Legal Professions Act
Safe Access to Schools Act
Anti-Racism Act
Energy Statutes Amendment Act, 2024
Haida Nation Recognition Amendment Act, 2024
Name Amendment Act (No. 2), 2024
Municipalities Enabling and Validating (No. 5) Amendment Act, 2024
Vancouver Foundation Act
In His Majesty's name, Her Honour the Lieutenant-Governor doth assent to these acts.
Supply Act, 2024–2025
In His Majesty's name, Her Honour the Lieutenant-Governor thanks His Majesty's loyal subjects, accepts their benevolence and assents to this act.

Hon. J. Austin (Lieutenant-Governor): Thank you very much.

ÍY SȻÁĆEL NE SĆÁLEĆE. Hon. Members, friends, I do want to take just a brief moment to comment on the unfolding wildfire situation in Fort Nelson and other parts of northeastern British Columbia, and indeed across Western Canada right now, and just to express my heartfelt and most fervent hope for the safety of all the residents and, of course, for all the essential staff and crew who are part of the effort to address the situation.

I'm conscious, as well, that many of you will be returning to communities that are or will be affected by the wildfire situation and other examples of extreme weather that will occur, certainly, this summer. I want to thank you for all that you do to support your communities and the safety of your residents. I know we're joined by all British Columbians in expressing these views.

Secondly, as we bring this parliament to a close, I do want to express my personal thanks for all of your splendid work over the past year. Also, for those who will be standing for elected office next fall, I say to you all, *bonne chance*. To those who have decided not to continue and will not be standing, I wish you every possible happiness and success in your future endeavours.

Finally, just to express my personal thanks for the privilege of working with you, to say how very much I appreciate the many contributions that you make to our province, the many sacrifices that you

make for the privilege of serving us. I will always admire and respect you, and I thank you also for your enduring friendship.

All the best. Take care this summer.

[The Speaker in the chair.]

The Speaker: Members, on behalf of all of us, I also would like to thank all the staff who have worked and helped us to do our job. It's every day, day in and day out, they are working so diligently, helping us, standing up for all the values of democracy. Thank you so much, each and every one of you in every department.

Thank you very much and have a wonderful summer and very safe summer.

[5:35 p.m.]

Hon. R. Kahlon: I move motion 35, the very long adjournment motion standing in my name on the order paper.

> [1. That the House, at its rising, do stand adjourned until it appears to the satisfaction of the Speaker, after consultation with the government, that the public interest requires that the House shall meet, or until the Speaker may be advised by the government that it is desired to prorogue the Fifth Session of the Forty-second Parliament of the Province of British Columbia. The Speaker shall give notice to all Members that he is so satisfied or has been so advised, and thereupon the House shall meet at the time stated in such notice, and, as the case may be, may transact its business as if it has been duly adjourned to that time and date.
>
> 2. That, by agreement of the Speaker and the House Leaders of each recognized caucus, the location of sittings and means of conducting sittings of this House may be altered if required due to an emergency situation or public health measures, and that such agreement constitute the authorization of the House to proceed in the manner agreed to. The Speaker shall give notice to all Members of the agreement and shall table it for it to be printed in the Votes and Proceedings of the House at the next sitting.
>
> 3. That, in the event of the Speaker being unable to act owing to illness or other cause, the Deputy Speaker shall act in his stead for the purpose of this order; in the event that the Deputy Speaker being unable to act owing to illness or other cause, the Deputy Chair of the Committee of the Whole shall act in his stead for the purpose of this order; and in the event that the Deputy Chair of the Committee of the Whole being unable to act owing to illness or other cause, another Member designated collectively by the House Leaders of each recognized caucus shall act in her stead for the purpose of this order.]

DRAFT SEGMENT 092

Hon. R. Kahlon: I move Motion 35, the very long adjournment motion standing in my name on the order paper.

> [1. That the House, at its rising, do stand adjourned until it appears to the satisfaction of the Speaker, after consultation with the government, that the public interest requires that the House shall meet, or until the Speaker may be advised by the government that it is desired to prorogue the Fifth Session of the Forty-second Parliament of the Province of British Columbia. The Speaker shall give notice to all Members that he is so satisfied or has been so advised, and thereupon the House shall meet at the time stated in such notice, and, as the case may be, may transact its business as if it has been duly adjourned to that time and date.
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> 2. That, by agreement of the Speaker and the House Leaders of each recognized caucus, the location of sittings and means of conducting sittings of this House may be altered if required due to an emergency situation or public health measures, and that such agreement constitute the authorization of the House to proceed in the manner agreed to. The Speaker shall give notice to all Members of the agreement and shall table it for it to be printed in the Votes and Proceedings of the House at the next sitting.
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> 3. That, in the event of the Speaker being unable to act owing to illness or other cause, the Deputy Speaker shall act in his stead for the purpose of this order; in the event that the Deputy Speaker being unable to act owing to illness or other cause, the Deputy Chair of the Committee of the Whole shall act in his stead for the purpose of this order; and in the event that the Deputy Chair of the Committee of the Whole being unable to act owing to illness or other cause, another Member designated collectively by the House Leaders of each recognized caucus shall act in her stead for the purpose of this order.]

Motion approved.