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**Official Report
of Debates
(Hansard)**

Wednesday 14 June 2000

**Journal
des débats
(Hansard)**

Mercredi 14 juin 2000

Speaker
Honourable Gary Carr

Clerk
Claude L. DesRosiers

Président
L'honorable Gary Carr

Greffier
Claude L. DesRosiers

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LEGISLATIVE ASSEMBLY
OF ONTARIO

Wednesday 14 June 2000

ASSEMBLÉE LÉGISLATIVE
DE L'ONTARIO

Mercredi 14 juin 2000

The House met at 1845.

ORDERS OF THE DAY

PUBLIC INQUIRIES
AMENDMENT ACT, 2000

LOI DE 2000 MODIFIANT LA LOI
SUR LES ENQUÊTES PUBLIQUES

Mr Flaherty moved second reading of the following bill:

Bill 87, An Act to amend the Public Inquiries Act /
Projet de loi 87, Loi modifiant la Loi sur les enquêtes
publiques.

Hon Jim Flaherty (Attorney General, minister responsible for native affairs): I know all members of the House agree that the tragic events in Walkerton must never be repeated in our province. We must get to the bottom of this tragedy, and we will not rest until we do.

As members will be aware, the government has established a commission of inquiry under the Public Inquiries Act, with Mr Justice Dennis O'Connor as commissioner. Justice O'Connor has been given a broad mandate to determine exactly what went wrong in Walkerton and why, and to make recommendations to ensure the safety of Ontario's water supply system.

We all want a full, fair and open inquiry. The Premier has pledged the government's full co-operation. All members and employees of the Ontario government will be directed to provide Justice O'Connor with whatever information or documents he requests. This is an important point. Ministers and staff will not be invited to co-operate, but they will be directed to co-operate.

To dispel any hesitation employees might feel about coming forward, earlier this week I introduced a bill to amend the Public Inquiries Act. This is the measure we are now debating.

I believe, Speaker, there is unanimous consent for the following: that the time be divided equally among the three caucuses, with five minutes reserved at the end so the question may be put.

The Deputy Speaker (Mr Bert Johnson): Is there unanimous consent to divide the time? It is agreed.

Hon Mr Flaherty: If passed, this amendment would protect employees who participate in a public inquiry from reprisals in the workplace.

The proposed legislation would prohibit adverse employment actions against an employee who discloses information in good faith to a commission or makes representations as a party to a public inquiry. The bill would make it an offence for an employer to discipline or dismiss an employee who discloses information or makes representations to a commission. Contravention could result in a fine of up to \$5,000.

If passed, the bill would be retroactive to the day it was introduced: June 12, 2000.

It is important to note that these protections would extend not only to employees of the government of Ontario but to non-government employees as well—to all employees. This proposed amendment would make it absolutely clear that workplace reprisals will not be permitted against employees who come forward to an inquiry commission. This bill, if passed, would support the goal we all share of full, fair and thorough public inquiries.

In Justice O'Connor I believe we have found the right person to lead such an open and complete process concerning the tragedy that occurred in Walkerton. Justice O'Connor, as members of this place know, is a sitting judge of the Ontario Court of Appeal, the province's highest court. He has been on the appeal bench for two years. His in-depth and varied legal background, including work in smaller Canadian communities and more than 20 years of practice with major law firms, makes him an ideal choice for this challenging assignment.

To enable Justice O'Connor to get to the bottom of the tragedy at Walkerton, the government has established comprehensive terms of reference for the inquiry. The terms of reference give Justice O'Connor a broad mandate to examine all relevant matters to ensure the safety of Ontario's water supply system.

Under the terms of reference, the commission is to inquire into the following three areas: first, the circumstances that caused hundreds of people to become ill and several to die at a time when E coli bacteria were found in the Walkerton water supply; second, the why, the cause of these events, including the effect, if any, of government policies, procedures and practices; third, any other relevant matters the commission considers necessary to ensure the safety of Ontario's drinking water.

As a further measure to ensure a full, open and fair inquiry, the terms authorize the commission to make recommendations on funding for parties who have standing but would not be able to participate without financial assistance. The government will accept and follow these recommendations so that parties will have a fair oppor-

tunity to participate in the examination of issues that affect them.

We know from past experience that public inquiries inevitably take time, and determining legal liability through the courts takes time. We also know that for many people in Walkerton the need for compensation is urgent, regardless of who's at fault. We want to do all we can to help the people of Walkerton.

That's why, as part of the government's comprehensive response to the people of Walkerton, my ministry is setting up a compensation initiative to offer financial payments to people who got sick or lost a family member. This is not emergency assistance. There is emergency assistance available now through the Brockton Response Centre, which is open and functioning day after day in downtown Walkerton. What we are proposing is an alternative dispute resolution mechanism whereby, for individual compensation, people who have suffered harm, families who have lost a loved one, will be able to obtain compensation faster, to bring closure to this tragedy and let them get on with their lives.

This is not about money. The amount of money cannot of course compensate for pain and suffering, let alone the loss of a loved one. However, our courts recognize there should be compensation for pain and suffering and other losses and we want to speed up the process so people can rebuild their lives.

People who were hurt, either directly or indirectly, may not want to go through the adversarial process of a court case. We can offer them an alternative that is quicker, simpler and friendlier, one that is designed to offer them the same level of compensation they could expect to receive in the courts. Our priority is to address the needs of the victims in as timely and as painless a manner as possible.

Compensation will be offered in the following areas, as it is in the court system: for pain and suffering; for lost income, including future lost income; for past and future health costs not covered by OHIP, if there are any; and a family's loss of care, companionship or guidance.

The way it will work is that applicants will file claims for compensation. This week in Walkerton we have Ministry of the Attorney General people there taking information at this time from people who have a claim to advance. The next stage will be the formal application, and then the claims will be assessed by an independent professional with expertise in the area of compensation. We will offer mediation of claims before an impartial mediator to try and achieve a mutually agreeable solution.

We know from experience in the civil justice system in Ontario in recent years that mediation has a remarkable success rate. I dare say part of that is because mediation gives individuals the opportunity to sit around a table in an informal atmosphere and speak for themselves, with or without counsel present, as they choose, and to explain directly to a mediator exactly what has happened to them and to their family members as a result of this tragedy at Walkerton. So that's mediation.

If mediation doesn't resolve the claim, the claimant can move on to binding arbitration, again by a neutral third party. Arbitration will be timely and simplified. If the mediation, as I said earlier, doesn't resolve the claim, instead of going to binding arbitration the individual can always go to the courts system. It's available and funded by the taxpayers of Ontario. It's there for those who choose to go that route.

To ensure potential claimants have the advice and the information they need to understand the process and their rights, the government will provide free initial consultation with independent legal counsel. This will help potential claimants weigh their legal options, and it's important. When I was in Walkerton last Thursday night speaking with individuals, with business owners and so on, people had lots of questions about this process.

They wanted to have their own say and they wanted, quite frankly, an alternative to a long-drawn-out, fault-driven court system. This isn't about fault. Fault will be discussed, I'm sure, in courts and other places down the road years from now, and there may be appeals and so on. This is about getting compensation to people on a timely basis through a process in which they can be directly involved.

But it's important that people have independent legal advice so that they are satisfied, having had professional advice, about the choice they make, and the choice belongs to the people in Walkerton.

Our process will not determine that issue of legal liability. That's for the courts to decide. But those who have experienced suffering or loss should not have to wait to have access to fair compensation.

There will be plenty of time for determining responsibility later. Right now we should focus on compensation and on compassion for those who have suffered. There is nothing political about helping human beings cope with tragedy so that they can get on with their lives. It is simply the right thing to do.

As the Premier has said, our government is committed to assisting the people of Walkerton in any way possible. Our response involves action by several ministries. This compensation initiative is part of that commitment.

The Premier has also made it clear that we must get to the bottom of this tragedy so that no other community has to experience what Walkerton has gone through. With a distinguished commissioner and broad terms of reference, I am confident we now have in place a process that will get the answers we all seek. Let me say again that Bill 87 will support the process of getting those answers. I therefore urge all members to give it their utmost consideration.

Mr John Gerretsen (Kingston and the Islands): I appreciate the words the Attorney General has just spoken. I think the people of Ontario should clearly understand that the bill we are dealing with tonight does not deal with the compensation issue. On the other hand, I think it's extremely important for the people of Walkerton and the surrounding area to know exactly what the

compensation proposal is that the government has in place.

The one question I have, and I know our process doesn't quite lead to that, but as the Attorney General well knows—he's a man of some renown within legal circles—and as I've certainly found out in my own practice over the years, is that the question of compensation normally is only addressed once all the damages in a particular matter have been identified.

We can all understand, those of us who have been in business in one way or another, that there may well be situations where individuals may have suffered severe losses, either in a business or in their own home environment, and all of the damages currently may not be known. As a matter of fact, the loss of business, for example, in the case of a business, may very well go on for a long period of time after this, because nobody quite knows when the water situation will be resolved in the Walkerton area.

1900

So although the Attorney General makes it sound as if everybody can now come to the table and, through either the mediation or the arbitration process, get just compensation, the real question I have of him—and perhaps there could be unanimous consent that he could answer this—is, will there be interim payments made to, let's say, businesses that are out a substantial amount of money over the last six to eight weeks? Usually in cases like this, once you've settled with the mediator or once you've settled with the arbitrator or once you've got a judgment or a settlement through the court system, that's it. Obviously, anyone who has had damages as a result of what's happened in Walkerton may not be able to identify all those costs at this point in time.

Contrary to public belief, this is one of the reasons it quite often takes a long time for court actions to be settled, because there's no sense in settling, whether you go through court or a mediation and arbitration process, while the damages are still accruing.

Is the Attorney General saying that businesses or people who have been otherwise affected in the Walkerton area can now at least get an interim payment towards the ultimate compensation they're going to get? That's what the people really want to know.

I agree that the process of mediation and arbitration may be much more preferable to full-drawn court cases and court battles that may go on for years and years. On the other hand, to make it sound as if all these people can just settle at this time, using the process he has created—have those people given up rights to future damages that may be flowing out of what's happened in Walkerton? Hopefully either he or his parliamentary assistant will be given the opportunity to answer that at some stage this evening.

The act we're dealing with tonight is a very simple amendment to the Public Inquiries Act and really doesn't deal with the compensation issue. Again, although I appreciate what the Attorney General has said on that

matter tonight, that's not what we're here to discuss tonight.

The act simply has one suggested amendment to it, and that simply states this:

“No adverse employment action shall be taken against any employee of any person because the employee, acting in good faith, has made representations as a party or has disclosed information either in evidence or otherwise to a commission under this act or to the staff of a commission.”

That is the sole section that's being added, and then there is a penalty clause in the event that somebody contravenes that section.

It should be clearly understood that we're not just talking about the Walkerton situation here. I know that's why this act is being amended, to deal with the situation in Walkerton right now, but it's a permanent change, as much as anything can be permanent in this place, to the Public Inquiries Act and will deal with any inquiry in the future as well.

We think it's a step in the right direction. What we on this side don't understand and the issue I have some problems with is, why don't you simply proclaim part IV of Bill 117, which was passed in a previous Parliament before most of us were here, prior to 1995, that dealt with whistle-blower protection? Whistle-blower protection should apply to anyone, not just employees of the crown but to anyone who can provide information where they feel, justifiably so, that the government is on the wrong track, that the government has in some way been guilty or that there's been serious government wrongdoing. That can happen in a number of different ways and it doesn't necessarily have to come from government employees.

Bill 117, the omnibus bill passed during the NDP government days of 1993—for some reason, the whistle-blower protection part of that bill, part IV, has never been proclaimed. What we're asking is, why don't you proclaim that? That will give everyone even greater protection than what's currently proposed by your amendment under the Public Inquiries Act.

The other thing Bill 117 would do is create a new officer of the assembly, much like the Ombudsman we currently have, like the Environmental Commissioner, like the Provincial Auditor, like the Integrity and Privacy Commissioner. They are officers of this assembly. They are not government employees; they work for us, collectively, here and they report on an independent basis within the areas of their jurisdiction. The suggestion in Bill 117 is that a similar officer be appointed to whom individuals, particularly government individuals, can go to get that independent advice. That's the suggestion that was made in Bill 117, that a new officer of the assembly be created similar to the Integrity Commissioner, whom the employees can consult and through whom the information can be made public. Why isn't the government doing that? There's absolutely no reason that couldn't be done at this stage as well.

But let me say that we are pleased that, first of all, the government took our advice and initiated the public inquiry into the Walkerton matter. We all know that for a week or so after the events occurred there, the Premier basically stonewalled the situation and said, “No, a legislative committee,” in which the majority of the members are government backbenchers, “will look into this matter.” Then, as a result of public pressure out there and as a result of the pressure we put on the government, he decided on a public inquiry. We then suggested as well that some sort of protection had to be put into the legislation to protect our employees who may have information about some of the serious wrongdoings that the government may or may not have been involved in in the Walkerton situation, particularly within the Ministry of the Environment, but other ministries as well. That was stonewalled for a while, but the government has now decided to put that into this legislation as well by way of the amendment to the Public Inquiries Act. So we’re pleased about that.

But we really feel that our employees—who work for all of us, not just for those of us here within the Legislative Assembly but for all of the people of Ontario in one way or another—ought to be given even greater protection. The only way to do it is by establishing an individual who is much like the other officers of this assembly, to whom individuals, particularly those who work for government, can confide if they have information where they believe the government is doing serious harm to the general public.

Those are the points we want to address. For the benefit of the people of Walkerton, particularly those people who are out money and where damages have resulted as a result of the occurrence there some three or four weeks ago, I would really like to know the answer about whether or not the government, through this mediation and arbitration process, is prepared to look at interim payments. I can assure you that these people simply aren’t in a position to calculate the full extent of the damages that have occurred to them. They will only find that out once their businesses are up and running again and once the water system within their community has been totally rectified and has been declared safe and the water drinkable by everyone concerned.

1910

Mr Peter Kormos (Niagara Centre): I’m going to speak to this bill for some brief moments. Howard Hampton, the leader, will be speaking on behalf of New Democrats, so I would encourage people who are watching to stay tuned for Mr Hampton. He’ll be speaking to this and the Walkerton matter very, very shortly.

Howard Hampton, of course, has been at the forefront of this matter since the tragedy in Walkerton erupted, with at least seven deaths and possibly as many as 11 attributable to the contamination of Walkerton’s water system, and thousands of people seriously ill. We’re not talking about being ill just overnight; we’re talking about serious illness with the risk of lifelong injuries as a result of drinking tap water.

This isn’t some Third World country. This isn’t some primitive backwoods. This is one of the most prosperous jurisdictions in the whole world, where the public, over the course of decades and generations, had built public institutions, had invested in them and had trusted them. It’s the province of Ontario, the last place in the world where one would expect to die or risk death or suffer serious and possibly permanent injury by drinking the tap water.

The people of Walkerton and the people of Ontario—because this is no longer just a Walkerton issue, and that was pretty clear within almost hours of this epidemic of death. It’s no longer just a Walkerton issue; it’s now a province-wide issue. It’s an issue about whether the people of Ontario, whether our kids or our parents or our grandparents, can safely drink tap water, and not because of some unforeseen catastrophic event, not because terrorists had poisoned the water system, not because some act of God had intervened to create circumstances that were entirely beyond our control. Ontarians had invested in safe, clean drinking water over the course, as I told you, of decades and generations and are prepared to continue to invest in it so that the simplest of things, that matter of simply turning on the tap and drinking the water, doesn’t have to entail the risk of death.

I put to you that this government changed the ground rules in the province of Ontario. We all know it’s dangerous, reckless, to speed along in your car at 140 kilometres an hour. People who do that ought to have some knowledge of the level of risk they’re assuming. Lawyers have a name for that, don’t they, Mr Bryant? *Volenti non fit injuria*. People know that if you’re going to go out, oh, skydiving—and please, skydiving is a very disciplined sport and activity, but it’s a little bit of a high-risk activity. People know that climbing huge mountains entails some risk. Reasonable people know this, fair-minded people know this. But what Ontarian would ever have thought that they could risk their lives, or the life of a child or a grandparent, by drinking the tap water?

In this Harris Ontario of tax cuts, of the termination of 900 staff people from the Ministry of the Environment over the course of the last four years—900 staff people from Ministry of the Environment out the door, and a huge chunk of these people were the very people engaged in regulation and enforcement; the Ministry of the Environment gutted to the tune of 900 staff members. What, over \$1 billion, Mr Baird, stripped from the Ministry of the Environment? Nine hundred jobs gone, many of those jobs those very people who accepted as their responsibility the testing of water, the supervision of municipal water supplies, the assurance of safe drinking water. At least seven dead, as many as 11. This wasn’t a plane crash. This wasn’t a train derailment. It’s hard, and I’m hard-pressed, to describe this as a mere accident—but you and I appreciate that that’s the purpose of the inquiry, isn’t it?—whether it in fact should more appropriately be described as an act of negligence, wilful negligence, the level of negligence that resulted in the

deaths of innocent Ontarians, the deaths of little kids and of seniors.

In view of the time frame of this tainting—poisoning—of the water of the community of Walkerton, and in terms of where Walkerton is and the route you travel going through there, I wonder how many people throughout North America who were motorists perhaps—think about it—from Ohio or Pennsylvania or perhaps Manitoba or New Brunswick are at risk now by virtue of having done something so simple as stopping at a roadside food spot and having a glass of local water with their cheeseburger and fries or whatever it is.

This isn't to diminish in any way whatsoever the catastrophic impact this has had on families in Walkerton, on those individuals whose lives were torn from them, but just think, had the governmental negligence impacted not on small-town Walkerton but on Hamilton or London or Toronto or Ottawa, there wouldn't be seven deaths, there would have been 700 or 1,000 or more.

The inquiry and the scope of the inquiry surely has got to be about more than just Walkerton. Since May in Walkerton, almost on a daily basis we hear of community after community after community after community with boil-water orders.

If a Premier whose first response was to blame the previous government until the little spin doctors and spinmeisters and the public relations people set him straight—let me tell you a story about blaming the previous government. When Mr Harris took power in 1995, the previous Premier left three sealed envelopes on his desk: number one, number two and number three. Premier Harris was intrigued and he called the former Premier and said, "What are those?" The former Premier explained, "This is what my predecessor had left to me and I, in turn, leave them to you." He explained, "In the event of the government's first crisis you open envelope number one, in the event of the second crisis you open envelope number two, and on the occasion of the third crisis for your government you open envelope number three." Well, the Premier couldn't control himself. He felt obliged to open the envelopes. In envelope number one, the first governmental crisis, it said, "Blame the previous government." Premier Harris opened envelope number two, the second governmental crisis. It said, "Blame the federal government." He then opened envelope number three, and the advice contained in envelope number three was, "Prepare three envelopes."

1920

The people of Ontario, have heard the Premier of Ontario blame the previous government to no avail—because, quite frankly, his blame in this instance was the most pathetic effort to simply distract the people's attention away from this government's responsibility to provide clean, safe drinking water to the people of Ontario. On a weekly basis, oh, a daily basis, this Premier will blame the federal government. He doesn't recall his advice to his predecessor government of "Stop whining." That's what Mr Harris used to say when he was over here when the previous government had concerns about the

cutback on transfer payments to the province of Ontario: "Stop whining."

Well, I'm afraid Mr Harris has exhausted the contents of envelopes number one and number two and he's now confronted by envelope number three. He's got a Minister of the Environment who was thrust into the job of Minister of the Environment without having a great deal of parliamentary experience—no disrespect—thrust into that position to find a ministry that's been gutted, stripped of its staff, stripped of its budgets, that is no longer capable of policing drinking water here in Ontario, a minister who's so new and so alien to the inner circle that he's obliged to read the script served upon him on a daily basis by the Premier's office. The minister is being very much hung out to dry, I suspect, because we have a Premier who will sacrifice anybody rather than accept responsibility for his very specific, very personal agenda of cutting away and stripping those services and those institutions in Ontario that had historically protected the people of Ontario from tainted, poisoned drinking water.

We look forward to the inquiry, but we know that the inquiry itself is going to be a lengthy process. We were disappointed with the terms of reference. Mr Hampton, on behalf of the New Democrats, had prevailed upon the Attorney General and the Premier on a daily basis to ensure that the terms of reference included a direction to the commissioner, Mr Justice O'Connor now, that there be a speedy interim report. Those things can be done, you understand. If you're going to do the responsible thing, I say to this government, if you are going to mitigate and perhaps save the lives of some Ontarians whose well water, whose lake water, whose river water, whose spring water may have E coli percolating through it at this very minute, I suggest to you that the terms of reference be amended promptly to require that that commissioner release a speedy interim report, so that the people in this Legislature, people across this province, the people of Walkerton, the people in any number of communities, small and large, here in the province of Ontario can begin to understand what I suspect they'll be told, and that is that the downloading on to municipalities and the stripping, the evisceration of the Ministry of the Environment played no small part in the poisoning of at least seven people of Walkerton to the extent that they died and the poisoning of thousands more to the point that they may suffer permanent, irreparable damage to their bodies—permanent, ongoing symptoms. My God, people go to jail for doing that to other people.

The people of Ontario have a right to see this commission serve as something more than simply a temporal buffer for the government. Do you understand what I'm saying? If the commission performs long enough—and I'm not suggesting that they won't or shouldn't, because I'm suggesting to you that there's a huge amount of evidence that the commission will feel obliged to consider and hear before it reaches its final conclusion. But I am very fearful of this government exploiting this commission to simply buy a huge amount of time, to the point where perhaps a few highways can be paved and a

few bridges built—I suppose in more than just literal ways—and to the point where the impact of this slaughter of innocent people in Walkerton will have diminished. But I'm confident of the people of Ontario.

Look, don't you folks understand? People are afraid out there. People are afraid in every community of this province. Drinking tap water is accompanied by more than a small amount of anxiety, because people understand that if the province can let it happen in Walkerton, the province can let it happen in Welland or Thorold or Pelham or St Catharines. The E coli was tasteless, had no odour, was invisible to the eye—deadly. People died, people who weren't racing sports cars or high-speed cars on racetracks, people who weren't parachuting, people who weren't climbing mountains, engaging in any other number of high-risk activities—people who were drinking tap water.

We'll support the amendments to the Public Inquiries Act. We would also, at the same time, call upon this government to bring to the Lieutenant Governor the legislation passed in 1993, which does everything this amendment does but extends it beyond the participation in public inquiries, public commissions. We ought to be encouraging whistle-blowing at every level and in every context, not just in the context of a public inquiry, not just in the context of that formal process. If this government's negligence in their downloading and their cutting of not just a dozen staff but hundreds and thousands of staff people in any number of ministries killed seven people, possibly 11, in Walkerton, similar cuts, similar elimination of whole departments in other ministries—the Ministry of Agriculture, the Ministry of Natural Resources—can result in similar catastrophes.

I spent some time this morning over at the Toronto Youth Assessment Centre, right beside the Mimico Correctional Institute—Mr Levac for the Liberals was there as well—and joined correctional officers and their friends in an informational picket, as I've joined them on a weekly basis, almost, over the course of several months now, talking to the community about the risks of the privatization of corrections. This government doesn't seem to want to learn from even the hardest of lessons. How many more Walkertons do you need? My God, in the light of Walkerton you announce that you're going to demand, insist that municipalities privatize, turn over, hand over, sell off their water systems and sewage systems to the corporate sector so that the corporate sector can make money with them. Within days of Walkerton you announce your plans, à la Hydro deregulation.

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Hydro deregulation? Listen to me, my friends. The city of St Catharines just announced that it's seeking a 14% increase in residential hydro rates. Thank you very much to Mr Harris and the Conservatives for their deregulation and their privatization of hydro and electricity in this province. And we will be hearing, from across this province, from community after community which has undergone a privatization of their services where the new costs will be not just 14% but 20%, 25% and 30% higher.

You folks have seriously misread the province of Ontario with your privatization agenda. You've seriously misread the people of this province. I'll tell you once again, Ontarians, over the course of generations and decades, at great sacrifice, have built neighbourhoods and communities and have invested in them and have built public water supply systems and public supervision of those systems, public sewage systems and public supervision of those systems, utilizing municipal and regional and, yes, provincial governments.

The role of the government of Ontario is to serve the people of Ontario. The role of the government of Ontario isn't to crawl into bed with the corporate sector and the Bay Street boys and, more so than the Bay Street boys, the Wall Street boys, the American corporate interests that see huge profits to be made here in Ontario. Let's understand: The corporate world has one interest, and that's to make money. I tell you, at the same time, this government has one interest, and that's to hand over the assets of the people of Ontario to their corporate buddies so that those huge profits can build and build—and, quite frankly, not build here in the province of Ontario. We don't have a brain drain in this country and in this province as much as we have a money drain, a profit drain. This government isn't content with what will amount to billions of public dollars being spent on billions of private profits. It also wants to open the sluice gates so that those profits flow south into the United States and those profits don't even remain here in this country of Canada, never mind the province of Ontario.

This public inquiry and the evidence that will be delivered before it on a daily basis will continue to shock the people of Ontario, will continue to reveal to them the negligence of this government as it has gone about its role, with such great pleasure, of slashing and cutting.

Please, to the Minister of the Environment and to the Premier, if you want to take credit for getting monies back into the Ministry of the Environment promptly so they can rehire those staff who perform the job of keeping water safe, feel free to take credit for it. Just do it before more people die.

Mr Gerry Martiniuk (Cambridge): I am most pleased to join in debate on second reading of Bill 87, the Public Inquiries Amendment Act, 2000. I have not had the opportunity to do so, and I know it's belated, but I, on behalf of all the constituents of my riding, consisting of Cambridge, south Kitchener and North Dumfries, extend our condolences to the people of Walkerton who have suffered through this tragedy.

What happened in Walkerton is a tragedy that must not be repeated. That's why it is so important that we have a full, open, public inquiry review as to what went wrong and why, and that we make recommendations that will avoid similar tragedies in the future. The people of Walkerton demand and deserve answers. The Ontario public demands and deserves answers. Premier Harris, his government and all members of this House want answers to these questions.

I know all members of the House are delighted that Justice Dennis O'Connor, an eminent jurist and a member of our Court of Appeal in Ontario, has agreed to accept an appointment to a commission of inquiry under the Public Inquiries Act. Justice O'Connor has been given a very broad mandate to inquire into all matters relevant to the safety of Ontario's water supply. We have now established a process that will enable us to get to the bottom of this Walkerton tragedy and to restore the public's confidence in Ontario's water systems.

As Premier Mike Harris has already pledged, this government will co-operate fully with the inquiry. All members and employees of the Ontario government will be directed to furnish Justice Dennis O'Connor with whatever information or documents he requests. This is an important point. Ministers and staff will not be invited to co-operate; they will in fact be directed to co-operate.

In addition, the Attorney General has proposed legislation that would protect employees who participate in any public inquiry. If passed, this law would prohibit employment-based reprisals for disclosing information in good faith to a commission established under the Public Inquiries Act. In particular, the proposed amendments to the Public Inquiries Act would, if passed, protect an employee who in good faith discloses information to a commission or makes representations as a party to a public inquiry. It would make it an offence for an employer to discipline or dismiss an employee who engages in one of the above activities. The penalties for contravention could result in a fine of up to \$5,000.

This act would apply effective June 12, 2000. It is important to note that these protections would extend not only to Ontario government employees but to non-government employees as well. We all want answers, and we are committed to getting to the bottom of this issue. I encourage all members of the Legislature to support this important legislation and I ask for their co-operation in ensuring quick passage.

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Justice O'Connor is a sitting judge on the Ontario Court of Appeal, the highest court in our province. He was appointed to the appeal branch in 1998. His in-depth and varied legal background, including work early in his career in smaller Canadian communities, makes him an ideal choice to conduct an open, fair and thorough inquiry.

Mr Justice O'Connor's qualifications are impressive, encompassing more than 20 years of practice with a major law firm, service as a provincial court judge in British Columbia, acting on behalf of various federal and provincial governments, including as chief federal negotiator for the Yukon Indian land claim in the early 1980s, and more than a decade of teaching law. We are delighted that Mr Justice O'Connor has agreed to act as commissioner.

We also appreciate the co-operation of the Honourable Roy McMurtry, Chief Justice of Ontario, for releasing Justice O'Connor from his court duties so that he can take on this crucial role.

The government has adopted comprehensive terms of reference for the public inquiry, giving Justice O'Connor a broad mandate to examine all relevant matters to ensure the safety of Ontario's water supply system.

In drafting the terms of reference, the Attorney General consulted Walkerton residents and the two opposition parties, as well as Justice O'Connor and Chief Justice McMurtry of the Court of Appeal. His aim was to see that the commission has a free hand to get to the bottom of this tragedy.

Under the terms of reference, the commission is to inquire into the following areas: the circumstances which caused hundreds of people to become ill and several to die at a time when E coli bacteria were found in the Walkerton water supply; the cause of these events, including the effect, if any, of government policies, procedures and practices; and any other relevant matters the commission considers necessary to ensure the safety of Ontario's drinking water.

The terms also authorize the commission to make recommendations on funding for parties with standing at the inquiry who would not be able to participate without financial assistance. The government will accept and follow these recommendations.

Let me quote from the statement by Justice O'Connor concerning his mandate. He says: "I have reviewed and been consulted with regard to the terms of reference for the inquiry. I am satisfied that they will enable me to carry out a full and thorough inquiry into the causes of what happened in Walkerton—including the effect, if any, of government policies, practices and procedures—and the implications for the safety of drinking water in Ontario, in order to make recommendations to ensure the safety of the water supply system in Ontario."

Justice O'Connor continues: "I am satisfied that I have sufficiently broad powers under the terms of reference and under the Public Inquiries Act to carry out this very wide mandate."

We know that the people of Walkerton and the Ontario public want to know when the inquiry will begin. Justice O'Connor has indicated that within a period of 30 to 60 days he will develop a work plan and a tentative schedule for hearings. He will then be in a position to announce when the public hearings will be scheduled.

We know from past experience that public inquiries inevitably take time, and determining legal liability through the courts also takes time. We also know that for many people in Walkerton the need for compensation is urgent, regardless of who's at fault. We want to do all we can do to help. That's why, as part of the government's comprehensive response to the people of Walkerton, the Ministry of the Attorney General is setting up a compensation initiative to offer financial payments to people who got sick or lost a family member. Our goal is to get financial payments to people quickly through a timely, out-of-court process that includes mediation and arbitration.

As many of the members may be aware, the use of mediation and arbitration is increasingly common in civil

matters in Canada and across North America. These processes have been found to lead to quicker compensation with lower legal costs for the claimants.

The ministry's initiative will offer individuals the option of a quick and simplified process as an alternative to seeking compensation through the courts. This will not only be a faster process; it will be a fair process. Claims will be assessed on the same basis, using the same factors and criteria, that they would in a court of law.

This initiative is a compassionate response to provide compensation for physical injury and death and their consequences. It is not about money; it is about doing the right thing. The government and the public of Ontario want to do the right thing for the people of Walkerton.

Compensation will be offered in the following areas: pain and suffering; lost income, including future income; past and future health costs not covered by OHIP; and a family's loss of care, companionship or guidance.

Applicants will file the claims for compensation. The claims will be assessed by an independent expert. The claimant can then accept the assessment or move to mediation with an impartial mediator. If the mediation doesn't settle the claim, the claimant can move to binding arbitration, again by a neutral third party. Arbitration will be timely and simplified. Or, if the mediation doesn't lead to a resolution, a claimant can leave the process and consider filing a claim through the courts.

Again, let me say that people in Walkerton should not have to wait for years to get compensation for losses they have suffered. This initiative is designed to address these pressing needs.

I also stress that this is not an admission of liability. Questions of liability are for the courts to decide. Now we should focus on compassion for the victims.

To ensure potential claimants have all the information they need, government will provide a free initial consultation with independent legal counsel. This will help potential claimants weigh their legal options.

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As the Premier has said, our government is committed to assisting the people of Walkerton in any way possible. Our response includes actions by several ministries. This compensation initiative is part of that commitment.

As I have said before, the victims and their families demand answers, the people of Ontario demand answers and the government demands answers. The Premier has pledged the government's full co-operation. We all want to get to the bottom of this tragedy.

We have a distinguished commission with broad terms of reference for an open and thorough public inquiry. If this bill is passed, we would have protection for the employees who choose to participate in this inquiry. With these pieces in place, we will have created a process that will get the answers we all seek.

Mr Michael Bryant (St Paul's): I want to direct most of my comments to the legislation before the House right now, but I would be remiss, given the discussion in this House on this debate today, not to add my voice to all those whose thoughts and prayers are with the families in

Walkerton. Obviously we, the official opposition, wish to get to the bottom of this through the public inquiry. We look forward to the commission starting as soon as possible under Justice O'Connor and hope that the commission, again, will not be used as a shield in this House from holding the government accountable, in question period and otherwise. That's not the purpose of a commission.

I would add that the commission and the appointment of the commissioner, and this commissioner in particular, remind us all of the importance of the independence of the judiciary and how critical it is that we have three separate branches of the state: the executive, the front benches here which administer laws; the House itself, the Legislature—we pass the laws here; and the judiciary, which interprets the laws.

In addition to their role as interpreters of what we pass here in the Legislature, from time to time sitting judges and sometimes retired judges are called upon by the Attorney General provincially, federally, or otherwise called upon by the crown, to fulfill the role of the independent arbiter. The point of it is to find somebody who is beyond reproach, somebody about whom people will not say, "Well, that's a government representative," or "That's an opposition representative." No, it's an independent arbiter, hearkening back to the notion that justice is blind. Justice does not know class or race or creed or politics. That's why you can't look in the eyes of the statue of justice, *Justitia*; she's blindfolded.

I would be remiss if I also didn't remind the House of our opposition to the Judicial Accountability Act, which in my view represents both explicit interference and benign interference with the judiciary. I don't want to take any more time on that point. The importance of the judiciary is emphasized—we're reminded of it at these times. We look forward to this independent commissioner getting on with the commission as soon as possible.

The principles at issue here with respect to this legislation, the so-called whistle-blower legislation, are obviously an effort to balance the interests of free speech on the one hand and the duties of civil servants, and in particular the oath of secrecy they all take, on the other hand. We have a tradition in our nation of free speech rights—not absolute, but qualified—entrenched in our Constitution. Some have said they were entrenched in our Constitution even before the Charter of Rights and Freedoms was patriated in 1982. Under the unwritten Constitution, through the BNA Act, 1867, there was a suggestion, because of the importance attached to this right, that this nation enjoyed that as a constitutional right. Now there's no doubt under section 2(b) that free expression is gained as an absolute protection under the charter subject to limits under section 1.

So on the one hand, the argument goes, civil servants should be able to speak freely and advise the public of what's going on in a ministry. On the other hand, there's the very important principle of confidentiality. Of course for all employees there's in fact a loyalty, a principle of confidentiality, which is in our common law, which is in

the jurisprudence, and they have a duty to keep matters confidential.

So where do you draw the line? Where do you say that the employee should or ought to speak? Where is the ethical duty and where is the legal duty? But more important, in instances such as the matter we're discussing tonight, at what point can public servants speak up without fear of criminal sanction, without fear of civil sanction, without fear of demotion? It's not a simple question, obviously; it's a complicated one. It has come to light as a result of this tragedy, but it's not the first time it has been debated. As many members know, we've had a bill which was passed but not proclaimed in this House. We've also seen legislation in other jurisdictions. The United States was one of the first nations to bring forth—

Hon Frank Klees (Minister without Portfolio): On a point of order, Mr Speaker: My apologies to the speaker. The general government committee is authorized to sit until 8 o'clock this evening. I've just been advised that they have some business that they'd like to complete. I'd like to ask for unanimous consent from the House to allow that committee to sit until 9 o'clock.

The Deputy Speaker: Is it agreed? It is agreed.

My apologies as well to the member for St Paul's.

Mr Bryant: We know the United States brought forth the first whistle-blower legislation—I can't remember the exact date—and it was updated again in 1989. The United Kingdom did not even consider having whistle-blower legislation for a variety of reasons until the Blair government came in, and even right now we don't have any legislation in that nation similar to what exists in the United States. Then this province had a bill, which I'm going to discuss in a moment, that was never proclaimed.

There have been many who have said in the past how important it is to give civil servants the opportunity to fulfill their duty to the public, to ensure that their ministry, their government, the crown, is conducting itself in an honourable manner. Yes, there's an oath of secrecy, which I want to talk about in a moment, but there is also an obligation as a public servant at times, in very rare circumstances, to stand aside from that obligation of confidentiality and loyalty to the minister and provide the public, in a legal way, in a straightforward way, with information without having to put it in a brown envelope and drop it off.

The oath of secrecy in Ontario is set out under the Public Service Act. It's an oath of confidentiality not to disclose any information other than that which is legally authorized. The oath that is taken reads something like this: The person swears that they'll faithfully discharge their duties and observe and comply with the laws of Canada and Ontario, except as legally authorized. This is what the civil servant must say: "I will not disclose or give to any person any information or document that comes to my knowledge or possession by reason of my being a civil servant." This is an absolute requirement of secrecy. There is no reasonable limit imposed upon this absolute requirement within this act, so one has to look to

other legislation in order to get some relief from that absolute oath of secrecy. Where do you go?

2000

Why would we set up such an absolute oath of secrecy? It's part of the Gladstonian tradition of the disinterested public servant who will serve a Conservative government, a Liberal government, an NDP government, who can remain in that office as a non-partisan civil servant notwithstanding the change of government. That tradition of the disinterested public service may be one of the single greatest gifts to our parliamentary system in the 20th century. We always have concerns about partisanship at certain levels, but the civil service is not supposed to be partisan. We know that; we accept that. That's one of our traditions here in Ontario, borrowed from the United Kingdom.

The concern is that some civil servants don't want to be known as with "the enemy," nor do they want to be known as somehow with the government of the day in the sense that ideologically "they're one of us." The hope, and the assumption, is that all honourable ministers will treat their civil servants that way. But it's difficult, in the midst of fulfilling the oath of secrecy, to imagine a civil servant breaching that oath of secrecy, with all the sanctions attached to it, and expecting to serve in his or her office as if it never happened. Besides the breach, there is the real political-personal concern of what's going on in that ministry. Will the person suddenly find himself or herself demoted, let alone all the other sanctions that exist?

Where do you draw the line? Here's one suggestion provided by Lord Denning: "The duty of confidentiality will be overridden by the public interest in receiving information of misconduct." It's his view that "the extent of the public interest should be wide, extending to crime, frauds and misdeeds and any misconduct that ought in the public interest to be disclosed to others"—ought to be disclosed to others." Lord Denning sees the public interest as prevailing over the notion of, I would say, generally speaking, the oath of secrecy. But he spoke those words in a case in which he was offside with the legislation in the United Kingdom at the time. That's not the state of the state in the UK right now.

What's the state of the state here in the province of Ontario? Until Monday, if a member of the Ministry of the Environment wanted to come forward with information, they would have had to deal with this oath of secrecy and they would have been totally precluded from it because there was no legislative relief for them to provide information that might be in the public interest; not just crimes, frauds and misdeeds potentially taking place, but also something that "ought in the public interest to be disclosed." Practically speaking, we know that what happens, rightly or wrongly, is that brown envelopes get delivered sometimes. On the weekend, the leader of the official opposition explained to the public that that was happening, that the official opposition was getting brown envelopes and that's how we were learning of some information. Is that right? Does it make sense

that we have a system whereby people have to fulfill this ethical duty by way of a brown envelope? One questions whether that makes any sense at all.

Where is the legislative relief in this? In the midst of this grave concern over what happened in Walkerton and in the midst of getting to the bottom of this, members asked of the government in this House for a commitment to immunize ministry officials from the oath of secrecy so that we could get to the bottom of it. The Hansard speaks for itself. The record clearly indicates there was no response to that whatsoever; there was a refusal, in fact, to provide that immunity.

On Sunday, Dalton McGuinty called on the government to introduce legislation to ensure that whistle-blowers are not punished. In particular, on June 11, a release was put out calling on the government to immediately put in place whistle-blower protection for government officials who may have information helpful to the Walkerton public inquiry. As the leader of the official opposition said, "We need a law that helps Mr Justice Dennis O'Connor's inquiry get the whole truth about Walkerton and the safety of drinking water across Ontario." At the end of the release it says, "McGuinty will push for the whistle-blower protection when the Legislature reconvenes tomorrow," being Monday. That's a few days previous.

Interjection.

Mr Bryant: A little more suspense here.

On Monday morning, in the newspapers, on the radio—and I heard all weekend on the radio as well—this call from the leader of the official opposition to provide for this legislation. In one newspaper—I don't name the newspapers because I get myself in trouble when I do that—on June 12, it is reported that, "The Liberals have been receiving 'brown envelopes' containing information, but McGuinty said the information needs to come out in public." The headline reads: "Protection Sought for Whistle-blowers; McGuinty Says Bill Would Aid Walkerton Probe.

Another newspaper, on the other ideological spectrum, on Monday, June 12: "McGuinty Makes Push for Whistle-blower Protection Bill." We need a law that helps Justice O'Connor get to the bottom of this.

I remind the House that this is in the context of the government refusing to call a public inquiry, saying that the existing inquiries were sufficient; and under pressure in this House and from the public, led by the leader of the official opposition, the government caved in and agreed, rightly—better late than never—to the public inquiry.

Then, with this call for the whistle-blower legislation in the news and on the airwaves, with the voice of reason coming from the leader of the official opposition to bring forth this legislation, lo and behold, I discovered for the first time at about 1 pm that in fact legislation was being introduced that would protect whistle-blowers who attend before the public inquiry. I said then and I'll say now that if the role of the official opposition is to force wind into the sails of government, then it was a moment in which the leader of the official opposition, Dalton McGuinty,

on behalf of all Ontarians, pronounced upon this issue with the force of a hurricane. Why? Because as a result of his opposition and his efforts and his leadership we got the legislation. That's the good news. We support the legislation; let there be no question about that.

The legislation doesn't go far enough. Why? Because it doesn't do anything to ensure that another Walkerton doesn't take place ever again. The concern that we have is not right now with respect to the public inquiry, because now public servants will have immunity to appear before the inquiry, but what about a sequel to Walkerton, which none of us wants? One way to avoid it is to ensure that if such an event is going to come forth, this surely is an example where the oath of secrecy should not preclude a member of the civil service from coming forward. It may not be crime or fraud or misdeeds, but surely it's in the public interest to get to the bottom of this; surely it's in the public interest to find out in advance that there's a problem as opposed to finding out after the fact. Yes, it's important to get to the bottom of it, and of course we need to have some accountability; otherwise, what is the point of having a democracy?

The Common Sense Revolution takes place and the government talks much about the benefits and never about the costs. But here is the ultimate cost of the revolution. We hope there are no more costs to come, but there may be. One way to ensure that there are no more tragedies like Walkerton is to permit public servants, if they have information that people may be struck ill, or dead, by something that the government is doing or not doing, to come forth with that information—not through a brown envelope being dropped off in a mailbox or however, but rather through legal and ethical means.

2010

What we are asking the government to do, quite simply, is not to undertake a long debate on this—we want this legislation to pass as soon as possible, yes—but it could take about five minutes to proclaim the legislation passed by the New Democratic Party, Bill 117. Why wouldn't we just proclaim those provisions? Why is that better than the existing legislation? Why is it preferable? Well, the existing but unproclaimed law would protect employees who speak out before a tragedy, not just after, so we can prevent another Walkerton from happening.

This bill only gives protection to civil servants and employees after a tragedy, where they co-operate through a public inquiry. Bill 117 would protect them any time they reveal serious government wrongdoing. We need this legislation now, as we all deal with and grapple with the costs of the Common Sense Revolution. Let's not take any chances; let's proclaim Bill 117 now. It would take about five minutes for cabinet to do so, and I urge them to do that.

In closing, I would just say that we support this bill. I repeat that it does not in any way relieve the very important obligation on this government to proclaim Bill 117 to prevent further tragedies from happening in the future. Walkerton has been, perhaps, the most sobering

public moment of my life, certainly of my political life and I would assume of the political lives of everybody in this room, in this House. It's time, as we assess the costs of the Common Sense Revolution, to ensure that public servants can come forth and act in the public interest. That means real whistle-blower legislation is needed. This is a first step but only a first step, and I hope the government does proclaim Bill 117 as soon as possible.

Mr Howard Hampton (Kenora-Rainy River): I'm pleased to be able to take part in this debate this evening, although I suspect that many of the government members will not like to hear what I have to say.

Let me say, first of all, we'll be supporting this legislation, because obviously this legislation is necessary if we're to have the opportunity to get to all the facts and all the information that is necessary for the inquiry to do its work, because a lot of this information exists within the government. It exists in the hands of people who work in the civil service, the Ministry of the Environment, the Ministry of Natural Resources, the Ministry of Agriculture, the Ministry of Health, or it exists in the hands of people who work in the public health units or in other quasi-government organizations such as the Ontario Clean Water Agency.

But I think it's important to reflect on how we got here, because the government, while they made the announcement of the legislation, had to be dragged to this kicking and screaming. The government's first announcement back on May 29 was not of a public inquiry, not an inquiry where there would be an independent commissioner. No, the government's first response was that there was going to be a legislative committee, and a legislative committee dominated by Conservative backbenchers. There was absolutely no mention of whistle-blower protection for those people who work in the public service so they could come forward.

The government's first response was a legislative committee that would be dominated by government backbenchers, the same backbenchers who cheered when 40% of the Ministry of the Environment budget was taken away, who said it was a good thing when 900 scientists, inspectors, technicians and enforcement officers were laid off at the Ministry of Environment, the same backbenchers who cheered when government spokespersons announced that 50% of the environmental regulation was going to be eliminated in this province because in this government's view, it was merely red tape.

That was the government's original approach. They didn't want any of this information to see the light of day. There was no mention of whistle-blower protection. In fact, the very people who are responsible for the cuts to the Ministry of the Environment, who are responsible for the cuts to public health, who are responsible for the privatization of the water-testing labs, were then going to sit in judgment of everything.

We know how that unfolded. That didn't wash with the public one bit. It didn't have one second of credibility out there. And the government knew—the government figured out after a while—that information was going to

come out anyway. Information was going to make its way out into the public arena and they knew, or they had it brought home to them, that they could not confine this issue to the events of Walkerton.

Why just today there are no fewer than five communities in my constituency, far away from Walkerton, that have received boil-water directives in the last couple of days. The community of Balmertown, Cochenour, Madsen, McKenzie Island, Machin township, otherwise known as Vermilion Bay, and I suspect—I'm told—that the community of Hudson will receive a boil-water directive tomorrow. These are all communities thousands of kilometres away from Walkerton, but there is obviously a problem with their water. These communities are going to be approaching this government asking for help so that their water treatment systems can be upgraded. We will see at that time how seriously this government takes these issues of protecting the drinking water quality for the citizens of Ontario.

The government backed away because it became obvious that their approach of trying to smother this, trying to keep it out of the light of day, wouldn't work, wouldn't have any credibility and the people of Ontario would see it for what it really was—an attempt at a cover-up.

Then the Attorney General, on Wednesday, May 31, comes into the Legislature and he announces that the legislative committee—conducted by Conservative backbenchers, designed to keep the information out of the public view—is off. “The government agrees. The government has acceded to the public demand for a public inquiry.”

But at that time there was no mention whatsoever of whistle-blower protection for the public servants who have access to, who probably have possession of most of the information. No mention whatsoever. I came into the Legislature, and I asked the Attorney General, I asked the Premier and I asked the Minister of the Environment for assurances that this kind of protection would be made available. No response. I sent a letter to the Attorney General and I pointed out to him that the terms of reference of the inquiry should have included in them a very long and definite clause which says that any public servant, any government agency, any employee of the government, any employee of a quasi-governmental agency or any municipal employee who comes forward shall have protection. I asked the Attorney General to respond to that. No, he wouldn't. No response.

2020

But it then became evident to the Attorney General that as more and more attention was being focused upon what happened at Walkerton, the events that led to Walkerton, all of the information was starting to leak out. They suddenly realized they had another problem. They wouldn't be able to cap the information in another way. Thus we have this legislation here today. The government has finally recognized that they can't keep this out of public exposure, that they can't keep it away from the public. But this hasn't happened because of the

willingness of the Harris government; it has happened because it's been dragged out of them. It has happened because they recognize that their attempt at a narrow legislative committee wouldn't work. It has happened because we asked them here to provide these assurances. I asked the Attorney General, in a very specific letter, to include this language. Finally they have recognized that they can't sell this, that they have to allow this to see the light of day.

Is this legislation adequate? Actually, no, it isn't. No, it's not adequate, because this legislation only provides protection for a public servant should he or she choose to come forward during the time of this public inquiry. What is needed is for this government to implement the whistle-blower legislation that was put in place by the previous NDP government. What this government needs to do is to put the one or two finishing touches. The legislation was passed, regulations were prepared, but the appointment of the commissioner or a council that would be responsible to the Legislature, the one finishing touch, is something this government has refused to do. This government has absolutely refused to do that.

I want to point out why that's necessary and what would likely have happened if that had been in place. We know that back in 1996 officials in the Ministry of the Environment were ringing the warning bells for this government, saying to them, "Your cuts in the Ministry of the Environment, especially in enforcement, inspections and in the operations division, are so severe that Ministry of the Environment staff can no longer adequately protect things like drinking water."

There was an internal memo in 1996 from the assistant deputy minister of operations. It said, "We will no longer be able to do all of our work in terms of protecting the quality of drinking water." That memo was repeated in May 1997. The same deputy minister, after more cuts had taken place, came forward and said to her staff, "We will not be able to fully do our job."

We know that in 1997 that information was put in the hands of the minister. It went all the way up the line, to the assistant deputy ministers, the deputy minister and to the minister, so that this government was told that adequate protection of the quality of drinking water and the water supply is no longer within the capability of the Ministry of the Environment.

We know further that in January of this year a memorandum was prepared within the Ministry of the Environment that is almost clairvoyant in terms of Walkerton. It sets out in the issues that it raises and in the recommendations that it makes the very things that would have allowed the events in Walkerton to be avoided.

If this government had implemented that whistle-blower legislation, if that information that was available within the Ministry of the Environment in the fall of 1996, in May 1997 and in January 2000, some of it speaking almost specifically to the Walkerton situation, it would have allowed that information to come into the public light and what happened at Walkerton may very well have been avoided.

That is why this legislation, which will provide whistle-blower protection for the public inquiry and the public inquiry only, is good for the public inquiry, but it is not adequate for the citizens of Ontario and it is not adequate for a province which calls itself a parliamentary democracy.

The tragedy we've seen at Walkerton, the deaths of at least seven people and possibly 11 people, the serious illnesses of 2,000, could very likely have been avoided if this government had proclaimed the very whistle-blower legislation that was there on the books. It simply needed this government to appoint a commissioner. That commissioner would have provided the framework within which civil servants, employees of the government or quasi-governmental organizations, could have come forward and brought this information into the light of day. That would have made a huge difference.

This government has failed to appoint the counsel, has failed to put the finishing touches on what is legislation that is very much required in a parliamentary democracy. Some of the Liberals say, "Why didn't the NDP proclaim it?" I want to say to the Liberals, the NDP brought this legislation forward, something that we never heard of from the Liberals. The NDP passed the legislation and the NDP put in place the regulations. The one finishing touch that needed to be done was the appointment of a commissioner. This government failed to do that, failed to provide the machinery so that that legislation could become effective.

I want to point out why it's important for that legislation to be proclaimed now. It would have been wonderful if it had been proclaimed by this government in 1995 or 1996 and the council appointed. It is equally important that it be proclaimed now. Let me point out why. We heard just the other day that even as the inquiry into Walkerton will go forward, this government intends to force-march the privatization of municipal water treatment, sewage treatment and water protection across the province.

The Minister of Municipal Affairs stood in his place almost like a bulldog and said, "We will go forward with this agenda." Whistle-blower protection is therefore even more important in this context, because this government's plan to further privatize what is an important public service, the provision of safe, clean drinking water, is an agenda that has been adopted from elsewhere.

I want to refer to Great Britain because this government is doing nothing more than copying the agenda of Margaret Thatcher in Great Britain. Thatcher privatized all of the water treatment plants, all of the water utilities in Great Britain in 1988 and 1989. What did the private companies do? The private companies came forward. They were more than happy to take over the water utilities. They immediately laid off half the staff. They stopped doing maintenance in the system. They jacked up the prices. They cut their costs, increased their prices and, yes, made huge profits, increased profit levels that were unheard of.

What happened to the public? What happened is this: Families that didn't have a high income suddenly found their water cut off. When there was no maintenance being done on the water systems, the quality of the water systems started to depreciate substantially, and more and more people were consuming dirty water, contaminated water. How bad did the situation get? It got to the point where in the mid-1990s, in 1993, 1994 and 1995, the British Medical Association on an annual basis was writing to the Conservative government then and pointing out that the sad state of the quality of drinking water was such that it was a serious public health problem in Britain. Because it had been privatized, because those private companies were more interested in making a profit than they were in providing quality drinking water, water had become a number one public health problem.

2030

That is why we need, now, proclamation of the whistle-blower legislation. That is why we need this government to finally appoint the commissioner who can be the mechanism and the machinery to ensure that where public servants come forward and bring information forward that is necessary for the protection of public health and safety, they will have that protection. I'm not surprised that this government is reluctant to do that; I'm not surprised at all. After all, this is a government that systematically, as an agenda, is turning over the public services and the public resources, which are necessary for people's public health and security, to private corporations that are not the least bit interested in protecting the quality of the public service, but are interested almost exclusively in how much money they can make off of the particular service.

I'm not surprised that this government didn't appoint the whistle-blower commissioner in 1995. I'm not surprised at that. But I would say to the government members that if you had appointed the commissioner, the counsel for whistle-blower legislation, if you had appointed the commissioner to provide that protection, what happened at Walkerton could very well have been avoided and what I think is going to happen in other places across this province could very well be avoided.

People out there who have some responsibility for the quality of drinking water are now, out of precaution, sending out boil-water advisories in community after community. As I said, six communities in my constituency in the last couple of days have received boil-water advisories. I'm surprised that the Ministry of the Environment didn't report to the medical officers of health that there were problems with the quality of water before. I'm surprised that they didn't report this back in April or February or last November.

I wonder what it was that suddenly those officials in the Ministry of the Environment are calling up the local medical officer of health and saying: "Oops, there's a problem with the water in Balmertown. Oh, there's a problem with the water in Madsen. Oh, there's a problem with the water in McKenzie Island. Oh, there's a problem with the water in Machin township, in Vermilion Bay.

Oh, there's a problem with the water in Hudson." I know why they're doing it. I know why suddenly the medical officers of health are getting this information. It's because this government knows that what happened at Walkerton could very easily happen elsewhere in the province.

This government is not, by and large, inspecting the water treatment facilities of the smaller communities in this province. The Minister of the Environment in estimates committee yesterday basically admitted that to me. He said: "Well, we're checking about 175 out of more than 600 water treatment plants. We're checking the biggest ones. The 175 that we're checking account for some 80% of the population of Ontario." You don't have to be a mathematician to figure out that this government is checking the water treatment plants of the largest cities, but small towns and small rural communities aren't being checked at all.

What happened at Walkerton could very easily happen elsewhere. Officials in the Ministry of the Environment are now taking information they've been sitting on for who know how long and they're putting it out to the medical officers of health. The medical officers of health, because they don't want to see people become ill, because they don't want to see someone else die, are immediately imposing boil-water advisories in community after community.

As I said, we'll support this legislation. I have to say to the government members and especially to the cabinet ministers who are here: Do you realize that what happened at Walkerton could very easily happen again?

The House lights went out briefly.

Mr Hampton: This is just an indication of what's going to happen after your deregulation and privatization of power. Not only are the prices going to go up, but the lights are going to go out.

I just want to give another example of why implementing the whistle-blower protection and appointing the commissioner to supervise the whistle-blower legislation would be timely. We've heard your Minister of Energy come into this Legislature and tell people over and over again that the deregulation of hydro is going to result in lower hydro rates. That has been your government's line now for two years. But last week he had to come into the Legislature and he had to re-regulate. Why? Because he suddenly discovered that in the municipal sector it's not going to result in a reduction of power rates; in fact, power rates are going to go up. Even though he doesn't want to admit it, he's now discovering that the major industrial users of power have sat down with their electrical engineers and their accountants and they have figured out that the cost of their hydroelectricity is going to go up by 20% and 25%. Just an example again of how whistle-blower legislation—I'm not saying that in that particular instance it would come to the aid of citizens—in comparable situations would allow someone to come forward and say: "Whoops, the government's agenda here is not working. The government's strategy is not working."

I told you that power deregulation is going to result in higher prices and less power, and you guys are seeing it here tonight. We should all thank you very much for this brilliant strategy that is already off the rails.

I say this particularly to the members of cabinet who are here tonight. What are you going to do if, while the Walkerton inquiry is happening, another community is hit with contaminated water and all of the reports start coming out again that this should have been known about, could have been known about, that warnings were sounded, information was provided?

Let's take the community of Rocklyn, which is near Walkerton. Rocklyn has had E coli contamination in 13 of the wells in that community since February. Since February. And since February they've been trying to get someone from the Ministry of the Environment to come and do an investigation of where it's from and what they have to do to clean up the water system. The Ministry of the Environment says: "No, we're not doing that. We don't have enough staff. Wait until after Walkerton. Wait until we've dealt with the other serious situations, and then we might have time to come and do this."

It's pretty evident that there could be another community out there where this could happen, where people could become very ill. Wouldn't you be protecting yourselves by implementing, across the board, the whistle-blower legislation? Wouldn't you be protecting yourselves by ensuring that somebody who works in a public health unit or the Ministry of the Environment or in hydrology in the Ministry of Natural Resources could come forward and say, "Here is a problem, here is an issue for public health, here is something that needs to see the light of day for the protection of public health and the protection of public safety"? That's the situation you're in now. That is the problem you're facing. People can do that in the terms of the public inquiry, but outside of the terms of the public inquiry, they can't do that. So, if something is not necessarily connected to the public inquiry, they're not going to be able to do that.

In terms of doing the right thing, in terms of providing that extra measure, that additional measure of protection of public health and safety, this is an intelligent thing to do and it would be a smart thing for your government to do in the context of the jam you've got yourselves into now.

I don't expect members of the government to listen. This is very much a government that, since its first days in office, claimed it knew everything and no one else in the province knew anything at all. This is the government that laughed when we told them two years ago that their cuts to the Ministry of the Environment were going to come back and do irreparable harm. We're telling you now: Implement the whistle-blower legislation so that the people of Ontario will have the kind of protection for health and safety that they need and deserve.

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Mr Frank Mazzilli (London-Fanshawe): I too, on behalf of my constituents of London-Fanshawe, want to express my condolences to families in Walkerton and to

those families who are at a very difficult time dealing with the tragedy.

I certainly commend Premier Harris and the Attorney General for calling the public inquiry into a situation that deserves all the appropriate answers, deserves the attention so that this will never happen again.

Along with the public inquiry, there's an OPP investigation that will certainly do its investigation and come to some conclusions.

Along with that, there's the coroner's inquest. I think it was the appropriate thing for the leader of the third party to call for a public inquiry, and I commend him for his leadership in that regard. Dalton McGuinty was nowhere to be found on that issue.

The public inquiry is important not only to get to the bottom of this tragedy but also to have a person heading that inquiry, Justice O'Connor, who can take the evidence heard from many witnesses, who in many cases will be represented by legal counsel. Certainly in a situation like that you need a person who has expertise in handling rulings on admissibility of evidence, which obviously will have to be done. That's where, in my view, this would be beyond the scope of what a coroner's inquest could handle. The reason, quite simply, is that a coroner's inquest is heard by a coroner, a medical practitioner in the province of Ontario who has the expertise, certainly a medical background, but often in a complicated hearing where one wants to come to conclusions and recommendations, it's beneficial to have a Court of Appeal of Ontario judge as the commissioner. Again, I want to commend Premier Harris and the Attorney General for recognizing the importance of having a qualified person to preside over such an inquiry.

The inquiry has a very broad mandate to check into the circumstances which caused hundreds of people to become ill and several to die at a time when E coli bacteria were found in the Walkerton water supply. That's only one thing, and that's a pretty broad scope and a challenging one, I submit, for the commissioner to come up with the answers to.

The second thing is the cause of these events, including the effect, if any, of government policies, procedures and practices and any other relevant matters the commission considers necessary to ensure the safety of Ontario drinking water. Not only is Justice O'Connor being asked to find out, to hear witnesses speak about, what happened in Walkerton to ensure that it never happens again, but essentially he's being asked to look into any government procedure or policy, if any, that had any effect on the situation in Walkerton and any other relevant matters he considers important or necessary.

There have been many inquiries in this province. There have been many inquiries at a national level. I don't know that any had that type of scope, that kind of broad terms of reference we see here. The reason for having that is that the people of Ontario deserve nothing less than to know the entire truth about how the situation in Walkerton occurred and how that can be and must be prevented at all costs in the future.

Second reading of Bill 87 is very important. As we've heard, both opposition parties have had the opportunity in the past to amend the Public Inquiries Act to have a situation that could protect not only civil servants but also other employees called before an inquiry to give evidence, and they did not. We hear complaining across the floor. Yes, governments are reactive. There are things you never consider would be a problem and only realize are a problem when something occurs.

The Attorney General looked at the Public Inquiries Act legislation and found that public servants, as well as private sector employees, who could give evidence before a commission may feel they do not want to because of fear of reprisal from their employers. The Attorney General felt it important that those employees should be protected, and should be mandated to appear before the inquiry and give in good faith any evidence they feel is important.

A few moments ago we heard the leader of the third party complaining that this type of legislation should have been enacted long ago; in fact, when he was in government, they did not. If I can turn to Hansard from 1993, at 2220 hours the now Minister of Transportation was debating on behalf of our party the very bill the opposition leader was talking about. I quote:

"Turning to the last section of the bill, the whistle-blowing, this completes some political promises that were made to the Liberals in their famous accord, but it is interesting to note how toothless this legislation is. When the NDP were in opposition, they always talked about some all-encompassing whistle-blowing legislation. I note that the member for St Catharines, who has been around this House for a very long time and has heard a lot of the NDP rhetoric, both from the government side and the opposition side over the years, is nodding his head in agreement.

"This legislation on whistle-blowing is useless because it establishes a council to tell the individual ministries that are accused of grave misconduct to investigate themselves. How utterly ludicrous.

"Last night in clause-by-clause I introduced on behalf of the Progressive Conservatives an amendment which would allow the council to determine, if they considered the breach to be of such a significant nature that they thought it appropriate that the individual ministry not investigate itself, that the council would have the discretion to request the Provincial Auditor, the OPP or the Solicitor General, or any other ministry which it thought appropriate, to come in and investigate that breach. The government voted it down. Why? That's the fundamental question."

That was Mr Turnbull, now the Minister of Transportation, who in 1993 when the NDP had their bill—I certainly don't like the title "whistle-blower" because when we talk about people who truthfully come before an inquiry or a public hearing of any sort, what we're talking about are people who are concerned about sharing in good faith the knowledge and information they have.

The title of "whistle-blowing" that's been referred to is not one I would title it or condone.

2050

What we had from the NDP in their proposed legislation—let's think about it—was "ministries ... of grave misconduct to investigate themselves," and then this is before a council that has no obligation to report that grave misconduct to the Provincial Auditor, the OPP or even another ministry. If that is not the most useless piece of legislation of this sort ever introduced, I don't know what is.

That is why, after this situation in Walkerton, Premier Harris took it upon himself with his leadership to not only have an OPP investigation of the matter; there's a coroner's inquest that's going to answer some questions, but there are very difficult questions that go beyond the scope of what any coroner's inquest could possibly come up with and the scope of the inquiry would be beyond the ability of any coroner to control, because I suspect the number of people and institutions applying to this inquiry for standing will be large.

With those large numbers there has to be some ability to make the legal arguments. That is why we need a commissioner, and Justice O'Connor is that person. We on the part of the government know that we have someone who can not only handle the many legal arguments that I suspect will be brought before him, but can also handle the many different witnesses at a time of trauma. I suspect there will be many witnesses at the inquiry who have been traumatized, who are victims, perhaps witnesses who feel they have some sort of responsibility for the tragedy that happened.

A person with many years of experience on the bench is required, to have understanding of what it takes to allow a witness the appropriate time to tell his or her story to the best of his or her knowledge about what they know about this tragedy, and after having heard all of that evidence, a person who has the experience to come to some conclusions about what occurred and how this is to be prevented at all costs in the future.

I am aware and cognizant of the fact that this inquiry's going to take some time, and I think with good cause because in the end there will be, I suspect, a very comprehensive review that will answer some very difficult questions, questions of "the circumstances which caused hundreds of people to become ill and several to die at a time when E coli bacteria were found in the Walkerton water supply; ... the cause of these events, including the effect, if any, of government policies, procedures and practices; and ... any other relevant matters the commission considers necessary to ensure the safety of Ontario's drinking water."

It is with that type of scope that we expect—and I'm sure it will be delivered by Justice O'Connor—a very comprehensive report to ensure the situation in Walkerton never happens again in Ontario.

Mr Steve Peters (Elgin-Middlesex-London): While the government's so interested in public inquiries, I would issue the challenge tonight to have public inquiries

into what happened at the Elgin-Middlesex Detention Centre and into what went on at Ipperwash with the death of Dudley George. Those are a couple of more public inquiries this province really needs.

As we talk about this legislation here tonight, I think it's very interesting that if you look back to 1993 and the comments that were made in this very Legislature, why has it taken you three years? Now you're finally going to do something about whistle-blowing. All I have to say is, it's about time.

"I want to reiterate a couple of the principles enunciated by the Ontario Law Reform Commission ... 'Public trust and respect is earned through integrity and openness in government, and accountability in government is promoted when public employees understand that they are free to disclose matters of serious wrongdoing and that they will not suffer any adverse consequences for having done so.'" Do you know who said that? The Deputy Premier.

Still we wait for this legislation. We see this legislation in front of us tonight and it's only looking at one segment. This is a law that doesn't just protect employees; more important, it allows information in the public interest to be disclosed.

You know what else is important, and what we need to do and why this should be looking at not just at this instance, but overall as far as government is concerned? Because this is all about preventing tragedy. The existing unproclaimed law would protect employees who speak out before a tragedy, not after, as it does in today's legislation. Government employees have no protection from retaliation and no legal means to make their information public unless there's a public inquiry. That's wrong. Every government employee should know that at all times they have the right to come forward without threat of legal retaliation.

We talk about communities and the community of Walkerton and the sad tragedy that has taken place there. But as we're hearing more and more, this is an issue that is much broader, an issue that has got citizens across this province seriously concerned about the state of their drinking water. The government has to be held accountable and accept some responsibility for this. I look in my own riding. In the school at South Dorchester children this week were told to bring bottled water to school—unprecedented.

I want to talk to you about a more serious threat to another community that has just come out publicly today. This is not a community in the sense that we think of, of roads and streets; this is a community of a hospital. The St Thomas Psychiatric Hospital today has been informed that their water is contaminated with E coli. This is a community of 400 patients—geriatric patients, forensic patients, individuals with psychiatric disorders. This is also a community within the hospital that has a daycare centre that is there for the employees' young children. Where was the E coli found? It was found in the tap of the daycare centre.

This is a serious crisis that's taking place in this province, and a crisis that has gone beyond the magnitude of Walkerton. It has gone to South Dorchester school, and as of today it's part of the St Thomas Psychiatric Hospital. I think, and I would hope, that all members will be extremely concerned about what's happening there because this is a very serious issue.

Yesterday in this Legislature I questioned the Minister of Agriculture about his decision to cancel the CURB program: Clean Up Rural Beaches. This was a program that took great steps and great strides to removing contaminants and sources of contamination to our groundwater and to our waterways. So what does the government do? They go and cut that program. It's just mind-boggling that they would proceed and do something like that.

It's not just that program, but it's all the cuts that have taken place across this province. I think what's worse yet in all this, in this whole issue—and I hope it's something that comes out of this inquiry—is the serious lack of coordination that exists among your government ministries. One ministry doesn't know what the other ministry is doing. There's not one cohesive, solid water strategy for this province. That is a very real shame and it's a real serious threat to individuals' health, to lives, to the tourist industry in this province. You've got the Ministry of Agriculture and Food doing one thing: sitting quietly on a report that they know is going to show that there are problems with intensive farming operations. You've got the Ministry of Natural Resources, with its infighting and talk now of probably pulling the plug on conservation authorities and what they do. You've got the Ministry of the Environment—we've seen how the Ministry of the Environment has handled this situation. You've got the Ministry of Health: The ministry of health is responsible for public health; the Ministry of Health is responsible for the St Thomas Psychiatric Hospital. Why can't these ministries get together so that we can have a coordinated water strategy for this province?

When we talk about contamination of our waterways—and too often we've heard in this House where one group gets blamed or another—I think we need to all accept some responsibility that it's municipal sewage plants and septic systems that are contributing to part of our problem. It's landfills that are contributing to part of our problem. It's agriculture that's part of our problems. And it's the boating industry that's part of our problems. There's a collective problem in this province and the government is doing nothing to address this issue of water quality.

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I was proud to have been part of an organization called the Kettle Creek/Lake Erie Water Quality Task Force, which worked through the 1990s to develop and look at Kettle Creek flowing into Lake Erie, and Lake Erie being the source of the drinking water for St Thomas and Elgin county and 46% of London. We looked at some of the problems that were happening in our waterways, and I'm proud to say we addressed that. We identified that it

wasn't any one segment that was part of the problem, that we all had to accept collective responsibility.

I'm proud to have been part of a city that recognized that bypassing our pollution control plant in heavy rains—like it's doing outside—is just not acceptable. We invested \$3.2 million to develop a combined sewer overflow which is going to prevent 90% of the bypasses from going into our lakes.

We need to really stress, and I can't stress enough, the need for this coordinated approach. I'm glad to see that the Minister of Agriculture is in the House, because I'm hoping he'll give us some indication tonight when his intensive farming report is going to be released. I hope he's going to give us some information about how the healthy futures program is supposed to help and will help individual farmers. I wish the Minister of the Environment was in here tonight to talk more. The Minister of Natural Resources was in here. He too needs to accept some responsibility.

As we've heard before, we all need to accept some responsibility for this, but I think the biggest responsibility and the biggest blame, though, lies with this government: the unprecedented attacks that this government has made on the budgets of the Ministry of the Environment; the unprecedented attacks it has made to the budgets of the Ministry of Natural Resources; the unprecedented cuts in employees of those two departments; the unprecedented downloading of sewage and water plants to municipalities. You look at the bypassing that has taken place in eastern Ontario. Eastern Ontario can't believe they've been given, courtesy of this government, a pollution control plant that they find out now is bypassing raw sewage into the creek. That responsibility lies with this government.

That's what this inquiry is going to show. This inquiry is going to show that this government has to accept responsibility for what has happened in this province. This government has to accept some responsibility and owes an apology to the citizens of Ontario for its actions and its initiatives, what they've taken and the damage they've done.

As I said before, this is beyond Walkerton. What's happened in the village of Walkerton is tragic but it's happening all over this province. I can tell you, when it starts to happen in your own backyard, when schools are told to bring bottled water, and a psychiatric hospital with 400 patients and children in daycare centres are threatened, it hits home.

I put this government on notice: I'm going to do everything in my power to keep the heat on this government, to make sure that you are held accountable for the damage you've done to this environment and this province.

Mr Bert Johnson (Perth-Middlesex): I would like to add my comments to this debate tonight. First of all, I would like to say publicly to those people in Walkerton who are hurting and grieving that we all feel for them. All of us who live in small towns—I happen to live in a place called Listowel, which is very comparable to

Walkerton in terms of size and economic activity and is in the midst of a very good rural farming-agricultural community—feel for their loss and their hurt at this time.

What happened in Walkerton is a tragedy that must not be repeated. That's why it's so important that a full, open, public inquiry review what went wrong and why, and make recommendations that will avoid similar tragedies in the future. The people of Walkerton demand answers. The Ontario public demands answers. Premier Harris and this government demand and want answers.

I know all members of the House are delighted that Justice Dennis O'Connor, an eminent jurist, has agreed to accept an appointment as the commissioner of inquiry under the Public Inquiries Act. I don't know Justice O'Connor personally. All I know is what I've heard and read about him, and that satisfies me. If that's true, then he is very much the person whom we want to lead this inquiry. Justice O'Connor has been given a broad mandate to inquire into all matters relevant to the safety of Ontario's water supply.

I wanted to reiterate that I was mayor of Listowel for the period from 1988 to 1994. Some members may remember that was during the time the town of Elmira was undergoing water problems. We had problems in Listowel too. We had the conduit and we had a sewage treatment plant that needed to be updated and enlarged. I remember going home from a council meeting one Monday night, dropping my agenda and all the background material I was expected to read and know on the kitchen table, plopping myself in a chair and saying to my wife, "Am I ever glad I'm not the mayor of Elmira."

I think all of us who have been in municipal politics will say the same thing about Walkerton. We'll be very glad that we're not the mayor of Walkerton. We can't imagine the kind of hurt and treatment he has taken, not only from his own people, in some cases, but the press, who won't take yes or no for an answer and make their way into maybe some private areas of his and other lives.

I wanted to put those comments on the record at this point, that we from small-town Ontario feel for each other in our own communities and will help out the best we can. In my area, I know there were collections taken up for bottled water to be put in trucks and taken up to Walkerton to help out. It seems to me that's the sort of help we should be giving to each other instead of standing here in this House, yelling back and forth across the way and trying to find blame.

We have those who want to blame this already. I guess there's no need to have an inquest, there's no need to have a police investigation and, as I see it, there's no need to have this inquiry, with all of Justice O'Connor's ability, because a third of this House, or whatever, have already made up their minds whose fault it is. They know exactly what happened. I don't know how it is that they know and I don't, but they know where the blame is and they are saying every day just exactly where it is. So I would suggest we could save an awful lot of money by just disbanding the inquiry, giving Justice O'Connor a cheque and a thank you and sending him on his way,

because if we were to listen to those who know what happened, we wouldn't need all of these investigations. I'm one of those who would like to sit back and see, and if there has to be blame, that's fine.

We were talking about compensation. There was one honourable member here tonight, I think from Kingston and the Islands, who was talking about compensation and immediate payments and so on. I don't know about Kingston, but I worked for an insurance company in the mid 1960s that developed a strategy for settling claims, and it was that you would determine the amount of quantum in a claim before you decided on the liability. In spite of that, they changed the common way that claims were settled in those days, up until this time, 1965ish: You had to sign off on your injury, whether it was your sore back or arm or your head injury. You had to sign off on that before they would pay you for your broken bumper and your fender and the damage to your car. This progressive company decided they were going to try paying for the car first, and maybe then the person wouldn't feel quite so injured and would settle just as cheaply for his head injury or his sore arm or his back.

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That was in 1965. As far as I know, they've not changed their policy on that. I don't see any reason to change that either. So when the members from across are wondering about the wisdom and the strategy on how to settle claims, I think that instead of getting into a big uproar and saying, "We're going to blame this on budgetary strategy of this government," we'd better wait until the inquiry settles.

When I look at the budget, I take a look at the environment in 1996-97: \$146 million; and I take a look in the plan for the year 2000 and I see \$158 million. That doesn't appear to be a cut or a reduction.

I'll wind up my comments with this: What happened in Walkerton is truly a tragedy. We wouldn't wish this on anyone. But I am one who would like to take a little bit of time to see what has happened. I'd like to give those bodies that have been given the authority time to look into these and to ask the tough questions, get to the bottom of things, find out. Laying the blame will satisfy some, but I'm more interested in finding ways that we can prevent this, eliminate it from happening again, rather than going out and laying the blame and being able to point the finger at somebody and saying, "It's your fault."

Mr James J. Bradley (St Catharines): I am pleased to be able to make a contribution to this debate and to say that the procedure being recommended by the government is a small step. It is one that is essential for this inquiry, but I think it should be widened considerably to what we call whistle-blowing legislation. That was of course passed by the Parliament of Ontario, I think back in 1993. It was never proclaimed, and I wonder why it was never proclaimed, because it was a good piece of legislation. The leader of the New Democratic Party was up earlier this evening extolling its virtues, and I know he was probably putting a lot of pressure on at that time to

have it proclaimed. If it was so good a piece of legislation, it would have been proclaimed. It reminded me of the spills bill which in 1979 was passed by a minority Parliament and never proclaimed by the Progressive Conservative government once they got a majority. When we came into office as a Liberal government in 1985, one of the first things we did was proclaim the spills bill, which meant putting it into effect. That's what we mean, for people at home who might be watching, when we talk about "proclaim."

It is needed. Listen, we go through the procedure, our members, now because there are problems across the province. Every day, almost every hour now you're reading about some municipality that has to boil its water; they've found E coli, they've found coliform, they've found some other substance that should not be in the water. It's virtually out of control right now. The Ministry of the Environment must be run off its feet.

But you can't get timely and extensive information from the Ministry of the Environment at this time because a gag order has been put on them, at least a gag order for a period of time, until the information is sanitized at central, at the Kremlin, in this particular case. I always refer to the Kremlin as the central office of any operation that operates in this building.

Here's the conclusion I've come to, looking at some cases that some of my colleagues have brought to my attention when they've tried to get some information from the Ministry of the Environment the past couple of weeks. A Ministry of the Environment field officer, for instance, is typically the person you would contact. They're forced to spend two and a half days waiting for approval and direction in responding to a simple inquiry about the enforcement of a regulation.

Potentially all MOE employees across the province are forced to follow a lengthy, time-consuming process in attempting to respond to calls from the media and from members' offices. The MOE has lost one third of its staff, 40% of its budget. We know that. Now we find out that the meagre staff left in the MOE offices, including front-line officials, are being forced by this same government to spend days responding to simple inquiries, deeming them unable to perform their primary responsibilities, which are protecting the environment.

The sole purpose of the media-MPP response process, lasting two and a half days in some cases I've seen, is to ensure that the Ministry of the Environment employees don't talk and reveal unnecessary information. Therefore MOE workers are being muzzled. They cannot answer questions at their own discretion. Thus the information being released from the ministry is being carefully dictated from a central Toronto office.

It appears that the MOE is afraid of and is forbidding whistle-blowing by their own workers and that they have some reason to believe that their employees have information that will possibly be hurtful to the government.

That's a conclusion which some of my colleagues and I have come to just trying to contact the ministry over

calls we get from people, because they tend to call us about these matters.

I attend an Ontario Public Service Employees Union press conference the other day where they were talking about the inquiry. They would be pleased to the extent that in the inquiry we appear to have a whistle-blowing provision there, where people are protected against reprisals. I think that is positive, although it was described to me by someone else who said, "That's only for people who are deemed to be appropriate witnesses before the inquiry and not for others who may have useful information."

But I thought it would be interesting for you to listen to what the Ombudsman had to say in her report. This was in 1998-99. Listen to what she said about the ability of government employees, civil servants, to make comment. She says:

"In each of the cases I reported the public servants involved were not at fault. Generally speaking, they are committed professionals dedicated to serving the public to the best of their abilities. The fact is a demonstrable lack of resources has led to an inability to provide acceptable levels of service, and senior government officials have failed to take adequate steps to address the problems.

"As Ombudsman I have witnessed the development of what I can only describe as an atmosphere of fear among public servants, where senior officials are afraid to question the wisdom of the government's approach for fear of reprisal or loss of reappointment. As a result, many of the values upon which the public service has historically relied, including the obligation to 'speak truth to power' even when the truth is unwelcome, have been seriously undermined. I have also observed a not unrelated trend as some senior officials become unwilling to admit their inability to deliver adequate service. Instead they offer reassurances that despite evidence to the contrary, all is well, things are getting better, and improvement is just around the corner."

I'm talking about the Ombudsman, a totally neutral person.

"It has been my experience in recent years that there is a fundamental contradiction between promising higher standards of service on one hand and on the other, systematically underfunding those agencies mandated to deliver the service."

She goes on to say, "The result of this tension between expectations and reality is a public service in serious decline and increasing numbers of people in crisis."

That's why I believe that the whistle-blower legislation, which was Bill 117, I think we're referring to, passed during the years of the NDP government, should be proclaimed by this government. That would cover not only the circumstances with the inquiry, but all circumstances. Because there are reprisals against the person who comments publicly and outside the scope of the duties of his or her position on matters that are directly related to those duties that are dealt with in the positions—I'm relating this now to the bill. The purpose of

part of this bill is "to protect employees of the Ontario government from retaliation for disclosing allegations of serious government wrongdoing and to provide a means for making those allegations public."

Here's what it talks about in those categories:

"Serious government wrongdoing

"For the purposes of this part, an act or omission constitutes serious government wrongdoing if it is an act or omission of an institution or of an employee acting in the course of his or her employment and if, ... it represents gross mismanagement; ... it represents an abuse of authority; or"—this is very telling—"it poses a grave health or safety hazard to any person or a grave environmental hazard."

For protection of employees, it says the following:

"No institution or person acting on behalf of an institution shall take adverse employment action against an employee because,

"(a) the employee, acting in good faith, has disclosed information to the counsel under this part; or

"(b) the employee, acting in good faith, has exercised or may exercise a right under this part."

Essentially this is saying that it's a whistle-blowing bill. That's what we should be implementing now. There are many people in the public service who would like to speak out, who are afraid—a characterization by the independent Ombudsman of the day, who, in a 1998-99 report, clearly points out that her observation is that was the case.

We have seen quoted in the newspapers on several occasions some information which is rather relevant—employees saying they're discouraged. Here's one quote:

"'Since the cuts, everybody's been walking around like zombies,' said Doug McDougall, an investigations officer with the ministry in Timmins, who also chairs the ministry's employee relations committee.

"'We'll never get over it. The whole ministry is in shambles. All you can do is shake your head,' he said, referring to the 900 jobs cut from a total of about 3,000.

"The common adage at the ministry these days is that 'the ministry is spending more time counting what it is doing, rather than doing what counts.'"

It goes on to say:

"'There was a collective shudder through the ministry. It was like: 'Oh my God. Do [the Tories] have any idea what they're doing?'" said a former investigator who lost his job during the cuts and no longer works in the field."

What they're referring to is the staff cuts and the significant budget cuts.

There was a story that appeared under Martin Mittelstaedt's by-line in February of 1997 which talked about an internal document by Sheila Willis, an assistant deputy minister, telling the government they must prepare an internal defence against negligence because what was going to happen in fact was that the government was going to be sued.

There was a front-line environment ministry staff meeting in Collingwood three years ago to talk about the potential for environmental catastrophe because of cuts to

water and sewer inspections. There was a document referred to in January 2000. No minister even saw it, they said.

I'd like to hear from all these people. They won't necessarily be called before the inquiry. I would like the people who are described in those articles and those documents to have the freedom to speak out, the freedom to reveal to the public of this province the problems that exist and to come up with solutions. This bill does not go far enough to do so.

The Acting Speaker (Mr Tony Martin): Mr Flaherty has moved second reading of Bill 87. Is it the pleasure of the House that the motion carry? Carried.

Shall the bill be ordered for third reading?

Hon Mr Klees: Mr Speaker, I ask for unanimous consent to call the order for third reading of Bill 87.

The Acting Speaker: Do we have unanimous consent? Agreed.

PUBLIC INQUIRIES
AMENDMENT ACT, 2000

LOI DE 2000 MODIFIANT LA LOI
SUR LES ENQUÊTES PUBLIQUES

Mr Klees moved third reading of the following bill:

Bill 87, An Act to amend the Public Inquiries Act /
Projet de loi 87, Loi modifiant la Loi sur les enquêtes
publiques.

The Acting Speaker (Mr Tony Martin): Any debate? If not, is it the pleasure of the House that the bill carry? Carried.

Resolved that the bill do now pass and be entitled as in the motion.

It being close to 9:30 of the clock, this House stands adjourned until 10 of the clock tomorrow morning, Thursday, June 15.

The House adjourned at 2124.

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