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**Official Report
of Debates
(Hansard)**

**Journal
des débats
(Hansard)**

Tuesday 3 October 2000

Mardi 3 octobre 2000

Speaker
Honourable Gary Carr

Président
L'honorable Gary Carr

Clerk
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LEGISLATIVE ASSEMBLY OF ONTARIO

Tuesday 3 October 2000

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

Mardi 3 octobre 2000

The House met at 1845.

ORDERS OF THE DAY

McMICHAEL CANADIAN ART COLLECTION AMENDMENT ACT, 2000

LOI DE 2000 MODIFIANT LA LOI SUR LA COLLECTION McMICHAEL D'ART CANADIEN

Resuming the debate adjourned on September 28, 2000, on the motion for second reading of Bill 112, an Act to amend the McMichael Canadian Art Collection Act / Projet de loi 112, Loi modifiant la Loi sur la Collection McMichael d'art canadien.

The Acting Speaker (Mr Tony Martin): Questions and comments?

Hon Helen Johns (Minister of Citizenship, Culture and Recreation, minister responsible for seniors and women): I'd like to speak highly of my colleague. I have to tell you that I thought she did a terrific job in speaking to the issues of culture in the province of Ontario and talking to us about the investments that the Harris government is making in culture in the province.

I also would like to remind viewership and the members opposite that this is certainly a special and unique circumstance, the McMichael art gallery, as a result of its financial situation. As viewership may know, we have an art gallery with a \$1.6-million debt. We also have an art gallery that's been plagued for years, since 1965, with controversy with respect to its mandate, with respect to the art it collects, with respect to a number of issues, and it's time to ensure that this art gallery is put on firm footing to be here and around for our children and our children's children. So it's with pride, actually, that I bring this bill forward, because I know that it will solve some of the situations that have existed within the art gallery.

I remind everybody that it's a unique circumstance because usually the government doesn't get involved in art galleries. But let me remind you that the taxpayers of the province donate, give, \$2.6 million to the art gallery every year, and of course this year they'll have to make an additional contribution because of the debt. They'll also have to make an additional contribution of \$2 million through the SuperBuild fund to ensure that the roof and the building are strengthened and have repairs done

that are needed. So this is no small contribution to the people of the province of Ontario, and as a result of that, as the minister responsible for culture, I have to be here to make sure that it's invested properly. That's what we're doing in this bill.

I'd like to thank the member from York North for her comments.

Mr Rick Bartolucci (Sudbury): I'm going to stand and take a little bit of a different approach. I believe that the minister is embarrassed by this bill. Rather than thanking the member, the reality is that we've spent approximately five days debating this bill, five days that could have been used for debate about very substantive issues, like Bill 6, An Act to protect Children involved in Prostitution, like domestic violence, bills that mean something to the people of Ontario as opposed to dealing with a bill that is patently, and without question, a sweetheart arrangement.

I believe that the people of Ontario want accountability. They don't want someone to get preferential treatment because they're not satisfied with 3,000 art pieces that particular person wants to get rid of in an art gallery, that is going to have serious ramifications on the economy with which Canadian artists try to make a living.

The people of Ontario want the government, the minister and the Premier to be accountable for passing legislation that is meaningful and protects the people of Ontario—the children of Ontario, the women of Ontario—not the pocketbook of a particular group in Ontario.

I'm telling the minister and the Premier that this is going to have serious ramifications for our Canadian artists. It is seriously going to undermine their ability to make a meaningful, fruitful living because of what this government is doing.

1850

Mr David Christopherson (Hamilton West): It really struck me to listen to the minister respond to the member's comments by saying—and I jotted it down—"Government doesn't normally get involved in things like this." There's a reason for that. There's a reason that governments stay further away from decisions around collections in art galleries, in museums, things that reflect our culture. You may think your shared collective values over there on that side of the House reflect Ontario, but there are an awful lot of us on this side of the House who would beg to differ. It would also seem that there are an awful lot of artists and people who are involved in the

arts community who are equally concerned that your vision is not one that really reflects where Ontario is at.

If the artistic community was onside with this, it really would make it somewhat more difficult for us in the opposition benches to mount an effective opposition. We'd do our best, as you all know, and we would find things because very rarely do you get perfect legislation, but there wouldn't be the kind of passion that you're hearing on this side of the House. There is a reason the artistic community is so upset, and a large, significant part of it is exactly the issue that the minister mentioned when she was on her feet a few moments ago, and that is government getting too close to deciding what is art and what ought to be reflected in our art galleries, and in our museums for that matter. There's a real concern that you're getting us, as a government, as a Legislature, too close and that the distance that's been there in the past, the arm's-length relationship, has been healthy and that it's served us well. I think you'll continue to hear us raise that over and over this evening and any other opportunities that we get.

Mr Bart Maves (Niagara Falls): I'm pleased to comment on the comments by the member from York North. She did an excellent job in discussing this bill. She talked about the \$1.6-million deficit that's currently at the gallery. What she didn't say was that, at one point in time, the people who are currently running the gallery came and said they had a \$300,000 deficit. A couple of months later, they came back and, lo and behold, they were wrong. The accounting was bad and it was like a \$700,000 deficit. Then the minister sent in, I believe, an independent review and in actual fact there was a \$1.6-million deficit. That speaks to the gravity of the financial situation at the gallery, and part of this bill is that we will indeed fix that situation.

I'd like to quote from the member from York North because she was very poetic in some of the things she said. She said,

"I believe this legislation restores the purpose for which it was first created...."

"We are not dictating artistic taste or freedom. We are dealing with a specific circumstance in a specific gallery. This is a unique situation. We are solving a financial problem and honouring the intent of the signed agreement, a unique agreement. By honouring this unique agreement, we are assuring that others who make agreements with the government will have them honoured as well."

I think that is vitally important. That is the difference between our party and the parties opposite. We intend that our word is our bond. What we run on, we implement. The public in Ontario has seen that. This is a situation where an agreement that was made back in 1965, I believe, was not honoured. This bill restores honour to that agreement.

The member went on to say, "We are not guardians of art. We are guardians of agreements made by former governments. We are the guardians of taxpayers of Ontario." I can't say it better.

The Acting Speaker: Response?

Mrs Julia Munro (York North): I certainly appreciate the comments made by the members for Huron-Bruce, Sudbury, Hamilton West and Niagara Falls.

I would just like to respond to those comments that reflect a notion that I think is flawed in that it is not an issue which is in any way undermining art in this province. I think those comments neglect the fact that, first of all, we're looking at a need for fiscal responsibility, the commitment, as the minister said, with regard to taxpayers' dollars and how those are used.

But to speak to the issue of the artistic community, the fears that have been suggested by those opposition speakers are simply not able to hold up to the test of this piece of legislation. It very clearly outlines the original mandate and returning to that original mandate. It is setting aside an institution that was initially clearly identified as one that was there to respond to a particular need in the artistic community.

I mentioned earlier that there are many institutions that have a narrow artistic mandate, and worldwide there are examples of ones which have functioned effectively and, frankly, this is a part of Canadian cultural identity that deserves this kind of special recognition. I think it's an important landmark in our history, in our cultural identity, that needs to be preserved.

The Acting Speaker: Further debate?

Mr Michael Bryant (St Paul's): I am pleased to join this debate on Bill 112, hereafter referred to as the McMichael mendacity bill. It basically flouts the rule of law. It engages in a moment of legislative retroactivity unprecedented in the history of Ontario. It amounts to an exercise of political interference in an area heretofore untouched by governments that, unfortunately, is consistent with the record of this government. I want to speak to all those points.

First, let's talk about the flip-flop. We've heard from the government benches about a promise made, a promise kept on a number of fronts. We heard from the member from Niagara Falls on honouring the original agreement. Look, the province of Ontario, this government, took the position in the courts—before the Supreme Court of Canada in 1989 and the Ontario Court of Appeal in 1997 and lower courts before that—that in fact the agreement between the McMichaels and the government was being honoured. That agreement was adjudicated before the highest courts and the final result was, after leave to appeal was denied by the Supreme Court of Canada, that the McMichaels' role was significantly reduced, as per the agreement. The legislation, the agreement that had been struck between the parties over the years, was said to govern their relationship, notwithstanding what the McMichaels thought the agreement ought to have meant. An independent arbiter, the Ontario Court of Appeal, said, "No, no, McMichaels, you're wrong. This is what it meant."

I want to go to the judgment in a moment, but let's just stop for a moment and think: how on earth can the government say that they're honouring a promise, how

on earth can the government pay lip service to the idea of a promise made, a promise kept when in 1998, they were taking a position which was in opposition to the McMichaels to the effect that an agreement was made and the McMichaels' role was significantly diminished in terms of influence over decisions made by the gallery? Yet here in the year 2000, they're taking the exact opposite position. They are, in effect, now supporting the position that the McMichaels took in court.

I have not yet heard the justification from the government as to why they flip-flopped. Why did they change their minds? Why did they go to all the trouble? And let's be serious about this. It is expensive to take these things through the courts. The government took a position. They said, "No. This is what we think is the honourable position for the crown to take." It went through the courts. The McMichaels had the finest lawyers in the country as their counsel, we had the finest counsel in the Ontario Ministry of the Attorney General as our counsel, and Ontario won.

Now, after going through all that exercise, they've taken the opposite position, with no principled reason for engaging in this moment of legislative retroactivity whatsoever other than to take a position opposite to what they had taken just two years ago. It doesn't make any sense whatsoever. It's an unprincipled political interference with the gallery, an unaccounted for flip-flop which leads everybody to speculate and suggest that maybe this is some horrible political sweetheart deal, because we have nothing else to conclude.

1900

In any event, the first problem: it flouts the rule of law, as I said, ignoring everything that the courts have said. Of course, Legislatures get the last word and I'm not doubting that for a second, but why would you take one position in court and then the opposite position in the Legislature? It makes no sense.

Second, we're turning the clock back here. This is adopting a static view of culture, trying to give back to the McMichaels a 1965 vision of art and culture, a curatorial vision for the gallery, instead of the dynamic view of culture and art that had been adopted by a far more diverse board, and I mean diverse in terms of opinion. Why are we turning the clock back?

Again, we have no principled reason. We're given a fiscal reason, something of great concern to all members of the House, and nobody is suggesting for a moment that the government not do something about the fiscal problems. But what the government is doing is the equivalent of saying, "We raised the debt by \$20 billion—well, let's transform the province into a constitutional monarchy." One has nothing to do with the other in this case. It's a total non sequitur to suggest that we ought to give curatorial powers to the McMichaels and set forth an official culture of Ontario in order to deal with a fiscal problem.

The political interference is probably what upsets most people in the artistic community and ought to concern us. I'm going to quote from Trudeau. In many ways it's not

fair, on the day of his funeral, because his quotes are bulletproof, but I quote the idea as opposed to the man whom we honour today. Pierre Trudeau said, on October 8, 1976, in a House of Commons debate, "There are two official languages, but there is no official culture in Canada." Trudeau recognized, and let's leave aside the messenger for the moment, that culture is the last thing that the government ought to be imposing upon the public. Just as government shouldn't be interfering with the judiciary, government should not be interfering in matters of religion, nor should it be interfering in matters of culture.

This is obviously an incredible betrayal of all those who donated to the McMichael art gallery. We all know here, politically, the vast majority of Ontarians might say "Cry me a river for those donors." But the truth is that for a lot of those people, this was a part of their lives that they gave up. They very proudly wanted this part of their life in the McMichael art gallery, because it was a truly Canadian gallery, and there was a deal, an understanding about who had control and who was going to decide what to do with the art and where it was put, and whether or not it would be divested and, if so, how, or never at all. This deal was broken. There was a meeting of the minds when these donors gave to the art gallery. They had an understanding of what the deal was, and the government has come along and changed the terms of the deal.

It would be like the Harris government coming along at the end of a fundraising drive for the United Way and nationalizing the United Way, saying, "You know what? We're going to take those donations and spend them as we see fit." I'm betting that Mike Harris would use taxpayers' money in a different way than Anne Golden; I'm just betting that's the case. What of all those people who donated to the United Way—in this case all those people who donated to the art gallery? They don't want the McMichaels deciding how their art is treated and what is done with the gallery. If they did, that would have been another matter, but that wasn't the understanding at the time, and they certainly don't like the interference of this government. The government denies that there is interference with the gallery. Obviously, by giving the McMichaels the position you are giving them, you are necessarily interfering with the vision of the advisory committee. Now, instead of having a majority of the committee decide, you have the board deciding, and you've changed the structure of the board.

The government says, "Don't worry. We won't be interfering." Sometimes, especially in matters such as this, it's more the appearance of impropriety than the impropriety itself. The artistic community is up in arms and concerned, and has expressed that concern, through members of the official opposition, to the effect that this is unprecedented political interference.

I urge the government to reconsider. Honour the intent, look at the judgment, look at the position you took in 1998. I don't understand how the chief legal officer to this cabinet, the Attorney General, could have let this get through cabinet without saying, "This is a walking dis-

aster." It will be a walking disaster. The lawsuits will be legion, and it will all go back to the courts. To what end? Still we don't understand to what end—I guess misunderstanding by the misguided plumbers who came here, not to govern but to fix the government. I can tell you that you are not fixing this problem. You're not addressing the problem; you're making a mess of the McMichael art gallery.

The Acting Speaker: Comments and questions?

Mr Christopherson: It's my pleasure to offer my compliments to the member for St Paul's. I think he spoke to a number of crucial issues in a very confined period of time, which we now have these days.

He raised the issue of donors and what happens to what their desires were. This government is always talking about the fact that taxes are other people's money. Well, guess what? This isn't your art. It isn't your decision to make. Frankly, I think the member for St Paul's makes a really important point when he underscores the fact that people have donated to the McMichael gallery, not expecting that some future Premier would come along and make a decision otherwise. How does that tie in with your desire for communities to make decisions?

The member, who has a great deal of experience in the legal community, suggests that a lot of these issues are going to end up in the courts. I wouldn't be the least bit surprised if that is the case. How much more taxpayers' money, in addition to the money of the people who donated the art, will have to be spent preparing and defending this legislation in court?

From virtually every quarter, you're getting a lot of heat, and it's because people have legitimate concerns. One of the problems we have with this government, and we've seen it over and over, is that they only listen to themselves. Once they've had their little cluster meeting, their little decision about what they want to do, nothing else matters. Here is yet another example of that. There are going to be a lot of upset donors, and rightly so.

Mr Joseph Spina (Brampton Centre): It was clear that neither of these members listened or paid attention to many of our comments in the last few days, and particularly some of the comments I made, with respect to the advisory committee that is being created to choose the art. The advisory committee will be made up of Robert and Signe McMichael, the chair of the board, the vice-chair of the board and one other member elected at large by the board, to form a committee of five that will make recommendations to the board as to what sort of art they will be choosing to acquire for the exhibition.

Clearly, this does not indicate that the government is suddenly going to walk in there, choose the art, decide the humidity of the art gallery and all the other nonsense these people are spewing forth in their criticism of the bill. The reality is that power is being restored to the people who are most familiar with the artwork that the mandate of this gallery was created to be, that is, contemporary Canadian art, which includes aboriginal.

Interjection.

Mr Spina: And I don't need two minutes to tell you, Liberal member, that you're full of crap.

The Acting Speaker: I'm afraid you'll have to withdraw that comment.

Mr Spina: I withdraw the comment.

1910

Mr Sean G. Conway (Renfrew-Nipissing-Pembroke): I want to congratulate my colleague from St Paul's and to tell him I listened carefully to what he said and I certainly agree with him wholeheartedly. He said he wonders how this bill got through cabinet. I'm hearing more and more from people who know this situation far better than I that it probably never went to cabinet; it came through the Premier's office.

I've listened very carefully to what the minister said, both in the debate on second reading of Bill 112 and in question period. I want to say to the minister and to her ministerial colleagues that this bill is an outrage. If there are problems with the financial administration of the gallery, you've got a whole bunch of other instruments. You do not need the kind of retroactive and confiscatory measures that are contained and contemplated in Bill 112.

I want to say to people out there who are watching and to donors by the score who feel, as my friend from St Paul's has rightly observed, betrayed by this outrage: this bill smells like something that Maurice Duplessis and Huey Long would have cooked up on a bad day. I say seriously to members opposite and to the public, particularly donors, there's no indication this government is listening. So you know what I would recommend you do? Sue. Sue the pants off these people, because it's a breach of trust for no good reason.

I want to say to Bob and Signe McMichael, people I worked closely with on this file 20 years ago, that I am personally offended they are accessories to this outrage. It's a disgrace that this has been brought here. It's a disgrace that it's being supported by an apparently unanimous cabinet. I say again, because I am angry on the basis of what I'm hearing from people who are also angry, and they're much closer to it than I am: since it's clear the government doesn't care and won't listen, sue them. Sue them for everything you can. Because my learned friend from St Paul's is right: this bill will stand no test and no pressure in any self-respecting court in Ontario or in Canada.

Mr Michael Gravelle (Thunder Bay-Superior North): It's difficult to follow the member from Renfrew-Nipissing-Pembroke in terms of his level of passion, but I do agree with everything he says. This is clearly a bill that is entirely Mike Harris's decision. There's no doubt about it: the entire artistic community is absolutely outraged by this piece of legislation that should still be withdrawn. The minister needs to listen.

When I look at the government backbenchers speaking with their notes, they clearly have no recognition of the history involved in this situation. I'm also curious about what Bill Davis himself might think about this. Bill Davis, I understand, had a real hand in the original

legislation in 1972—I think it was Bill 175. What was written in that legislation was pretty clear. That was 28 years ago, and of course there has been subsequent action since then.

The legislation then said that basically the government's intention was to "agree that the role of founder director emeritus is an advisory one and that an equally important objective is to clarify the full and unequivocal responsibility and authority of the board of trustees in pursuing the objectives of the gallery." It made sense then; it makes sense now.

If the government members need to understand the importance of an arm's-length separation on decisions about what is appropriate to be put into an art gallery, then we really are in trouble. As culture critic, I've fought many battles previously with this government over their attack on the arts community in terms of their decision to privatize TVO, which we got them to back off on with our strong and aggressive battle to stop that. We saw them try to go after the public library system. But this may be one of the worst things they're doing, because they're trying to sort of slide it through, which I'm glad to say we're not letting them do. I'm proud of all my colleagues and everybody in opposition who is fighting this, because this is truly a bad piece of legislation that speaks incredibly poorly for this government. You will regret it, because we won't let it go. The entire community is opposed for very good reasons. You should be ashamed of yourselves.

The Acting Speaker: Response?

Mr Bryant: I guess I would urge members of the public, if they are looking for a contrast between the approach taken by the official opposition and the approach taken by the government, to read the speeches of the likes of the member for Sarnia-Lambton and, of course, our esteemed senior colleague the member for Renfrew-Nipissing-Pembroke.

I would also urge them, if they want what is probably the government's most intelligent view on this, to read the speech by the member for Brampton Centre, who I think adequately summed up the frivolous approach that this government is taking to an issue serious for legislators, particularly in the sense that we're turning back the clock through retroactive legislation, which we, under all circumstances, are always loath to do unless we can provide some very compelling justification for turning back the clock and breaking the deal.

What was the deal? The Ontario Court of Appeal said in 1998, and the Ontario government, this government, said in 1998, took the position in court, supported by Mr Justice Carthy, that "Mr McMichael contracted to retire from operative decision-making and to assume an honorary role, and he did so under the guidance of the best legal counsel in an agreement which is free of ambiguity."

The legal counsel, by the way, were J.J. Robinette and then Ian Binnie, now the Honourable Mr Justice Binnie. They've had their shot in the courts. Unfortunately in litigation there are winners and losers, and they lost. The

government of Ontario won. You took a position which was supported by the courts, and now you've taken a stance that is completely unjustifiable in principle, without any explanation whatsoever. People have to jump to conclusions that it has something to do with a sweetheart deal. I urge all members of the government to remove all these offensive amendments in this bill. If you want to deal with the fiscal side of it, we'll support that, but please end this mendacity once and for all.

The Acting Speaker: Further debate?

Mr Joseph N. Tascona (Barrie-Simcoe-Bradford): I'm certainly pleased to join the debate on Bill 112. When you look at this situation from a historical perspective, in 1965, under an agreement between Robert and Signe McMichael, the province of Ontario and the Metropolitan Toronto and Region Conservation Authority, the McMichaels donated their collection of 177 works of art, property and land to the province of Ontario. The McMichael was established as a corporation under the McMichael Canadian Art Collection Act, 1972. The ministry provides \$2.748 million annually to the gallery for operating expenses. The ministry also provides \$250,800 in additional maintenance supports to the gallery.

The government's intent, through the legislation, is simply to return the collection to its original mandate, to honour the McMichaels' donation. Quite frankly, that was a very significant donation of art, if I may so say. This is a unique collection with a specific intent. The legislation would create a five-member art advisory committee that would decide which artists in the collection fit the mandate. The committee would make recommendations to the board about art at the McMichael.

The government seeks to restore the McMichael to its original purpose: to provide a home for the Group of Seven and similar artists. The government would not be controlling what exhibitions the gallery would or would not show. The board will determine what measures the gallery needs to take to bring the collection into conformity with the proposed legislation, and I have confidence that the board is more than capable of dealing with the issues that arise from its decision.

So there is essentially an art component to this legislation, which is going to be in the hands of a five-member art advisory committee to bring it back to the original intent of 1965, and a fiscal component, because quite frankly the provincial government does contribute significantly to the McMichael Canadian Art Collection.

That's essentially the twofold purpose, justification. In terms of input to the gallery, certainly it's going to be brought back to its original intent, and there's a fiscal component. I would say that our ministry and our government are proud of the role in supporting and sustaining it, helping to make it and to keep it a central part of what makes Ontario the best place in the world to live, work and invest and raise a family.

1920

We support the arts industries in a number of ways: by providing general operating funding; by creating special

funds and funding specific projects that serve a designated purpose and by creating a tax structure that encourages investment and creates jobs. Our funding for the arts industry is a good example of how we blend these three things. This year we're investing almost \$25 million in the Ontario Arts Council, an arm's-length agency that supports both individual artists and arts organizations. We're also providing more than \$11 million to the Art Gallery of Ontario, \$2.7 million to the McMichael Canadian Art Collection and \$944,000 to the arts service organizations. Those are just operating funds for the arts sector.

We've also got the \$50-million arts endowment fund; the \$20-million cultural attractions fund; the \$900,000 cultural strategic development fund; and Learning Through the Arts, a program run by the Ministry of Education through the Royal Conservatory of Music to help bring music to life in the classroom.

The Ontario Trillium Foundation invests between 10% and 20% of its annual \$100-million budget to the province's cultural sector, including the arts. Of course, we have pledged \$2 million toward the waterproofing of the buildings holding the McMichael collection.

Certainly arts play a tremendous role in any community. In my riding of Barrie-Simcoe-Brampton there's a facility being built by the McLaren Art Centre, tremendously supported through the community. It's going to be a facility that will encompass what the McLaren has come to mean in the city of Barrie. When you speak of that, that was a gift, the McLaren building and the McLaren collection, that was started out and given to the city of Barrie through a trustee arrangement. That's the way it got started and has blossomed.

As a government we can help our arts and cultural industries in two ways. We can provide financial support through our means and through our agency as I've just outlined. But we can do something else that's just as important. We can and do encourage the private sector to invest in our arts and cultural industries. The cultural industries—film and television, book and magazine publishing, commercial theatre and digital media—together provide more than 60,000 jobs and generate more than \$5 billion a year in revenue.

Some of the tools we have for encouraging growth in this important sector include the Ontario film and television tax credit; the Ontario production services tax credit; the Ontario computer animation and special effects tax credit; the Ontario book publisher tax credit; and the Ontario interactive digital media tax credit. Ontario is one of the largest film and television production centres in North America. The sector contributed a record \$934 million to the province's economy in 1999, up more than 25% from just a year earlier. Our best estimate is that these sectors combined employ 20,000 people.

You may be getting the impression that our film, video and digital media sectors are growing in importance and you'd be right. That's why in the 2000 provincial budget we also announced a \$30-million, five-year investment to

create the Ontario Media Development Corp. This new body will assume the functions of the Ontario Film Development Corp and the administration of the cultural industries tax credits.

Partnerships are not just the monopoly of the cultural industries, however. The arts industries, like the McMichael collection, also benefit by having partners through the staging of the exhibits and other functions, because there has to be a private sector component. As we look to the future, it's important to remember where we came from, to remember our heritage, of which the McMichael collection with its emphasis upon the Group of Seven is such a key part. This year the Ministry of Citizenship, Culture and Recreation is providing \$5.6 million to approximately 350 heritage groups.

As I said a moment ago, in an information age this vital sector can provide public access to knowledge of our past and can provide opportunities for lifelong learning. We're proud to have created the heritage challenge fund, proud of our ongoing role in providing technical advice in education for the heritage sector and municipalities. That too is what we are doing when we provide financial management advice to the McMichael in overcoming its deficit problems.

We're proud to provide \$2.7 million this year in operating grants for 167 community museums. These operations, large and small, rely on a small army of volunteers to keep them running, and they do so successfully. All together last year, these venues attracted a total audience of some 2.3 million people, equal to the population of Toronto.

We also demonstrated our support for the heritage sector through the Ontario Heritage Foundation to the tune of some \$2 million this year. The OHF plays a leading role in acquiring, preserving and maintaining properties and other assets in trust for all taxpayers.

We demonstrated our support through our investment in public libraries—\$29.6 million this year for libraries of all sizes in every corner of this province. Libraries provide a vital link to information in all its formats: on paper, on disk and on the Internet. Some 96% of Ontario municipalities provide for a library service. With more than 1,100 branches and outlets throughout Ontario, public libraries provide access to more than 29 million books for research, recreation and self-improvement.

Finally, we've got special programs that I want to mention. In 2000-01, the ministry is investing \$110,000 in the Trillium Book Award, the Ontario government annual prize for literary excellence. Past winners read like a Who's Who of the Canadian literary scene, from Margaret Atwood to Timothy Findley.

Then there's Ontario 2000, the province's program to mark the new millennium. Among its initiatives are a couple that really reflect the strength and diversity of Ontario's arts and cultural sector. The Ontario TimeShip 2000, which was displayed in my riding and throughout Simcoe county, was very well received. There's also a full list of arts and cultural activities taking place everywhere in the province throughout this millennium year.

In closing, that's strictly a quick overview of the province's arts, cultural and heritage industries and how the McMichael collection fits into the mosaic. But what they contribute to our province is just as important as what we contribute to them, if not more so.

I thank you, Mr Speaker, and I'm pleased to have spoken on this bill.

The Acting Speaker: Comments or questions?

Mr Conway: Let me just indicate to this Legislature that in the 10-year period between 1987 and 1997, this Legislature voted in excess of \$36 million from the Ontario treasury to support the McMichael gallery. That's roughly \$3.5 million a year. That is not taking into account hundreds of thousands, probably millions of dollars, from other sources like the government of Canada and many generous benefactors. That is 36, 37 million bucks we ourselves have voted as a Legislature to support this gallery.

And now what have we got? We've got the spectacle of Bill 112, where the Harris government in the year 2000 wants to legislatively reverse appeals it clearly won at the Court of Appeal two and a half years ago and to retroactively impose a set of conditions that may or may not have existed 30 years ago, to the clear detriment of many, many donors who in good faith through the years 1965 to 2000 made bequests to the McMichael Gallery that were supported not just by the Ontario public but by the tax-crediting mechanisms of Revenue Canada.

I want the House to understand that the Harris government went to the Court of Appeal to clearly argue a case that it won two and a half years ago. Now having done that, spent those monies, won that case, we've got Bill 112, which effectively seeks to reverse the victory won by Ms Mushinski and her colleagues at the time. It's just incredible. It is clearly a breach of faith for all of those people who have given generously of their art to this gallery.

One of the questions I have is: has anybody checked with Revenue Canada to see what the implications of this bill are on the gifting provisions that have helped with all of those donations over the intervening 30 years? I suspect not. More fodder for the courts, and the courts are going to be a lot busier with this bill than this Legislature appears to be wanting to be busy with it.

Mr Christopherson: I would say to the member from Barrie-Simcoe-Bradford that it seemed to me you spent an awful lot of time trying to talk around this issue and not a whole lot of time on this issue. As someone who constantly heckles, "Speak to the bill," I just thought I'd point out that that seemed to me to be the journey you were taking.

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I also thought it was interesting, to say the least, that you would introduce libraries into your discussion about arts and culture. I want to tell you, as a result of the downloading that you put on to municipalities, which was supposed to be revenue-neutral, the pressure on library budgets is something that has never been seen in the history of Ontario. I sat on the Hamilton Public

Library board for five years when I was a member of the local council. Yes, we had tough times but nothing like they faced when you came into power. We have branches that are closing. We have branches that aren't even open on a Sunday, because they can't afford to pay the staff to come in and open up the library. So you've got a lot of nerve in the context of Bill 112 to talk about libraries and to talk about books. There are those of us who haven't ruled out the possibility that book burning would be somewhere in your future if we continue to watch your attack on culture.

Mr David Tilson (Dufferin-Peel-Wellington-Grey): Ah, come on.

Mr Christopherson: I hear the honourable member across the way say, "Ah, come on." When we take a look at some of the things your government has already done, it's not that outlandish. But I do say it's outlandish for the member from Barrie-Simcoe-Bradford to be talking about what you've done directly to libraries when you've denied access by many citizens to those very books you talk about when you're attempting to defend Bill 112. You've done nothing positive for libraries and you're doing nothing positive for the artistic community with Bill 112.

The Acting Speaker: Comments and questions?

Mrs Brenda Elliott (Guelph-Wellington): Despite all the yelling and the theatrics and hysterics here in the House, I think it's very important for people to understand that this particular gallery, the McMichael gallery, is the single gallery in Ontario which was donated and had a special relationship with the province. It was donated and became a crown agency, with strings attached, and it is the only one. All of the other institutions in Ontario have a different arrangement, because they were instituted and run by the people of Ontario through various public bodies. This particular gallery is indeed unique.

The policy for acquisitions and de-acquisitions is the same as for other galleries. I think it's important for people to understand that whatever decisions are made, to keep the collection as it is or to change the collection, first of all, the decision will be made by the art advisory committee, not by government but by people who have an understanding not only of the concept of art but also of the investment involved with respect to those investments in the gallery.

Let's be reasonable: people who are involved in this project want to see this gallery thrive, as I'm sure they want to see other galleries do well. Their interest is heartfelt in heritage and in the integrity of the collection. I want that to be very clear.

My colleague across the way wanted to know why on earth would we want to have appealed and why would this finally be in legislation. Well, because that was the way it finally had to be resolved. It was very clear after the appeal that we couldn't allow the decision to be left within the judge's decision. This is something that had to be done through a mandated piece of legislation. In fact, the way the government viewed it at the end of the

decision was that each piece of art could potentially be subjected to court review, and that would not be the way we would want it in Ontario.

Mrs Marie Bountrogianni (Hamilton Mountain): I listened earlier to the minister responsible for this portfolio, and she said that for years there were financial difficulties and something had to be done, yet two and a half years ago you went to court and won an appeal that was exactly the opposite of what you're doing now. Weren't those financial difficulties significant then and, if they were, why are you doing the opposite now? I just listened to the attempt at an explanation, that that's just the way it had to be resolved. That's not good enough. You can understand why people are suspicious when you are going against what you won two and a half years ago. People of course are going to be suspicious. Donors have been calling, writing, e-mailing and saying, "What about our donation? We didn't know this would happen."

A few nights ago I was watching some of the coverage of the former Prime Minister's death and funeral planning and so forth on TV, and Mr McMichael was interviewed because he had hosted Mr Trudeau and his boys a few years ago. He was introduced as the owner of the gallery. I thought that was a curious slip. He really isn't the owner of the gallery, is he? If he was introduced this way, is this a done deal already? You can understand why people are suspicious of all this.

The other thing I find very disturbing, really worrisome, as important as the issue is behind what you are doing, is that we are spending so much time on this bill when there are so many other things we should be discussing: the discussion that we had earlier on domestic violence, discussions on long-term care, on the turmoil in our schools. Instead, we are spending days talking about an art gallery. This really was resolved two and a half years ago and is an individual situation that should be resolved by the board and not through legislation, which I believe is setting a very dangerous precedent. Surely you can understand why people are suspicious, and I really do hope you rethink and don't pass this ridiculous bill.

The Acting Speaker: Response?

Mr Tascona: I'm very pleased to respond to the comments made by a number of members in the House tonight.

Certainly the member from Renfrew is passionate in his argument about the financial aspect of what we are dealing with here tonight, but I quite frankly don't understand what he's talking about when he deals with the contribution level in terms of supporting the gallery. The support of the gallery is still in place.

I would invite the member for Hamilton West to come to my riding. Certainly we are increasing the number of libraries within my riding. In the town of Innisfil we are having a brand new library built through the efforts of the community. It's certainly strongly supported. The Barrie Public Library is in a very good position and is probably the envy of the province in terms of how it operates. It's a tremendous facility. So when we speak of libraries, I

haven't as much knowledge as the member for Hamilton West in terms of how libraries operate, but I don't have a negative view, the way he's talking about. I think he's extremely negative, but that's nothing unusual.

The member for Guelph-Wellington has indicated that the integrity of the collection is going to be maintained. Certainly the legislation will put in place what the original intent of the gallery was.

To the member for Hamilton Mountain, I am very pleased that she was watching television and was privy to what was happening at the funeral of one of our great Prime Ministers, but, quite frankly, she is suspicious, and I don't know what she is suspicious of. I wish she would outline what her problem is, because what we are dealing with here is provincial legislation that was originally enacted; we are dealing with provincial legislation that is dealing with that legislation. That's what we are here for, and that's what we are here to discuss tonight.

The Acting Speaker: Further debate?

Mrs Lyn McLeod (Thunder Bay-Atikokan): As I enter into this debate, I follow the comments of my colleague from Renfrew-Nipissing-Pembroke, who has expressed his outrage over this bill. I've listened to my colleague from Thunder Bay-Superior North, a former culture critic, who is completely frustrated by this bill. I have to confess to you that I'm more perplexed than anything else. I simply do not understand why this bill is before this House.

I know it has been said frequently, but I think we have to keep reminding ourselves that this bill has been brought forward by exactly the same government, led by exactly the same Premier, Michael Harris, that just—what?—three years ago was spending taxpayers' money going to court, and not only going to court, but going to Court of Appeal and spending more taxpayers' money going to Court of Appeal, in order to get a decision that clearly established the control of the board of trustees of the McMichael gallery. They won. They spent taxpayers' money on what at the time they appeared to believe was an important issue, in the public interest, in defence of the role of a board of trustees in making artistic judgments about the acquisition of collections in an Ontario and a Canadian gallery. They felt it was important. They felt it was important enough to pursue it in court. They won.

Now we have a piece of legislation which goes in exactly the opposite direction, establishing legislation that gives Mr McMichael essentially what he was looking for in that court case.

We've had no rationale offered to us by the government as to why they have had this sudden change of mind. The member for Guelph-Wellington said a few minutes earlier, speaking on behalf of the government, that this is not an issue that could be left for court review. It had a court review instigated by this very government. It wasn't a previous government—it wasn't the New Democrats, it wasn't the former Liberal government under David Peterson, it wasn't even the Bill Davis government—that went to court to defend the role of the

board of trustees; it was the Mike Harris government, and they won, at considerable taxpayer expense. So why is this legislation in front of us today?

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My understanding is that the primary purpose of the bill is to reinstate control, essentially, of the McMichaels, of the provincial government and indirectly, I suppose, of Michael Harris himself, as Premier. I think virtually every government member who has spoken to the bill has said that the reason it's here is because we want to return the McMichael gallery to its original purpose.

I don't consider this to be an unimportant issue. I happen to believe that the McMichael gallery is one of the finest galleries in this country and I think the purpose of the McMichael gallery is one which needs to be honoured. The purpose was to showcase Canadian art, to showcase specifically the work of the Group of Seven in that particular decade, as well as other Canadian artists who have made a significant contribution to the development of Canadian art.

The members opposite say, "We have to return to the original purpose." My question to them is, when have we ever seen a departure from the original purpose? Exactly what acquisition, exactly what piece of art in the current McMichael collection of some 6,000 works of art do these members opposite, in their political judgment—because I don't think any of us as politicians can claim to have artistic expertise—think is a departure from the original purpose of the McMichael gallery? Which piece of work in the McMichael collection does not make a significant contribution to the development of Canadian art? Tell me that and maybe I'll understand why we need a piece of legislation to restore the McMichael gallery to its original purpose.

I think of one of the more recent acquisitions in the McMichael gallery by a painter who happens to come from my part of the province, Norval Morrisseau. I suspect the members opposite would say, "Don't worry. The Morrisseau paintings that have been acquired by the McMichael gallery are not going to be some of the 3,000 that are likely to be disposed of," in we don't know what manner. After all, Norval Morrisseau is now recognized as the first of the woodland artists who indeed made a significant contribution to the development of Canadian art. But I have to tell you, when Norval Morrisseau started painting in Thunder Bay, there was very little value placed on a Norval Morrisseau painting. In fact, sadly enough, you could buy a painting from Norval Morrisseau for the price of a bottle of whisky. Norval Morrisseau might have been deemed, some 20 or 30 years ago, as someone who should not be in the McMichael gallery because he wasn't making a significant contribution to the development of Canadian art.

Who places the value? Who makes the judgment? Who would have made the judgment in the 1920s about whether these upstart artists, led originally by Tom Thomson, painting in a totally different style than any Canadian artist had ever painted before, wanting to shake up the art establishment of Canada, who would have

made the judgment that they were making a significant contribution to Canadian art? Would the Group of Seven themselves have passed this test that is now to be applied, this unknown test? Nobody has told us exactly what the criteria are that have been somehow breached by suggesting that the McMichael gallery is no longer following its original purpose.

This is not an insignificant issue, not only because it affects one of the most important galleries in this country but because it challenges some fundamental beliefs about who should be making artistic decisions about the value of art, not only in this province but in this country. That's why so many people who value art and value the independence of art from politics and from government are alarmed that this bill is here. Those people are not perplexed, as I am; they are much more outraged, as my colleague is, that government should end the arm's-length relationship which has been established and which this same government went to court to defend, and won, an arm's-length relationship that says a board of trustees shall be the ones that hold in trust the mandate, whether of the McMichael gallery or of any other gallery, in its purpose of making qualitative value decisions about the works of art that are to be acquired and displayed there.

I share the very real concern of people who know a great deal more about the value of art today than I could ever claim to, that politicians and governments will somehow be imposing their direction, or indeed that veto power will be given to single individuals over what constitutes a work of art that is making a significant contribution to Canadian art.

The other issue that has been raised and one that I think is very serious is that the government hasn't addressed the question of what will happen to the 6,000 pieces of art that are now in the McMichael gallery collection. Again, because nobody has said what criteria have been breached, none of us know, as this new approach is being taken, if this collection is to be somehow scanned and analyzed according to a criterion that nobody has set forward. Will it be a criterion that is a personal value of the McMichaels? Will it be a criterion that is something that the Ontario cabinet for some reason has decided to impose? Whatever the criterion is, wherever it comes from, as this new criterion is applied to these 6,000 works of art, what happens to the ones that don't meet the target, that don't meet the standard, that are somehow seen to not have been contributing to the development of Canadian art?

It's been suggested they may be auctioned off, that the dollars the government would get from auctioning off let's say 50% of those—3,000 pieces of art—would be a significant contribution to the government's coffers. My colleague from Renfrew-Nipissing-Pembroke has said that in fact what will happen is the government will spend a great deal of money in court, once again defending itself against lawsuits from people who have contributed those works of art to the gallery.

There are no answers from the minister. The minister says she's not going to auction them off. Tell us,

Minister, what's going to happen to the 3,000, or however how many, pieces of art? How many pieces of art does the minister expect will not meet the criterion, and if she knows that, could she please tell us what the criterion is? Could somebody on the other side of the House, preferably the minister, tell us why this piece of legislation is before us tonight? Why has the government changed its mind only three years after going to court to defend the principle of the board of trustees being entrusted with the carriage of the mandate? Why is the McMichael gallery now seen to be in breach of its original mandate? What works of art are going to be deemed to not meet the mandate of showcasing Canadian artists who have made a significant contribution to the development of Canadian art?

I would feel considerably more comfortable and considerably less perplexed tonight if I had any answers to those very simple questions.

The Acting Speaker: Comments or questions?

Mr Christopherson: I want to commend the member for Thunder Bay-Atikokan on her remarks. She touched on a whole host of issues. But I think there's more and more attention being paid this evening to exactly what happened in that court case. There really is an obligation on the part of ministers here in the House, other ministers and, with respect, the government to explain why the flip-flop, why you went and defended one position. You were victorious in winning that position and then the same government brings in legislation that takes us back to the court decision that you appealed. I don't think we've had an adequate explanation of why you've changed.

And it's a significant change. You were defending language that said "and other artists who have made, or make, a contribution to the development of Canadian art." That was the position you defended. Now you're bringing in legislation that effectively wipes that out. Like much of the direction you go in in other pieces of legislation, you're attempting to roll the clock back. That's obvious. What you're doing is obvious. What's not clear is why. What exactly are the fundamental values that have changed, that have caused you in the course of a couple of years to completely flip to flop?

The government has the next opportunity for a two-minute response. If there is a two-minute response the minister can give that explains this, I urge her to please do so.

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Hon Mrs Johns: I want to be very clear. I hear everyone saying, "What's the government going to do with the art?" The government is not doing anything with the art. The government is setting in place an art advisory committee with five people on it, two being the McMichaels, one being the chair, one being the vice-chair and the fifth person elected by the board, who will sit on this advisory committee. They will decide what constitutes art as a result of the parameters that were set out in the bill. They have the ability to do that. That is their role in this particular task. They're selecting what the art will be.

The board, on the other hand, will be there to ensure they will make decisions with respect to acquisitions and deacquisitions. I think that's a really important thing to recognize.

Interjection.

Hon Mrs Johns: What am I going to do about that? I'm not doing anything, as the government, about that. We're letting the board decide what they should be doing with respect to art.

Let me remind you that the bill is quite clear, as were the bills in 1965, 1985 and 1987, that the art collection, now known as the McMichael Canadian Art Collection, was to display distinctive Canadian art reflecting the cultural heritage of Canada and the images and spirit of the nation, focusing on those artists known as the Group of Seven and their contemporaries.

Let me say very clearly—

Mrs Elliott: It doesn't get much simpler.

Hon Mrs Johns: It doesn't get much simpler than that, as my colleague says. The board will decide what happens with this collection. It's not the government that will decide. The art advisory committee will decide what the art will be that will be held. We have to say that you have to remember that we want this art gallery to continue and we're going to ensure that it does by giving it a clear mandate, by ensuring that it has the dollars to be able to continue and by ensuring that the people of Ontario are proud of its existence as it continues forward in the future.

The Acting Speaker: Further comments or questions?

Mr Conway: Let us review very directly what the Court of Appeal said when the Harris government took this case to it two and a half years ago. The Court of Appeal was very clear in its finding. It said, "This court dismisses the McMichaels' application and argues that the McMichaels contracted out any right of control over the collection." You went to court, you put the question and you won the matter.

Look at the court case as well. Look at the sworn testimony of people like Cicely Bell and Allan Taylor, two outstanding Ontarians with whom I've not always agreed; look at what they said was their experience in the 1980s. You are now going to, by Bill 112, return us, the arts community, that gallery and God knows how many taxpayers and donors to the very quagmire about which they complained in the court case that you won.

I say this as somebody who stood here and fought for Bob and Signe McMichael 20 years ago.

Hon Mrs Johns: Oh, yes.

Mr Conway: Why do you say, "Oh, yes"? If you and Rob Power want to have a chat about it and litigate, why don't you do so? I want to say to the minister you won the case, and look at the case you won. Look at the testimony of people like Cicely Bell and Allyn Taylor. They said there were real problems, and you are going to legislate a return to that very construction of difficulty and problems and maladministration. I am quite prepared to say to the government that it's right to deal with financial problems.

Interjection.

Mr Conway: I absolutely say to the government and to the Legislature, you can and should do that if you think you must, but Bill 112 is profoundly bad, wrong-headed legislation because it is so obviously retroactive and confiscatory and so clearly breaks the faith with donors and so clearly violates and upsets a case you yourselves won in the higher court in Ontario but two and a half years ago.

Mr Maves: Are we in two-minute rotation or ten-minute debate?

The Acting Speaker: You have two minutes.

Mr Maves: It's going to be a pleasure of mine in about a minute and 45 seconds to join the debate. The members opposite continue in their speeches and in their two-minute quotes to ask the minister to stand in her place and explain things—explain where some of the art may end up, explain who's going to make decisions about the gallery, explain other decisions. The minister, day after day and night after night that we've been in this Legislature, continues to do that with great aplomb and great accuracy.

The members opposite don't seem to want to accept that. They want to drag this debate out as long as they can. The members opposite continue to rant and rave and use the term "breach of faith." When I speak in a few minutes at more length, I think we should look at the history of this. I intend to point out who exactly did have a breach of faith. The member opposite who continues to use that phrase I think was in the cabinet of the government of Ontario in 1989 when a breach of faith occurred. I will outline that.

I want to commend the minister for being in here, I believe, for every minute of debate on this bill. As I said, every time the members opposite ask her for an explanation, she rises to her feet and gives a thorough one, so I commend her on that.

Mrs McLeod: After the minister's response to my comments, I am now outraged. The minister said, "We're not changing anything here. We're just setting up a special advisory committee that's going to determine what constitutes art." We said, "What is the government going to do?" She said, "The government isn't doing anything."

Minister, you are changing all of the rules, the very rules you went to court to defend. What do you think the board of trustees of the McMichael gallery has been doing? They are the body that has been determining what constitutes art. If you think they have not been making the right judgments, then you would set up a special advisory committee so they can decide what constitutes art.

That's exactly what you're doing. You're saying that the board of trustees is making decisions that you do not believe are valid decisions in judging what constitutes significant Canadian art, so you're going to set up your own special advisory committee. Your government went to court to defend the right of the board of trustees to

make those decisions and this legislation changes all of that. Don't tell us tonight that you're doing nothing.

But what really has me outraged is that I thought I could take this legislation for what it says. The minister has just stood up—now I understand why all the members of the government side are saying they want to restore the original purpose of the McMichael gallery. The original purpose of the McMichael gallery, as it was always understood, was to showcase Canadian artists, the Group of Seven and their contemporaries and other artists who have made a significant contribution to Canadian art. The legislation, this new bill that changes the rules of who makes those judgments, still says that the gallery will showcase the work of the Group of Seven. It details the Group of Seven and, on the other page, which maybe the minister hasn't read, it says "and other artists who have been designated ... for their contributions."

She says it's to be the Group of Seven and their contemporaries. That's what Mr McMichael always wanted it to be and that's what this government is taking it back to.

The Acting Speaker (Mr Michael A. Brown): Further debate?

Mr Maves: It's a pleasure to rise to add to the debate. As I said in my two minutes, I wanted to talk about the members opposite who continue to accuse this government of a breach of faith in regard to the McMichael collection. If any party is to be accused of that hypocrisy regarding the McMichael collection, it is the Liberal Party opposite.

The Acting Speaker: Will you rethink that word?

Mr Maves: Sure, I'll rethink it.

The Acting Speaker: Withdraw it.

Mr Maves: Yes, I will. If it offends the Speaker, I withdraw it.

Let us briefly review the history of the flip-flops and betrayal that have so clearly marked the Liberal vision for the McMichael collection.

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In 1965, Robert and Signe McMichael signed an agreement with then Premier John Robarts that gave the province their art collection, their home and their property. They did so for the purpose of creating a permanent and lasting tribute to the work of the Group of Seven and other artists who have contributed to the development of Canadian art. The key phrase in the 1965 agreement, section 13, read—

Interjections.

Mr Maves:—and of course the members opposite are rising to a cacophony. They can't listen to anybody else; they've got all the answers.

The key phrase was section 13: "The crown shall...develop and maintain in perpetuity...a collection of art reflecting the cultural heritage of Canada, (which) shall be comprised of paintings by" the Group of Seven and three other named artists, "and other artists, as designated by the advisory committee, who have made contributions to the development of Canadian art."

We move forward to 1972. In 1972 the administrative nature of the collection was changed and it became a crown corporation. But again the act at the time was very clear about what the McMichael collection was all about, "The board shall ensure that art works and objects acquired from time to time as part of the collection are not inconsistent with the general character of the collection at the time of such acquisition." The McMichaels at the time were satisfied with that definition. We've heard many members during this debate say that when someone makes a donation, the sanctity of the terms around that donation must be adhered to. The McMichaels, as I said, were satisfied with that definition.

Now we move forward to 1981, when a draft bill regarding the collection appeared that did not contain such a qualifying clause. The McMichaels objected, the Liberals of the day objected and the NDP objected. The Liberals across should go back and read the stirring defence in the 1981 debates by their former leader Stuart Smith of the concept of the McMichael gallery as a shrine for the Group of Seven and related art. New Democrats should heed the words of that giant of the House, Jim Renwick. Both would approve of Bill 112.

In 1981 the government of the day was a Conservative government. Willing as we always are to listen to reasoned argument, the government changed the draft of the bill to make it conform again to the 1972 agreement. In the final version of the 1981-82 bill, the key paragraph said that the board shall ensure "the focus of the collection" is the art work and objects created by the Group of Seven and any other artists "whose art work and objects will be consistent with the general character of the collection." Note again the qualifier involving acquisitions: "art work and objects will be consistent with the general character of the collection." This was the same qualifier as in 1972.

Now we forward to the lost 10 years. In 1989, right in the middle of those lost 10 years, the Liberal minister of the day introduced amendments to the McMichael Canadian Art Collection Act that changed the very nature of the collection, even while denying she was doing so. The role of the gallery was described again in another act in 1989 as collecting works of art from specified individuals and groups, but with one major change. What was missing was that qualifying phrase "consistent with the general character of the collection." In every change that had happened, in 1972 and in 1981, that was there. It was hotly debated. The Liberals and New Democrats of the day insisted it be there and it was put there. This time around, in 1989, the Liberals took out the phrase "consistent with the general character of the collection." Those collecting could now ignore the general character of the collection, which was why the McMichaels had given their art to the government in the first place. The Liberal minister of the day, Oddie Munro, denied any such change in intent, even though it was clear in the legislation. "The McMichael will, of course, continue to focus on the Group of Seven," she said, in somewhat of a Pinocchio fashion.

The first reason for the 1989 bill, Ms Munro explained, was to make the museum bilingual. The second was to enlarge the membership of the board of directors. This is very interesting. Members opposite have brought forward the name Michael Burns at some points in this debate. I've heard tell, as one of my friends in PEI would say, that Michael Burns is a well-known Liberal bagman who was on the board at the time. He didn't enjoy dealing with the McMichaels and went to his Liberal friends and said, "We've got to deal with this"; hence, the 1989 bill. That's something they're quiet about across the way. They and the people who were around them at the time don't like to be reminded of those things, and maybe some of the motivation for the changes they made in that 1989 bill. But changing the mandate back in 1989, repudiating the essence of the deal with the McMichaels, that minister tried to hide it by using the word "clarify." That was their third rationale for the bill.

Today's Liberals, as we've heard throughout, accuse Bill 112 of being—I'll quote the member from Superior North—"a grotesque breach of faith with donors," yet it was the donors during those first 24 years of the collection who were betrayed by the Liberals' stealth attack of 1989. I've mused about a reason for the motivation. I don't know if that's the actual one or not. But that bill had the purpose of destroying the consistent nature of the McMichael collection and it explicitly repudiated that 1965 agreement.

We fully agree with the critics that the integrity of donor agreements must be respected. Mr Clark from Stoney Creek gave a great speech on I believe the opening day of this debate on that. That the Liberals refused to do this in a 1989 bill is why the issue is actually back before us today, still a continuing bone of controversy to be gnawed over. Liberal members have argued that the government should not be in the business of deciding what kind of art goes into the gallery, yet that was precisely what they did—and members of that cabinet are in the House tonight—in 1989. That bill said that art which was inconsistent with the McMichaels' dream of a gallery centred on the Group of Seven and chronicling the development of Canadian art should be collected. It is noticeable that the Liberals in the current debate continue to praise the McMichael family's gifts and vision, yet they repudiated that vision and downplayed those gifts in their 1989 legislation, and they continue to do so today.

With that bit of chronicle—because as I've listened to this debate, I've listened to several members on both sides of the story give historical accounts; it was necessary to go back and actually look at the history, at the historical accounts, at the personalities that were involved perhaps in the 1989 bill that the Liberals brought forward, to try to figure out what were the motivations and where actually was the breach of faith. It is clear that breach of faith to the donors of the 1965 agreement was made by the Liberal government in 1989, and this government today, in the year 2000, is undoing that wrong. We're going back and restoring the honour of

government, keeping an agreement with people. It was honoured in 1972 when changes were made, it was honoured in 1981 when more changes were made, but it was dishonoured in 1989.

That's why I stand here today in support of Bill 112. That's why I stand here today in support of my colleagues who have supported this bill and the minister who has done such an excellent job in here every day that we've had debate on this bill in explaining to the members opposite, who jump to their feet, demand explanations and continue to get good, logical explanations from this minister.

The Acting Speaker: Questions and comments?

Mr Conway: It is true that over the 32 years between 1965 and 1997 there was an ongoing tension between the McMichaels and governments of all stripes: Conservative, Liberal and New Democratic. I was involved in some of those, particularly the ones in the early 1980s, and I'm the first to say that I suppose none of us was covered in glory. There was a real tension as to who had what kind of control. But whatever the politicians did, in 1997 the Ontario Court of Appeal was asked by the current provincial government in Ontario, the Harris government, to settle the issue once and for all. They handed down a ruling two and a half years ago that made plain that, notwithstanding all of the history, it was absolutely clear in the opinion of the Court of Appeal that many years before 1997 the McMichaels, good people, had nonetheless surrendered their control of the gallery to the government. That was clearly ruled by the Court of Appeal, on request of the current government. That wasn't a bunch of politicians making that judgment; that was the Ontario Court of Appeal.

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That's what I'm so troubled about. Within two and a half years, we've got the court saying one thing and now the Harris government saying, "We have changed our position. We want to go back to some position that may have existed in the mid-1960s." That's why this legislation is so retroactive. It is confiscatory because it so clearly impairs the donations of so many people made in good faith on the basis of earlier arrangements.

I've talked to many people in the arts community who are very close to the gallery and this debate, and they are shocked and horrified because they do not understand, having not been consulted—

The Acting Speaker: Thank you. Questions and comments?

Mr Christopherson: The member for Niagara Falls, toward the end of his remarks, talked about what was honourable and dishonourable in his opinion. Let me say to you, through the Speaker, that if there is any dishonour in here, it's the major flip-flop on the part of the government and the lack of an explanation of why that flip-flop has taken place. It was your government—

Interjection.

Mr Christopherson: No, Bert, there has been no explanation—not that you'd know the difference.

The fact of the matter is that this government defended the modern, if you will, acquisition policy. Then we

heard that the government was concerned that as a result of the court ruling there may be individual court cases around some works of art, which would have one think, logically, that the bill we have in front of us would entrench the position that you defended and won in court. That at least would have some sense to it. You could understand how they got to that point, even if one disagreed. But there's a real gap here in logic and in honour and in explanation that you owe to the public.

What was it about the position that you defended in the courts that you've now decided requires a complete 180? Because you've joined the other side. If we were back in that court case, you would stand up and say, "Your Honour, we're wrong and we're going to join the other side in this." That's effectively what you have done.

I called on the minister to provide some explanation. She didn't. Either she can't or she's too embarrassed to give the truth, but we're not hearing it. So I say to the member for Niagara Falls, if there's dishonour, it's you and your caucus—

The Acting Speaker: Thank you. Questions and comments?

Mr John O'Toole (Durham): On a serious note, I couldn't miss the opportunity to compliment the member for Niagara Falls for his perspective on the issue in bringing out a very important issue that may have been the road not taken, or the road that was being taken by the previous two governments, Liberal and NDP, not willing to step up and fulfill the honour and commitment that was required with the original bequest by the McMichael family.

Certainly if there was anything to be placed on the record, it is clear and has been demonstrated by action that this government has been known by the moniker of keeping its promises. We are returning loyalty and honour to the premise and to the respect of the initial purpose of the donation. It's in that light that this government, in its signature statement, is keeping its promise.

On a larger issue, it's important to document that the contribution of the Group of Seven and that particular group of artists and the McMichael intention have been sorely abused, in my view. So what's happening here is returning to the original premise, the original agreement, the original commitment not just to the McMichaels but, I believe, to art in this province.

The member for Niagara Falls brought up perhaps some of the risk and motive that may have been behind the scenes, if you will, the backroom parts of the decisions, both in the Liberal and NDP governments.

So I'm pleased to support it, but I'm also confident that Minister Johns will not expand the mandate that's been specifically focused in Bill 112 to those other arts communities that need to have support. Culture makes our country and, indeed, our province.

Mr Gravelle: The bottom line here is pretty simple. There are a number of things that aren't getting addressed as often as they should, as well. Certainly, there's no question about the flip-flop and the confusion that we all

feel about the government's decision to go ahead with this bill, or the Premier's decision, obviously. I don't think the minister herself is comfortable with it and just simply has to carry the can on this one. There's no question about it.

The fact that this bill basically allows for the government's involvement in the day-to-day operations of the gallery is another concern that everybody in this Legislature should have, and certainly everybody in the arts community has. We've got part of the bill that basically says, "The board's powers to make bylaws and establish committees and its power to appoint or remove the director are made subject to the minister's approval until the day three years following royal assent to this bill...." It's completely clear that the minister is going to be very involved in this.

The minister tries to make the point that with this advisory board the McMichaels will not have complete control. Why is it then, Minister—and you've heard this yourself—that Mr McMichael has made it very clear that he intends to remove 3,000 pieces of art, works of art, from the gallery? If that's the case, you can't really have it both ways. There's no question, this is a bill that is of great concern to the arts community for a number of reasons. It should be of great concern to this entire Legislature for that reason alone.

But the government continues to not answer that important question as to why they would go to court, win the appeal, have a position that's supported and then choose to go forward with this legislation. The only reason one can see to do this is literally because the Premier wants to do this for Mr McMichael. As great a benefactor that he has been to this province, it makes absolutely no sense at all. The minister has to recognize that and explain to us why she feels they need to have day-to-day operations involvement in terms of this, recognizing the crucial fact that we must maintain an arm's-length separation between the government and decisions as to what artwork goes in a gallery and not in a gallery. It's something that needs to be determined.

The Acting Speaker: Response?

Mr Maves: I want to mention to the members opposite that the bill doesn't return ownership or control to the McMichael family. What the bill does is restore the original mandate and agreement between the McMichaels when they made the donation and the government, an agreement that was maintained in 1972, as I said earlier, maintained again in 1981, but not maintained in 1989. We think it's essential—and I mentioned that during this debate several members on this side of the House have talked about the fact—that these agreements should be honoured.

I remember Mr Clark. I want to quote from him. He said:

"I've seen many donor agreements," in my time "and during that time frame I have staunchly supported the integrity of those donor agreements. It is imperative. As far as I'm concerned, there is nothing more sacrosanct, more precious, than honouring the commitment of a

donor to any charity, to any art gallery in Canada. All of my colleagues in the charitable community used to pride themselves on honouring those things. There were codes of ethics involved."

That's what this bill does. The bill takes us back to the 1965 agreement, to the 1972 agreement and to the 1982 agreement and restores those clauses that I talked about that were so important to the McMichaels, that were so integral to the original agreement, to the donation—

Mr Christopherson: How come you didn't believe that in 1997?

Mr Maves: It's not inconsistent with the 1997. I believe Mr Gilchrist will talk about that in his 10-minutes speech, because we've talked about it. That is the crux of the issue today. That is what I've argued thoroughly and my other colleagues have also done so. I believe it's time that we move on with this legislation.

The Acting Speaker: Thank you. Further debate?

Mrs Leona Dombrowsky (Hastings-Frontenac-Lennox and Addington): I must confess that it is with some confusion that I enter this debate. I do recall hearing the minister when she first introduced the bill explain that the McMichael gallery was in financial difficulty and there was some need to introduce legislation that would address that very serious situation.

This evening I heard the member for Guelph-Welling-ton make reference to that very same situation. Certainly members on this side of the House, if there was legislation that was introduced that would assist an art gallery in this province, a public institution, would certainly consider that in a favourable way, I would suggest.

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But what I'm having difficulty understanding and what the government has failed to demonstrate is how this legislation will improve the financial performance of the McMichael gallery. It's changing the players, but it has absolutely no impact on the policies that the board might make on behalf of the gallery. I would suggest that's rather a loss leader: the government is throwing that out there and they like to have people in the province think they are quite fiscally responsible, when in fact fiscal responsibility has absolutely nothing to do with this bill. This bill will in no way impact upon the finances or how they might be governed. We know it will have an impact on at least two members of the board, and from the background material that I have read, those individuals are far more focused on the integrity of the collection and the works of art that it would include. I haven't reviewed any information where they've had a great deal of comment about any of the fiscal decisions that have been made.

I did review at the beginning of the bill the purpose of the act. I note it has been suggested that the focus of the McMichael art collection has changed over time. I found it interesting that the member for Niagara Falls has the same quote from the original agreement that I refer to as well. In that agreement it did indicate that the McMichael conservation collection should "establish, develop and maintain in perpetuity a collection of art reflecting the

cultural heritage of Canada" comprised of paintings by the Group of Seven painters "and other artists as designated by the advisory committee who have made contributions to the development of Canadian art."

I have to tell you that word "development" came off the page at me. The word "development" suggests to me that art is not stagnant or static, that it doesn't stay the same. In fact, in the original agreement, I believe, this word recognizes, looks forward to, the fact that the tradition of Canadian art will change, it will develop. So I'm rather puzzled that the suggestion in the bill is that the focus has changed, because I would suggest that a collection which has grown in number from about 150 works to now over 6,000 works of Canadian art has had a very healthy development. I would suggest that the presentation that the spirit of the original agreement has not been respected, that the integrity of the donor agreement has not been respected, is really quite wrong. I would suggest that it's been very truly respected in the fact that we have the magnificent McMichael gallery today.

I have to also comment on the reference to the term "donor." I want to say how blessed we have been that Robert and Signe McMichael saw fit—they had a wonderful resource within their possession. I would suggest, though, that they did have some difficulty maintaining and operating a gallery and that's why they came to the province for some assistance. So I'm a little concerned as well that we're going back to a situation where you have a very limited number of artists and somehow that's going to better sustain itself than a collection of over 6,000. Anyway, that's not the point that I want to make here right now.

We have heard many references to the term "donor." While we are grateful that the McMichaels have certainly made possible for these invaluable works of art to become provincial resources, I would suggest that the people of Ontario have paid in kind for that. The original gift of art, including the land and the buildings, was valued at \$835,000 in 1965. The McMichaels were provided with a tax receipt from the province of Ontario for \$815,000. They were given a home to live in. They were given a car and a housekeeper which were paid for by the province. Mr McMichael was given a salary of \$400,000 before he stepped down as director. That same year, the government purchased a \$300,000 home for them. When we talk about a donor, I would suggest that is a misnomer. I believe the McMichaels have been compensated, and appropriately so. However, that compensation certainly now provides to the people of Ontario a very vested interest in the management of the collection. Those people who have been involved with the management of the collection have overseen its development over the years, and so now the people of Ontario have an interest in a very significant treasure of our country.

I'm very concerned about the wording in the legislation. Clause 4.1(2)(b) makes reference to the committee being responsible for the consideration of those works

that would be disposed of. This is a provincial resource, and a committee of five people are going to determine what treasures of our province, of our country, will be disposed of. I'm very disturbed by that.

The member for Barrie-Simcoe-Bradford made reference to libraries. It brought to mind the analogy of what we, as citizens or as legislators, would think of a proposal that would establish a library that would only hold the works of Ontario writers or Canadian writers or British writers. If Pierre Trudeau taught us anything it is that we should look for diversity in life. I would suggest that the development of the McMichael collection would represent that.

Finally, I have to make some comment about the references made by the member for Niagara Falls and the member for Durham. They made reference to possibly some motives of individuals from a Liberal government in the past. That's not the way my mind works, but when I hear things like that it does suggest to me that maybe they're judging the motives of others by their own standard.

I hope that the government would recognize the opportunity to not limit and not restrict a treasure, to not damage a treasure, not just a provincial treasure but a national treasure, by passing this legislation. Please recognize that you have an opportunity to remove this legislation so that the people of Ontario will be able to enjoy this treasure for many years to come.

The Acting Speaker: Questions and comments?

Mr Christopherson: I want to commend the member for Hastings-Frontenac-Lennox and Addington. She spent a fair bit of time talking about an issue that's been raised before, and rightly so, just this evening by her colleague from Renfrew-Nipissing-Pembroke. By the way, we've got to do something about these riding names. They're getting almost as long as my last name.

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The member spent a lot of time talking about the fact that there were perceived questions of how the place was managed, particularly around the finances. It would appear that those are legitimate concerns. But it has also been pointed out by colleagues in the House this evening that the tools were already there to fix those things; or, if there were some minor adjustments to some of the practices that you felt had to be entrenched in law, then that would be a different matter.

But that's not what the new law, Bill 112, is specifically dealing with. Let's face it, the heart of this issue is the collection itself. It's the acquisitions and the retainment and the policy that apply to that. That seems to be the heart of the conflict. That is why I anxiously look forward to the next Tory member speaking, because I'm advised we're finally going to get an answer as to why the government changed sides, why they flip-flopped from where they were in 1997 to where they are today in terms of the acquisition policy. That is what is at the heart of this. I eagerly await the learned explanation as to why that flip-flop was necessary on the part of the Harris government.

The Acting Speaker: Questions and comments?

Mr Steve Gilchrist (Scarborough East): I'd like to take a couple of minutes. The member opposite has raised the issue of the lawsuit a number of times. I certainly don't profess to be a learned judge sitting here and passing legal judgment over what has been rendered, but I think something has been lost in the translation here.

My understanding of the facts is that when the crown sought leave to appeal Judge Grossi's initial decision, the issue was not the nature of the McMichael collection; it was that Judge Grossi "erred in ordering the crown to do that which it cannot do in fact or in law."

Further, my understanding is that when the court ruled against the province, it declared that the 1965 agreement was in full force, that in effect the collection was in breach of the section of the agreement that dealt with art acquisitions. It ordered the province to ensure that the gallery's board abide by the terms of the 1965 agreement, in particular acquisitions to the collection. The court also ruled the collection was not in breach of certain other provisions of the 1965 agreement.

So much has been said here that somehow we're changing sides. The fact of the matter is, Judge Carthy in the Ontario Court of Appeal made the point explicit. Speaking about the 1989 agreement, he said, "Those are clear, legislative enactments dealing with the scope and focus of the collection and directing future acquisitions. The 1989 act unambiguously repeals the previous enactments and just as clearly supersedes and replaces section 13 of the 1965 agreement."

An argument about the administrative powers of the board, which was what was decided by the Ontario Court of Appeal, is not the same as the former Liberal government's subverting of the original spirit of the collection, which was what took place in the original 1989 amendments.

I say with the greatest of respect to the member, I don't see a change in position; I don't see an inconsistency. The fact of the matter is that we're standing up for the honour of the original deal.

Mr Conway: I have the court judgment. I have the majority decision and I've read it carefully. I would recommend that all members read it because there are a couple of things that are very clear.

The court, in its majority decision, makes it plain that Mr McMichael, ably advised by J.J. Robinette in 1980, entered into a new relationship with the gallery and the crown.

I'll just read a part of the judgment. "In my opinion, the critical legal juncture in this chronicle of events arose in the late 1970s." Then the court goes on to talk about—

Mr Tilson: That's when you changed the rules. David Peterson changed the rules.

Mr Conway: This is the verdict that was handed down by the Court of Appeal a couple of years ago.

Mr Tilson: You were running the cabinet that did that.

Mr Conway: I was there when Bob McMichael accepted the arrangements in 1981 or whenever it was.

The reality is, the court in its majority decision also gives you every reason why you don't want to do Bill 112.

Let me read again from the majority finding. "What pieces of art contravene the acquisition policy? If it be those of which Mr McMichael complained, it should be noted that he was only giving examples. If the pieces are to be sold, what is to be done with any conditions that may have been imposed by donors? Finally, the provision in the judgment that Her Majesty must regulate the Board of Trustees to ensure that it abides by the acquisition policies of the agreement cannot be regulated by the Court and is inappropriate."

The judgment makes it plain that if you pass this bill, you are walking back into the quagmire from which previous governments wanted to extricate the public, a public that has poured tens of millions of dollars into this public gallery. It's not a McMichael private gallery, it's a public gallery, and you're opening the doors to litigation. I say to the donors, since they won't listen, sue the pants off Mike Harris and his colleagues.

Mr Tilson: The member from Hastings-Frontenac-Lennox and Addington asked the question as to how specifically this legislation was going to deal with the fiscal problems the McMichael gallery had gotten into, and of course it had gotten into a problem. It got into a problem of a deficit of \$1.6 million. In specific answer to that question, the reason it got into that problem was because of the philosophical direction in which the gallery was going. It wasn't even close to what the original intent of the gallery was set up to be.

When that intent was carried out prior to 1989, the people came. The people came to see the gallery. After that time, after you people changed that philosophy in the 1989 legislation, the whole philosophy of the gallery changed. I don't intend to get into a debate as to what is good and what is bad. I will simply say that you changed the philosophy. You did. You and the Liberal Party, the Liberal government of David Peterson, changed the philosophy. After that point, the people who were attending fell off.

If it's falling off, the revenues aren't coming in and naturally there's going to be a deficit. So in answer to your specific question, that's one of the reasons why this legislation has been brought forward: to change that direction.

You say in your comments to the member from Hastings-Frontenac-Lennox and Addington, why can't we have Canadian art? That isn't why the gallery was originally set up. I gave examples in my comments several days ago about how this is not a new idea. There are ideas in Paris of Van Gogh where only Van Gogh is shown. There are ideas in Massachusetts where only Rockwell is shown. What's wrong with the original intent of 1965?

The Acting Speaker: Response?

Mrs Dombrowsky: I would suggest that there is nothing wrong. If there is a private gallery that wanted to display the works of the Group of Seven, that would be quite appropriate. This is a public gallery. It is operated

with public funds. I would suggest that when I review the treasures that this gallery has accumulated over the years, I think of what an opportunity it is that the citizens of the province of Ontario are able to view a collection of Canadian art in the number of 6,000 pieces.

What this legislation is asking us to do is to return to a collection of some few hundred. I think some very serious questions have been presented by this side of the House around what will happen to those other works of art. I understand that there is a donor who has contributed in the neighbourhood of \$1.6 million worth of artwork. What's going to happen to that provincial resource? Those are resources we all can enjoy that will be there for our children and our children's children.

Today here in this House you are asking the members to consider legislation that will provide a handful of people with the ability to dispose—and I believe “disposal” is the word that's used in legislation—of provincial treasures. We have no commitment or guarantee or understanding from the government of how or where or when they will be disposed of. They are provincial treasures.

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The Acting Speaker: Further debate?

Mr Christopherson: I want to say thanks to the previous speaker for not letting us get too far off the track about why the concern is here about what you're doing now, and that is, what's going to happen to the collection that's there? I've noticed that after three years the imperial rule of the minister is lifted, and it would seem to me they'd want to make sure that all their objectives, and that would be to get rid of a lot of the art that's there, have taken place.

So the concern about flooding the market would seem to be very, very legitimate, as is the concern on the part of artists in terms of one less significant purchaser of Canadian art—particularly new art, experimental art, art that's not necessarily in the mainstream. There aren't a lot of buyers. It says a lot about the artistic culture in this community that we can continue to produce that kind of art, but let's face it, the economics of it are that a lot of artists are just barely getting by and they need buyers. To lose the McMichael gallery is a real concern. So artists have legitimate concerns on all fronts as to what the end results of what the end results of Bill 112 will be.

I want to return to this business of the government's flip-flop, because there's been some attempt by a couple of members to touch on that, but certainly no explanation has been afforded—no explanation's been afforded. Let's understand exactly where we are. The last piece of legislation prior to Bill 112, and this is regarding the acquisitions policy: in 1982 the mandate was repealed and there was a new mandate. That new mandate said that “the focus of the collection be art created by aboriginal and Inuit artists, the Group of Seven and their contemporaries, and other artists who have made or make a contribution to the development of Canadian art.” The added line that used to be in there wasn't contained in the 1982 amendment, and that added line was “and whose

artwork and objects will be consistent with the general character of the collection.” “General character of the collection” goes back to the original 1965 gift agreement.

Now, the McMichaels were not happy with the direction the gallery was going in. They didn't like the way the gallery administrators had used the 1982 amendment to expand the collection; they just disagreed with it. Ultimately, they took the matter to the courts, and in the courts, in November 1996, the Ontario Court (General Division) supported the McMichaels. Now, because of the reaction in the community, which I might point out was very similar to the reactions that we are now seeing with Bill 112—concern about flooding the market, concern about not having a purchaser there who would buy contemporary art and help support our artistic community—because of that Mike Harris minister of the day, in December 1996, announced that the government would appeal, that they didn't like the idea that the McMichaels had won in the lower court. They were going to appeal that decision to a higher court. In November 1997 the Court of Appeal overturned the lower court. The government won. The government did not side with the McMichaels. They sided with the mandate of the 1982 amendment, which is to move away from the confines of the 1965 gift agreement.

Mr Gilchrist: Oh, now you're straying.

Mr Christopherson: No, I don't think I did stray. The fact of the matter is that you were actually defending the 1982 mandate, and the 1982 mandate is the one that differed from 1965. That's what upset the McMichaels. When the McMichaels won in 1996, because of the outrage your government said, “We'll appeal. You're right, we've got to do something about this,” and they did that. In November 1997 you won. By the way, it's worth noting, just for the record, that in June 1998 the Supreme Court of Canada refused to hear this further. So you had this ironclad.

Now, based on the comments of the parliamentary assistant, and I'm suggesting that they may very well be valid, that there could possibly be more lawsuits and therefore something needed to be done—I don't know, that may very well be; I'll give you the benefit of the doubt—if that were the case, however, there wouldn't be a change in the mandate in terms of the acquisitions policy; it would be a continuation of where you were in 1997, which is to defend the 1982 amendment. But that's not what's in front of us. So where the government members are standing up and saying, “Listen, we're doing the honourable thing, we're going back to the 1965 gift agreement where it will all be confined to just the Group of Seven and related issues in a very small collection,” all this pious talk about taking the high ground is nonsense because that's not where you were three years ago. Three years ago you were on the other side of the issue.

All we've asked for this evening is an explanation of what values changed. Why did you decide to no longer defend the expanded mandate of the acquisitions policy of the McMichael gallery, the collection, and return back

to 1965? That's not where you were in 1997. If you were being consistent going backwards, one of your favourite directions, then the minister of the day in 1996 should have said, "No, we are not going to appeal. We agree that the McMichaels correctly won and we need to be back at the 1965 gift agreement." But that's not where you went, that's not what you did. All I and other members here tonight have asked for is an explanation of why you based your December 1996 announcement to appeal the lower court's decision on the concerns that were being raised in the community. Those are exactly the concerns that are being raised around Bill 112, and yet in December 1996 that outrage prompted you and gave you the motivation to say, "Yes, we will appeal. It's wrong that we're back at the 1965 gift agreement. That's far too narrow. That's not where we should be. We should be with the new mandate." That's the position you took then, and less than three years later you're back here with a piece of legislation that flip-flops on where you were just a few years ago—and no explanation.

If there is an explanation, I've called on the minister to give it. She's here in the House. She's a reasonable person. I fully expected there would be a defence of why you changed your position, why the community outrage that exists today was enough to prompt you in 1996 to say, "We'll do something about it," and now you're taking us right down that road and in an even tougher way in terms of putting it in legislation. Will the minister stand up and defend the flip-flop, the complete 180-degree change in their position? No. Why? I would assume that the minister would not stand up and say anything other than the truth; I believe that about her. It makes me wonder then, what is it about the truth that she can't speak? What is it about the truth as to why you flip-flopped, that the minister charged with the responsibility of carriage of this bill cannot or will not stand in her place and provide us with an explanation as to why they have flip-flopped in less than three years on a major policy matter that affects thousands of important pieces of Canadian art?

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The Acting Speaker: Thank you. Questions and comments?

Mr Doug Galt (Northumberland): Certainly I've always enjoyed the presentations put forth by the member from Hamilton West. He's very entertaining. You never know where he's coming from. I was sitting here trying to sort out what his background might be and what his profession might be. I first thought maybe a lawyer from the way he was working through it. Then I found out he was a union steward, but it's kind of close.

He talked a lot about flip-flops. We have watched the tremendous number of flip-flops that the Liberals—I'm surprised he'd be using that term when they themselves are going through an awful lot of flip-flops, particularly the lawyers. They moved into 1989 and totally changed. We heard earlier the member from Renfrew talking about all the confusion, strife and concerns and then they added to that in 1989 by changing the original mandate.

I'm sure the member from Hamilton West understands what this bill is about and where it's going. It's about getting back to the original principles, back to the commitment that was there right in the beginning, undoing the wrong and honouring that original agreement.

The collection, as I understand, was more or less destroyed with some of the directions the government of the day was sending it into. I think it's tremendously important that we get back to the original mandate. John Robarts, the Premier of Ontario—a tremendous Premier, by the way—working with the McMichaels back in 1965, set this collection aside for the people of Ontario. I think it's important that we leave it in our province for our children, our future generations, so that they see the kind of art that was here at that time.

I'm enthused to see that we're getting it on to a sound financial basis and also that it moves back to its original mandate.

Mr Conway: I say in all seriousness to the House tonight, if it is a concern of the government that there are financial problems at the gallery, then I respectfully submit that this government, like all governments, has within its arsenal a range of tools other than this kind of retroactive legislation. I say very seriously, one of the things that should trouble the citizen-legislator, more than other things, is the use of political and legislative power to reach back and retroactively change the rules. That's what we're doing here. I differ with some of my colleagues who said this is perhaps unimportant legislation. This is profoundly important legislation because, in principle, it's so wrong because it's based on the doctrine of retroactivity.

Secondly, I want to tell the House that very thoughtful, generous people, much closer to the arts community than I, many of whom are good, loyal supporters of the Conservative Party and government of Ontario, are deeply and profoundly troubled by this legislation. One of the reasons I'm upset about it is, people I really respect in the arts community, much closer to this than I, are absolutely outraged.

Thirdly, I ask members to look at the judgment. For example, if it is financial administration you're worried about, look at the Court of Appeal judgment and look at the testimony of people like Cicely Bell and Allyn Taylor who provided affidavits to the court case. Let me just read one. Allyn Taylor, I think a former CEO of Canada Trust, was chair of the board back in the 1970s and early 1980s. Let me just quote from part of his affidavit. "Mr McMichael continued to be directly involved in every facet of the operation of the collection. His reluctance to follow policies and procedures established by the board and his manner of interacting with staff resulted in constant and escalating difficulties."

Bill 112—

The Acting Speaker: Thank you. The member will take his seat.

Mrs Elliott: I listened with close attention to my colleagues across the way, and I hear the words used, for instance, with regard to the court case, "the government

won", and I think on that point we have to just simply say we disagree.

The reason this bill is before the House today is to bring clarity, to end confusion, to end the rancour that has obviously had very negative effects on the gallery itself and on the art community in general, because it creates confusion and that creates problems.

A decision was made by a judge, and from our point of view there were some confusing points that came from that which needed to be clarified, and once clarified in court, the final resolution to finally clear that up was here by bringing this forth in legislation.

I don't pretend to be a lawyer or to understand all the details, but here are a couple of things that have been brought to my attention. For instance, the judgment was confusing about the role of the board and its mandate; the judge's interpretation of the character of the collection was extremely narrow; and if the board could not define its duty within the meaning of the judge's decision, it would not be able to meet its legislated collection mandate. Each piece of art could potentially be subject to court review. Who, on any side of this House or in the art community, would want that?

The judgment was confusing with respect to the applicability of those sections of the 1965 agreement that were not specifically adjudicated. The judge's opinion about the parts of the existing collection that fell outside the gallery wasn't clear about whether or not these works had to be disposed of, there was no precedent for disposing of a large number of works, and potential problems included donors of disposed works suing the government.

This required clarity. This required the confusion to be cleared up once and for all, and that could only be undertaken through legislation. As I said earlier, the policy for acquisition and for disposal is exactly the same as that used by other collections.

The Acting Speaker: Questions or comments?

Mrs McLeod: In response, let me quote Justice Carthy, who sat on the Ontario Court of Appeal to hear the case of the McMichaels versus Ontario. Justice Carthy said: "In the early years following the 1972 legislation no particular problem surfaced. ... However, the evidence indicates that the relationship between the McMichaels and the board, which was expanded to nine members in 1973, deteriorated in the later 1970s. The McMichaels were frustrated" because the board was not following their views and directions.

According to Justice Carthy, Mr McMichael apparently believed that he and his wife had absolute control over acquisitions under the 1965 agreement. In 1997 the province of Ontario challenged the McMichaels in the Ontario Court of Appeal on what this bill is now legislating. The Ontario Court of Appeal dismissed the McMichaels' application. The finding in the court case was that the board of trustees has ultimate control of acquisitions. The new director has the responsibility for implementing the policies and directives of the board with respect to acquisitions.

What could be clearer than Justice Carthy's findings.

I've become increasingly concerned over the course of this evening's debate. I read the bill and was assured by the statements in the bill that the intent of the legislation, at least, was to maintain the original mandate of 1965, which indeed showcased the Group of Seven, but as well other artists as designated by the advisory committee who have made contributions to the development of Canadian art. That's still the language contained in Bill 112, which is before us tonight.

But earlier this evening the minister responsible for this legislation said that what they were going to do with this bill was go back to showing the Group of Seven and their contemporaries. That is what Mr McMichael wanted to confine the McMichael gallery to. Regardless of what the legislation says, it appears that that's the intent of the government. Under that mandate, Norval Morrisseau would be excluded, along with thousands of others.

Mr Christopherson: Let me thank colleagues from the ridings of Northumberland, Renfrew-Nipissing-Pembroke, Guelph-Wellington and Thunder Bay-Atikokan.

Let me begin first of all with the member from Northumberland. Let me say how saddened I am that you feel, pointing out that I'm from working class roots, that that is something that somehow makes me less than you, because you're a doctor, a veterinarian, and the way you sneered at being a union steward. I'm really sad that that's the way you see the province and saddened even more that you sit in the government benches. I happen to be very proud of my roots and always will be.

Let me say in particular to the member from Guelph-Wellington, who I believe—you are the PA, correct? Right.

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You didn't answer. You did a good job of making it sound like you were answering it and sort of moving off the issue, and then got on to your message. We all understand how that works, but the reality is, there has still not been a single member from the government benches who has told us why you've changed your position. What is motivating this? I'm sure there could be lots and lots of rumours, and there are lots of rumours, but you have not adequately explained why a couple of years ago you defended the expansion mandate, the mandate to have a broader collection than the 1965 agreement would have given us, and now in Bill 112 you take us right back to the 1965 agreement and talk about it like you're suddenly doing something that is, oh, so honourable. Where's the explanation? Where's the explanation the people of Ontario are entitled to?

Mr Gilchrist: It's indeed my pleasure, I suspect, to be the final speaker this evening on this topic and to add my perspective, in perhaps stark contrast to the words we've just heard from the member from Hamilton West. Personally, I think the time has come to get on with the job of restoring the McMichael Canadian Art Collection to financial stability.

In recent years the McMichael has probably been known more for controversy than for its art. It's time to

end the controversy that has crippled this unique institution for far too many years. It's time for this Legislature to keep faith with an agreement that the Ontario government made in 1965, an agreement that entrusted the province with the preservation and care of a very important chapter in Canada's cultural history.

Bill 112 seeks to restore the intent of the original mandate that created the McMichael Canadian Art Collection and to bring the collection back to sound financial health. The bill would give McMichael a clear direction for the future, it would provide a framework for sound fiscal management and it would create a stable environment where artistic excellence could thrive.

In the debate over the last few days, we've heard that this bill is about returning control of the collection to the McMichaels. That is not true. The collection would continue to be managed by a board of trustees. The bill is extremely explicit in that regard. It couldn't be clearer. That board will operate under the very capable leadership of the newly appointed chair, Mr David Braley.

We've heard that the legislation would cause chaos in the art world. We've heard suggestions from the members opposite that there'd be a fire sale of thousands of pieces of art, that the bill would somehow require the gallery to divest itself of all of these important pieces of art. Again, that's patently untrue—it is patently untrue.

For sake of argument, let's suggest that the McMichael board did decide to divest themselves of some pieces of art. There is nothing in this bill to suggest it would still leave public control. Need I remind the members, we have the Art Gallery of Ontario, we have any number of other fine, publicly supported art galleries, provincially and municipally, that I'm sure would love to be the recipient? So forget this canard that somehow there is a fraud that's been perpetrated. Forget the member from Renfrew's comment that we should be sued into the next millennium, I believe is what he said earlier today. It isn't going to happen. I don't believe the reasonable people appointed to that board would make a decision that would result in that end.

Let me just cite a "for instance" of another artistic endeavour that the previous governments, the Philistines who ruled this province from 1985 to 1995, let slip out of the control of the provincial taxpayers. It was the Guild of All Arts in my riding of Scarborough East. After World War I, Spencer and Rosa Clark had a vision: a building on beautifully landscaped grounds where all practitioners of the various arts, whether they were weavers or artists or potters or musicians, could actually live rent-free and practise their art. For decades it was a magnet that drew all sorts of expertise, in some cases very unique. It had a weaving loom the likes of which there were no others in Canada. After all of those decades of investment, after all of those decades of support, not just from the province and not just from the taxpayers generically but particularly from the Clark family and from the community, when Mr Clark was reaching an age where he wanted to ensure that his legacy would live on, he made a deal with the provincial government.

The government, hopefully in good faith at the time, took control of the Guild Inn. And what did they do with that under the previous two governments? They neglected the buildings to the point that the city of Toronto had to come in and tear them down under the property standards bylaws. They gave it away to the conservation authority and then turned a blind eye when the conservation authority gave it away to the city of Toronto, which thought that they could manage what at that point had become nothing more than a glorified inn and hotel.

It is a shambles. It is a theft of a legacy of the people who left that to this province. The governments on the opposite side, both of them should be ashamed of what you did. This was something quite unique, not just in my riding, but in the entire country—and it is gone.

Let me suggest to the members opposite that while under any new infrastructure deal it would be up to a municipality to identify their priorities, I can tell you that we've had a referendum in Scarborough East, in that community of Guildwood, and they've said very clearly that they want to see that building and those grounds restored to a Guild of All Arts again. I tell the members opposite right now there would be a venue right there, because I know that the city councillor is onside, so please let's not hear any other suggestions in committee or at third reading that somehow these paintings and other works of art would somehow leave public control. I'll guarantee you they'd have a home in Scarborough East and probably a dozen other willing hosts all across Ontario.

Let's make clear something else as well: the legislation is completely specific to the McMichael art collection—a public institution supported by taxpayer dollars. This is not something that can be applied to the Royal Ontario Museum or any other institution. It is very specific and it deals with a long-standing problem: a \$1.6-million deficit and an auditor's report that detailed the gallery's considerable financial difficulties. To not take assertive action would be a dereliction of this government's duty. We've also committed, as the members opposite are well aware, \$2 million for very necessary capital repairs because at the same time as there may have been a neglect of the spirit of the arrangement under which the building was donated in the first place, there's been a neglect of the building itself.

We've heard that the legislation would betray the generosity of donors who've given their work to the gallery. Well, what about Robert and Signe McMichael? Hasn't their generosity been betrayed?

Mrs McLeod: No.

Mr Gilchrist: The member opposite says no. I'm saddened by the callous attitude shown by members on the opposite side of this House. That the enormity of the gift the McMichaels made to the people of Ontario 35 years ago should be so disparaged, should be so minimized by the members opposite, is really quite callous. Without the vision and forethought of the McMichaels, without their dedication to an extraordinary school of art

that has, quite frankly, become synonymous with Canada's coming of age, we wouldn't be here today discussing the McMichael Canadian Art Collection. There would be no collection to discuss.

Over the last four days of debate missing from the comments from the other side has been that observation. If you want to criticize how it's evolved, at least give credit to the McMichaels for what they did. We owe them an incredible debt of gratitude. I can't think of any other place in this country where we have such a locus of the art that is really the definition of Canada itself.

I don't think there's any doubt that Bill 112 is about righting a wrong. It's about restoring the spirit of an agreement that was entered into with good intentions 35 years ago and then betrayed. It's about putting the McMichael collection back on a firm financial footing.

Years of debate about the gallery, years of rehashing the past, pointing fingers of blame, have only served to take us further and further from the truth. I thought there was one particularly good quote in the media that's worthy of putting on the public record here today. It was from Sarah Hampson of the *Globe and Mail*. She said,

"Most commentators have overlooked one significant thing.... This is not a story about misplaced control. This is not a story about individual taste in art, about a conservative geezer ... who doesn't 'get' the abstract art of urban intellectuals. This is a story about respect for the McMichaels. It's about honouring an obligation made to them in 1965 by then-Premier John Robarts. It's not about art at all. It's about decency, doing what's right and fair. Mike Harris is not stepping in to make a statement about what he thinks art should be. He is stepping in to undo the meddling of David Peterson's government."

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There was another letter to the editor of the *Globe and Mail*:

"Many countries with a long and rich cultural history have art galleries devoted to one artist or specific school. Why shouldn't the McMichael be one of them? In Paris, art lovers to the Marmottan, the Rodin or the Picasso museums know exactly what they are going to see when they visit. The McMichael is a little jewel whose magnificent setting lends itself admirably to its original purpose as a home for the Group of Seven and related landscape artists. One could argue that the row over its role developed because it fell into the hands of expansionist empire builders...."

I am very proud of the fact that we have the McMichael gallery as one of our great cultural assets in this province. We've had enough talk. It's time to act and pass Bill 112.

The Acting Speaker: Questions and comments?

Mr Conway: I want to agree with my colleague the member from Scarborough who has just spoken that it is important that all members acknowledge the benefaction of Bob and Signe McMichael. I want to do that; I tried to do that along the way. But I also want to agree, parenthetically, with another point the member made. Sadly, this debate seems to have been, over 25 to 30 years,

really about power and control. The literature is replete with examples, including the judicial literature, that make plain that Bob and Signe McMichael never clearly understood the implications of their gift 35 years ago. What troubles me about Bill 112, if I am to believe the testimony of people like Allyn Taylor and Cecily Bell—and I want to be clear; I was very angry with people like Cecily Bell and Allyn Taylor back 20 years ago. That's how I got involved in this debate, because of what I thought was a very cavalier attitude by the then board. They submitted capital requests to this Legislature, to the Davis government, for \$10 million. The cabinet said, "You've got five." They went ahead and spent \$10 million. I seemed to be one of the few people who was upset about that.

In the course of that exercise I got to know Bob and Signe McMichael and quite enjoyed their company. But I have to say that when I look at the past 20 years—and I'm the first to admit none of us is covered in glory—that we want to return to those days and those circumstances that the Court of Appeal and countless independent auditors have said gave rise to all kinds of power struggles and financial administration, to say nothing of the breach of faith with donors in the intervening 20 years, is to me madness on stilts.

Mr Christopherson: It certainly was interesting listening to the member talk about the McMichaels' original contribution and how sad it is, in his opinion—and I wrote down some of his words—that their gift has been disparaged or minimized and that there hasn't been due attention given to their dedication, and he talked about decency. All of that, like the previous speaker, we all agree with. It was a very, very generous gift they gave. That should never be anything less than a proud part of our history, and they deserve proper recognition for that. I agree with what he said about that, that we don't want to lose anything. What I'm unclear on is why that wasn't the position your government took in 1997, because in 1997 your government appealed the lower court decision that agreed with what the McMichaels wanted. So it's a very lofty, high road that the member from Scarborough East takes this evening, along with his colleagues, but the question still remains: if that is such a pure position, and if purity is where you want to be in all of this, why weren't you there in that purity zone in 1997? Why did you take a position against the McMichaels? You took them to court. You took their court case that they won to the Court of Appeal and you beat them. I want to know why this high road you're on tonight is not the high road you felt you had to take in 1997? What's going on that we're not being told?

The Acting Speaker: Questions and comments?

Mr O'Toole: As you would know, Mr Speaker, I was sitting here listening to the member for Scarborough East and was clearly enthralled, actually quite moved by his very genuine and sincere support for the concept of loyalty to commitments and promises.

As he made reference to his riding of Scarborough East, as well as relating that to the whole issue before us

with Bill 112, I think he spoke spectacularly, in a very sincere tone, on an issue that in many cases at my constituency office I've not heard anything about.

But I'm somewhat disappointed by the remarks from the member for Renfrew-Nipissing-Pembroke and perhaps even the member of Hamilton West and their cross-examination of the legal ramifications and the appeal. It seemed to me that they're more interested, not in the McMichaels and their generous donation to the province of Ontario, but in the legal implications, which are really quite a diversion from the purpose and the intent of the collection. Indeed, this legislation returns us to the basic commitment.

All of us here could read the explanatory notes in the bill. It recognizes the gift and the original content in 1965. I believe we could debate this for a long time, but I respect Minister Johns for reviewing it. If the member for Hamilton West had his way, if I were to pay attention to his remark—I think to do the right thing is more important than to stick to your decision.

For the record, I want to make very clear that on serious consideration the government is doing the right thing and in the long run, the people of Ontario and indeed the people of Canada will now have a legacy to share with the McMichael collection.

Ms Caroline Di Cocco (Sarnia-Lambton): What is really a sham about this bill is that they're saying this collection in its present state is causing fiscal problems. That's what they're actually saying with this bill. They're suggesting that the collection as it stands today is problematic when it comes to being able to be fiscally managed.

The problem I have with this and what I see here is that the minister doesn't seem to understand very much about the art community. She is sending shock waves through the art galleries in this province because of this bill. The Ontario Museum Association and the Ontario Association of Art Galleries have written and said to you that there are serious implications here to Ontario's hundreds of cultural and heritage institutions as a result of Bill 112.

You obviously don't want to hear what is the truth. In 1982, Robert McMichael signed an agreement that he should be founder-director emeritus of the corporation, with such powers as were assigned to him from time to time by the board. That means that he did not have control. He signed it away. This bill has nothing to do with fiscal accountability. This has to do again with control. You are creating a serious confusion in the art community, Minister, and if you are a minister who understands the culture of this province, I ask you to withdraw this bill for the sake of decency for the cultural community in this province.

The Acting Speaker: Response.

Mr Gilchrist: I want to thank my colleagues the members for Renfrew-Nipissing-Pembroke, Hamilton West, Durham and Sarnia-Lambton for their thoughtful comments.

I am again struck by some of the things we hear from the other side. To the member for Hamilton West, I think if there were no other compelling reason to appeal the original court ruling, it's the fact that many people suggested that every subsequent art acquisition could be subjected to litigation. Such was the lack of clarity in the original court—

Mr Christopherson: Not the issue. You know it.

Mr Gilchrist: That is my understanding.

To the member from Sarnia-Lambton, no one over here is suggesting that the nature of the collection is what has led to a \$1.6-million deficit. It is precisely the fact that there has been a lack of focus. The bottom line is that this bill guarantees that there's not just the board but that there's the art advisory committee, which is the only real role for the McMichaels. We talked about control. The other side talks about control. Math class may be an awful long time ago for the members opposite, because there are two McMichaels on a committee of five, and the committee—let me read from the act—"makes recommendation to the board." Nothing binding, no control.

The fact of the matter is, to the member from Renfrew, I must suggest there is no return to those days and the kind of confusion, the kind of litigation, the kind of controversy that has vexed this institution far too long. It's about restoring the clarity of the original donation. It's about restoring the honour of a deal. It may not pass muster. The social contract may be the forte of one certain government over there, but the fact of the matter is that there was a deal with the McMichaels. This bill is about honouring that deal and keeping the asset a cultural treasure.

The Acting Speaker: Further debate? No.

Mrs Johns has moved second reading of Bill 112, An Act to amend the McMichael Canadian Art Collection Act. Is it the pleasure of the House that the motion carry?

All in favour will say "aye."

All opposed will say "nay."

In my opinion, the ayes have it.

I have a letter:

"Dear Mr Speaker:

"Pursuant to standing order 28(h), I request that the vote on Bill 112 be deferred until October 4, 2000."

The vote will take place at deferred votes tomorrow.

It being very close to 9:30 of the clock, this House stands adjourned until 1:30 of the clock tomorrow afternoon.

The House adjourned at 2124.

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		York West / -Ouest	

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Une liste alphabétique des noms des députés, comprenant toutes les responsabilités de chaque député, figure dans les premiers et derniers numéros de chaque session et le premier lundi de chaque mois.

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John C. Cleary, John Gerretsen, John Hastings,
Shelley Martel, Bart Maves, Julia Munro,
Marilyn Mushinski, Richard Patten
Clerk / Greffière: Tonia Grannum

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Chair / Présidente: Frances Lankin
Vice-Chair / Vice-Président: Garfield Dunlop
Gilles Bisson, Claudette Boyer, Brian Coburn,
Garfield Dunlop, Raminder Gill, Pat Hoy,
Frances Lankin, Bill Murdoch
Clerk / Greffier: Douglas Arnott

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