

REGULATING A FEDERAL LEGAL PROFESSION

Bill C-97 and the proposed College of Immigration and Citizenship Consultants Act

Submission by William Macintosh to the
Senate Standing Committee on National Finance (NFFN) in respect of
Clauses 291 to 300 (Part 4, Division 15) of Bill C-97

June 12, 2019

Introduction

1 The proposed *College of Immigration and Citizenship Consultants Act (CICCA)* is legislation principally concerned with the administration of justice and the regulation of a legal profession whose members are providing legal advice and services related only to matters under the *Immigration and Refugee Protection Act (IRPA)* and *Citizenship Act (CitAct)*.

2 The bill, as presently drafted, has a number of serious flaws that have not been considered by either the House of Commons Standing Committee on Citizenship and Immigration (CIMM) and the Senate Standing Committee on Social Affairs, Science and Technology (SOCI).

3 If immigration consultants are recognized as a “federal legal profession,” legislation to regulate the profession ought to include matters by which provincial legal professions are regulated. Modern legal profession statutes deal with a number of policy issues, that includes: (a) upholding the public interest in the administration of justice; (b) preserving and protecting the rights and freedoms of all persons; and (c) ensuring the independence, integrity, honour and competence of the professions’ members.

4 The proposed *CICCA* is poorly drafted and fails to adequately address a number of policy issues. The proposed disciplinary process does not adequately protect a member’s right to have their right to act as a consultant determined in accordance with principles of natural justice.

5 The bill purports to give powers to the College that all law societies do not have. The bill has inconsistent terminology. It fails to adequately address issues such as the application of legal-advice (solicitor-client) privilege to immigration consultants.

6 The proposed Act fails to adequately protect the public’s right to confidentiality under the legal-advice (solicitor-client) privilege when seeking legal advice. It allows members to be subject to unreasonable search and seizure. It lacks consistency in the enforcement of certain powers.

7 These submissions will not address every aspect of the proposed Act. Among other matters, it will not address the proposed compensation fund, the government’s powers to approve bylaws and how that affects the independence of the profession, and whether or not the College should be subject to the

Privacy Act and *Access to Information Act*; whether or not the statute should include provisions setting minimal requirements for educational qualification to become a member; and whether or not the statute should expressly set out limitations on the powers of immigration consultants to act in certain circumstances.

8 The submissions will focus on: (a) how immigration consultants are a legal profession; (b) the application of the legal-advice privilege and immigration consultants; (c) the disciplinary process; and (d) the enforcement of powers under the Act.

A. Immigration consultants as a legal profession

8 The administration of justice is under the exclusive jurisdiction of provincial legislatures pursuant to subsection 92(14) of the *Constitution Act, 1867*, subject to Parliament's power under subsection 91(27) to deal with the constitution of courts of criminal jurisdiction. The regulations of professions is considered to be under the exclusive jurisdiction of provincial legislatures under subsection 92(13) of the Act.

9 However, in *Law Society of BC v Mangat*, [2001] 3 SCR 113, the Supreme Court of Canada was required to determine if a consultant, acting pursuant to either of ss. 30 and 69(1) of the then *Immigration Act*, as counsel for a fee before the Adjudication and Refugee Divisions of the Immigration and Refugee Board (IRB), was acting within the law and not in breach of the *BC Legal Professions Act* provisions that made such activity unlawful if performed by persons who were not members of the law society.

10 The court determined the pith and substance of the impugned provisions were matters that fell under Parliament's power over naturalization and aliens under s. 91(25) of the *Constitution Act, 1867*, as they provided rights to aliens to be represented at certain proceedings by counsel other than lawyers.

11 It recognized (para. 38 to 47) the regulation of the legal profession is a matter that falls under ss. 92(13) and that the legal profession is also part of the administration of justice under ss. 92(14), both matters of provincial jurisdiction. The court referred to (para. 43) the comments by Justice McIntre in *Andrews v Law Society of BC*, [1989] 1 SCR 143 at pp. 187-88, in which he noted that lawyers are part of the administration of justice:

It is incontestable that the legal profession plays a very significant – in fact, a fundamentally important – role in the administration of justice, both in the criminal and the civil law. I would not attempt to answer the question arising from the judgments below as to whether the function of the profession may be termed judicial or *quasi*-judicial, but I would observe that in the absence of an independent legal profession, skilled and qualified to play its part in the administration of justice and the judicial process, the whole legal system would be in a parlous state. In the performance of what may be called his private function, that is, in advising on legal matters and in representing clients before the courts and other tribunals, the lawyer is accorded great powers not permitted to other professionals. . . . By any standard, these powers and duties are vital to the maintenance of order in our society and the due administration of the law in the interest of the whole community.

12 The court also noted (para. 44) that the right to confidentiality enjoyed by a client was essential to the administration of justice and the public's confidence in it. It was clear that the activities of Mr. Mangat, a self-professed immigration consultant, acting as counsel at hearings before the IRB Divisions noted above, constituted a violation of provisions of the *BC Legal Profession Act*, related to unauthorized practice of law.

13 The court held the impugned *Immigration Act* provisions were validly enacted by Parliament under the double aspect doctrine. It went on to hold that in the face of a conflict between the two statutes, the federal law was valid under the paramountcy doctrine. It concluded as follows, at para. 74:

74 As this case dealt with hearings before the Adjudication and Refugee Divisions only, I would hold that the *Legal Profession Act*'s prohibition on non-lawyers from collecting a fee to act as representatives and to provide services in that regard is inoperative to that extent. The provision of services means document preparation and advice on matters relevant to the individual's case.

14 Persons had been purporting to act as "immigration consultants" since at least the 1980s. The number of immigration consultants had increased over the years. While the previous Act provided for the enactment of regulations to regulate other counsel, the government had chosen not to do anything.

15 With the *Mangat* decision, the cat was out of the bag. Immigration consulting was recognized as legal, though limited under the previous Act to acting as counsel before the two IRB Divisions.

16 When considering new immigration legislation at the turn of this century, the government was empowered by regulation to recognize immigration consultants as a profession, with the enactment of section 91 of *IRPA*. As first enacted, the section gave power, by regulation, for consultants to represent, advise and consult in proceedings or applications under the Act. The first regulation in respect of section 91 was enacted in 2004, as s. 13.1 of the *Immigration and Refugee Protection Regulations (Regs)*.

17 The current version of section 91, which came into effect on June 30, 2011, provides that consultants may "directly or indirectly, represent or advise a person for consideration – or offer to do so – in connection with submissions of an expression of interest under subsection 10.1(3) or a proceeding or application under" the Act.

18 In summary, consultants are allowed, for consideration, to give legal advice and represent persons in proceedings before the IRB or any application under the Act. These are actions that were identified by the Supreme Court of Canada in the *Mangat* case as constituting the practice of law.

19 More recently, consultants were granted similar powers under the *CitAct*, to represent or advise a person for consideration in connection with a proceeding or application under the Act. (section 21.1). Parliament has clearly indicated that immigration consultants have lawful authority to provide legal advice and services. What is clear is

B. Application of the legal-advice privilege

20 One of the fundamental responsibilities of a legal profession is respecting the privilege granted to persons seeking legal advice that the confidences they provide a professional legal adviser in order to obtain legal advice are strictly confidential and the professional legal adviser cannot be compelled to disclose those confidences, except in limited circumstances.

21 Traditionally this privilege has been known as solicitor-client privilege. The description is archaic and doesn't properly reflect the state of law concerning the privilege. In recent years courts in Canada or in other common law jurisdiction have begun referring to the privilege as legal-advice privilege or one of several legal professional privileges. That term has been incorporated under certain statutes in the United Kingdom for several decades.

22 The term solicitor-client privilege was used because at the time the privilege was developed in England, solicitors were the only persons allowed to provide legal advice. That is no longer the case. The privilege has been extended by common law to situations involving persons other than legally sanctioned lawyers. For example, the U.S. Supreme Court has recognized that confidential information provided by a client to an accountant - usually this occurs in tax matters – is protected by the privilege if the accounting/tax advice is required to inform a legal professional dealing with the matter.

23 The privilege has been recognized by the Supreme Court of Canada as a substantive right that is “fundamental to the proper functioning of the legal system and a cornerstone of access to justice. ... Without the assurance of confidentiality, people cannot be expected to speak honestly and candidly with their lawyers, which compromises the quality of the legal advice they receive. ... It is therefore, in the public interest to protect solicitor-client privilege” (*Alberta (Information and Privacy Commissioner) v University of Calgary*, 2016 SCC 53 at para. 34).

24 The Court has in a number of cases adopted the following definition, stated in Wigmore, Evidence (McNaughton rev. 1961), for the modern principle of privilege for legal professional-client communications:

“Where legal advice of any kind is sought from a professional legal adviser in his capacity as such, the communications relating to the purpose made in confidence by the client are at his instance permanently protected from disclosures by himself or by the legal adviser, except the protection be waived.”

25 In *Fisher v United States*, 425 U.S. 391 (1976), the US Supreme Court stated, at page 403, the privilege was intended to “protect only those disclosures – necessary to obtain informed legal advice – which might not have been made absent the privilege.”

26 The authors of *The Law of Privilege* (3rd ed., Oxford University Press 2018) refer, at page 20, to several 19th Century cases that determined that a “lawyer” for purposes of the privilege is essentially “professional legal advisers” or “professional lawyers.” In principal, the courts limit the legal-advice privilege to those professions whose members are lawfully entitled to provide legal advice.

27 Whether or not the privilege applies to an “immigration consultant” has not been judicially determined in Canada, though the issue has been raised in a case presently before the Federal Court, namely, *Benito v ICCRC and MCI*; Court file IMM-5108-19. The case involves the judicial review of a suspension order made by ICCRC against a member and is presently scheduled to be heard by the Court in early June.

28 Members of ICCRC have been granted, pursuant to subsection 91(1) of *IRPA* and section 21.1 of the *CitAct*, the right to “directly or indirectly, represent or advise a person for consideration ...” Parliament has sanctioned that an ICCRC member may lawfully provide legal advice, albeit limited to proceedings and applications under the two statutes. That would appear to fit the criteria under common law to be subject to the legal-advice privilege.

29 As noted above, the privilege belongs to the client, not the lawyer. A client would expect that they can speak confidentially and candidly with a law society member. An immigration consultant is providing the same services as a law society member, albeit within the limited scope of their mandate. Both are legally sanctioned by statute to provide legal advice for consideration. As noted above, the

Supreme Court of Canada determined in the *Mangat* case that he was unlawfully practising law contrary to provincial law.

30 Regulation of professions has been dealt with solely by provincial legislation under the province's constitutional rights. Parliament and the federal government has no institutional experience in regulating professions until recently.

31 The first federal statute to regulate a "federal" profession was only passed by Parliament last fall, the *College of Patent Agents and Trade-mark Agents Act*, SC 2018, c. 27, s. 247 (*CPATAA*). Patent and trade mark agents had been recognized for years as providing legal advice with respect to matters under the *Patent Act* and *Trade-marks Act* when they assist persons in applying for patents or trade marks.

32 Patent agents had a professional organization for years. It had no regulatory authority. It sought such authority for years. Parliament finally recognized the need for a regulatory body and with the *CPATAA* it has lawfully sanctioned that patent and trade mark agents can provide legal advice for compensation.

33 Most activities agents deal with are made in writing. There are no specific tribunals that determine any issues that arise. Agents do not represent persons in any judicial or quasi-judicial proceeding. Their legal practice deals with intangible assets. They are not determining the rights of persons to live in Canada or not to be sent back to face serious harm if sent back to their country of nationality.

34 Parliament has recognized that legal-advice privilege should apply to the agents. The *CPATAA* provides a comprehensive set of rules to protect a client's privilege, so their information will be kept confidential. At the same time, it provides power for the College to compel production of privileged information when investigating the conduct of a member.

35 It provides rules that continue the privilege by having the College subject to the privilege. Members are protected from civil action by a client in having breached the privilege by providing privileged information to the College. The scheme in place in that Act mirrors such protections found in legislation governing law societies across the country.

36 In the United Kingdom immigration advisers or immigration service providers have been subject to what is referred to as "legal professional privilege" since 2007 with the enactment of section 90 of the *Legal Services Act 2007*. The privilege has applied to patent agents and trade mark agents since 1988 with the enactment of the *Copyright, Designs and Patents Act 1988*.

37 It may be that the courts in Canada won't recognize immigration consultants as professional legal advisers for purposes of the privilege under common law. Parliament should remove any doubt by having provisions in the *CICCA* dealing with the privilege, at least similar to those contained in the *CPATAA*. Clients who deal with immigration consultants should expect nothing less. It is the public's rights that are affected, not the consultant's.

C Disciplinary process

a. Investigatory powers

38 Investigatory powers are set out in section 50 to 56 of the proposed Act. The authority to enter any place, other than a personal residence, without warrant under subsection 51(2) is an excessive power and will undoubtedly lead to constitutional challenges that it amounts to unreasonable search and seizure contrary to section 8 of the Charter of Rights and Freedoms. The power would purport to allow the College to enter a law firm, to search and seize documents, where a consultant is employed.

39 Legislation governing law societies require the law society to make an application before the provincial superior court to obtain an order to search and seize property, from any place. The power is not given to a justice of the peace. A superior court justice has the legal skills, knowledge and experience dealing with issues involving legal professional privileges that may apply to documents a consultant would have. In some provinces justices of the peace do not require legal training.

40 The power to grant a warrant under section 44 of the *CPATAA* requires that College to make an application to Federal Court. Section 44 provides a comprehensive scheme dealing with warrants. It might provide a suitable template to follow, or the provincial law societies statutes may provide a better way of doing it.

RECOMMENDATION 1: The proposed Act be amended to require the College to apply to Federal Court for a warrant to search and seize documents and eliminate the power of investigators to enter into property under subsection 52(2).

b. Disciplinary proceedings

41 Disciplinary proceedings are governed by section 58 to 70. Most of the powers dealing with discipline hearings are delegated to the College's rule-making power under section 60. It does not provide any express right to be represented by counsel. That is given in all provincial statutes regulating lawyers and most other regulated professions.

42 There is no express provision regulating how discipline committees should deal with privileged information. For example, having rules that a discipline committee cannot disclose any privileged information in rendering a decision and that the public can be excluded from a hearing or part of it when privileged information is dealt with. Similar restrictions are imposed on courts that deal with a disciplinary matter where privileged information is dealt with.

43 Most of these details are found in the regulating statute for the legal profession. They are viewed as basic rights that are enshrined in the statute, not left to the discretion of the regulatory body in enacting rules.

44 Provisions in provincial regulatory statutes related to the protection of a client's legal-advice privilege in investigatory and disciplinary proceedings were added in the past several decades. Immigration consultants are practising law. They are providing legal advice. They are acting as counsel at tribunal proceedings. The only difference between immigration consultants and lawyers is that consultants are created under federal legislation, not provincial.

RECOMMENDATION 2: The proposed Act be amended to expressly state a member's right to counsel in respect of disciplinary proceedings.

RECOMMENDATION 3: The proposed Act be amended to make it clear the College can compel a member to provide information subject to legal-advice privilege, and granting immunity to a member from civil action in breaching the client’s privilege if compelled by the College for investigation and disciplinary proceedings.

RECOMMENDATION 4: The proposed Act be amended to further protect a client’s privilege by: expressly imposing the privilege on the College; providing rules that clearly set out that the College cannot be compelled to release privileged information; providing rules to expressly impose a duty upon a disciplinary panel to exclude members of the public from hearings when dealing with privileged information; to expressly impose a duty on a disciplinary panel not to disclose privileged information when rendering its decision; and imposing duties on any court reviewing a disciplinary matter not to disclose privileged information during a hearing or in rendering a decision.

D. Enforcement of regulatory powers

45 The proposed CICCAs statute, unlike the College of Patent Agents law, is poorly drafted and doesn’t seem to meet the standards by which federal laws are normally prepared.

46 There is inconsistency in the use of words in the Act. For example, there is no definition for “court.” Subsection 52(2) refers to “justice of the peace.” That would imply an investigator can apply to a “provincial court” for a warrant. As noted above, provincial law societies have to apply to the provincial superior court to obtain warrants to search premises and seize property.

47 In paragraph 66(a), in reference to the powers of a discipline panel to enforce a summons, it grants a discipline panel powers to the same extent as a “superior court of record.” That may mean the panel has the traditional prerogative powers of subpoena and habeas corpus ad testificandum. Some provinces have expanded on those traditional rights. Given there are 13 different superior courts of record in the country, which laws should apply?

48 The provincial law statutes recognize that the determination of a person’s ability to carry on a profession is a matter that requires a high degree of natural justice. A law society member is given a right to compel other parties to produce documents or appear as a witness to defend themselves against allegations of misconduct or incompetence. These rights are in most provinces expressly stated in the regulatory statute, not left to the regulatory body to provide for in its rules. It is not expressly provided for in the proposed Act.

49 In most provincial statutes, an applicant, respondent or the law society have to apply to a “provincial superior court” to enforce a summons issued by a discipline panel. For uniformity of process, the College should have to apply to Federal Court to enforce a summons.

50 Section 71 does not expressly state what court a judicial review application can be made to. Presumably, under the *Federal Courts Act*, the College would be considered a federal entity for purposes of judicial review and thus an application would be made to Federal Court. Section 73 does refer to Federal Court. The *CPATAA* consistently refers to Federal Court for dealing with matters.

51 In section 78, in obtaining an injunction to restrain unauthorized practices, it refers to a “court of competent jurisdiction.” That usually means a “superior court of record” as injunctions are not

granted by a “provincial court.” Given that the statute relates to a federal matter, and for consistency, section 78 should specify the Federal Court.

52 There appears to be no mechanism for enforcement of monetary penalties made pursuant to subsection 69(6) of the Act against a member. Most provincial legal profession statutes provide for cost orders to be filed in the provincial superior court and are expressly stated to have the same effect as if it were a judgment of the court for the recovery of a debt.

53 Subsection 146(2) of *IRPA* allows the government to file a certificate regarding debts payable under the Act in Federal Court. When filed it has the same force and effect as if it were a judgement of the court.

RECOMMENDATION 5: The proposed Act should expressly deal with enforcement of summons to compel the production of documents or attendance of witnesses. It should expressly state in the statute the person subject to proceeding and the College have a right to obtain a summons.

RECOMMENDATION 6: The proposed Act should consistently refer to Federal Court for seeking a warrant for search and seizure, to enforce a summons and for the College to obtain an injunction to restrain someone from engaging in the unauthorized practice of law provided for in *IRPA*.

RECOMMENDATION 7: The proposed Act should include a provision allowing the College to file a certificate regarding monetary penalties under ss. 69(6) in Federal Court and that when filed it has the same force and effect as if it were a judgment of the court.

E. General

54 The legal profession was not made in 15 years. It evolved over the past 800 years or so. At first the profession was regulated by the superior courts. Some responsibilities were delegated to barristers, while the courts maintained its power to regulate who could appear before them.

55 Law societies have histories in Canada that trace back to as early as 1693 in Quebec. Most societies were given statutory regulatory powers in the 1800s. Since then the governing laws have evolved. The statutes governing their activities have become more comprehensive, in order to deal with new issues.

56 For example, starting in the 1980s law society statutes were amended to provide for the appointment, by the provincial government, of non-members to the executive body of the societies, in response to calls for more public input into the governance of the legal profession. However, governments do not have any authority to interfere with the societies when they make their rules and codes of conduct to govern their members.

57 It isn't necessary for Parliament to invent new rules for this new legal profession. There is basic uniformity in provincial legislation across the country governing lawyers. Some specific matters may differ.

58 Parliament is new to creating legislation regulating any profession, let alone a legal profession. Provincial legislatures have more than a century of experience in regulating them. Immigration consultants are practising law. The *CICCA* should incorporate more provisions that are found in most provincial governing statutes.

59 Immigration consultants have barely 15 years of institutional history in governing themselves as a legal profession. There are still issues regarding their ability to carry out this important responsibility. Few, if any of the members have had education and training to deal with issues related to a legal profession. It may be some time before the profession has matured sufficiently that it can effectively govern itself.

60 Until consultants have gained that institutional history, the governing statute should provide more detailed rules setting out procedures and rights and responsibilities of members, rather than leaving it to the College to deal with the details in its rules or Bylaws.

61 The proposed legislation was made public without any notice. The public has had about two months to review the proposed legislation. It will impact thousands of persons in the future who seek legal advice in navigating the complexity of Canada's immigration processes, including Canadian citizens.

62 Citizens have rights under IRPA to sponsor certain family members and to appeal those decisions to the IRB. IRPA deals with the issuance of work permits to Canadian employers. It sets out regulations governing employers of foreign workers. Consultants are authorized to provide advice with respect to those matters directly related to IRPA. However, to give proper and full advice, employers may need advice about employment law, provincial employment legislation, contract law, securities law and corporations law; all matters outside the scope of an immigration consultants powers.

63 IRPA creates rules regulating the activities of transportation companies. Penalties can be imposed on those companies and immigration consultants could give advice on those matters. Dealing with the application of administrative penalties usually involves more thorough knowledge of administrative law.

64 The proposed legislation is primarily concerned with the regulation of a legal profession and the administration of justice, not immigration law per se. It does not appear that the proposed legislation has been reviewed by persons or bodies with experience in regulating legal professions. Legal professions are unique among professions of Canada due to their importance to the administration of justice.

65 The proposed legislation has many deficiencies. Given the effect it would have on a large number of persons, Parliament should defer approving it until all the deficiencies have been dealt with and the public has been given more opportunity to comment on the legislation.

66 The Committee should consider receiving input about the regulation of a legal profession from other Parliamentary committees, such as the Justice and Human Rights Committee. It should seek input from experts on professional regulatory matters and, more specifically, experts on the regulation of legal profession. That might include officers from various law societies or persons at the Federation of Law Societies of Canada.

67 The Committee could gain knowledge from looking at the regulation of various provincial law societies; for example: Prince Edward Island (about 250 members), Saskatchewan (@1,900 members), Manitoba (2,020 members), Alberta (9,932 members), BC (12280 members), Quebec (26,799 members and Ontario (52,155 members). [All figures from from Dec. 31, 2017, except for Quebec, which was as of Mar. 31, 2018].

RECOMMENDATION 8: The proposed Act should be more comprehensive and should include in the Act more basic rights and responsibilities of the College and its members, instead of having them determined by the College in its rules of Bylaws.

RECOMMENDATION 9: Parliament should defer approving the proposed Act and related amendments until it has been reviewed in more detail, with more public input, in order to deal with the various deficiencies contained in the legislation.

RECOMMENDATION 10: Parliament should consider input from experts on professional regulatory matters, including administrators from various law societies, in order to properly deal with issues arising out of the regulation of a legal profession.

F. Summary

68 The proposed College and its enacting statute, as presently drafted, has many flaws that, if not changed, will give rise to considerable litigation.

69 From a purely legislative drafting perspective, the proposed Act is flawed. It uses inconsistent terminology. It fails to address issues highly relevant to a legal profession and to the rights of clients, whether foreign nationals or Canadians. It purports to deal with some issues, without considering or dealing with powers necessary to deal with those issues. If it hasn't been reviewed by legislative drafting professionals it ought to be.

70 It grants investigative powers to the College than are not granted to any provincial legal professional regulatory body.

71 The legislation delegates more rule-making authority to a body with little institutional history, than are granted to law societies which have hundreds of years of institutional history.

72 The Act is being rushed through Parliament without adequate consideration of its effect on the public interest, not just in respect of foreign nationals, but also on Canadians and Canadian businesses. It would be in the public interest if the proposed legislation be given greater scrutiny before granting powers to a body to regulate a profession fundamental to a free and democratic society, to a body with in inadequate history to deal with such matters.

ADDENDUM

Biography of author

The writer is a member of the Law Society of British Columbia and has been involved almost exclusively with matters involving immigration law since 1984. He has contributed papers regarding immigration law to various continuing legal education and Canadian Bar Association meetings over the years. More recently he has presented continuing professional development webinars involving immigration law matters to Immigration Consultants of Canada Regulatory Council (ICCRC) members.

In the past few years Mr. Macintosh has acted as counsel for several ICCRC members in respect of disciplinary proceedings against them. He is counsel for three matters currently before the Federal Court dealing with the legality of aspects of ICCRC's disciplinary process under the *Canada Not-for-Profit Corporations Act (CNFPCA)*.

One matter, *Watto v ICCRC and MCI* (Court File IMM-3546-18), was heard by the court in February, 2019. A decision was reserved and has not yet been rendered by the Court. The two other matters, *Benito v ICCRC and MCI* (Court File No. IMM-5108-18) and *Benito v ICCRC and MCI* (Court File No. IMM-5109-18), are currently scheduled to be heard in August, 2019.

In addition to being familiar with the current constitution and Bylaws of ICCRC under the *CNFPCA*, and its disciplinary process and rules, Mr. Macintosh is knowledgeable about disciplinary proceedings involving lawyers. He is also knowledgeable about legislative drafting.