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## **Official Report of Debates (Hansard)**

**Monday 4 June 2001**

## **Journal des débats (Hansard)**

**Lundi 4 juin 2001**

Speaker  
Honourable Gary Carr

Président  
L'honorable Gary Carr

Clerk  
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Greffier  
Claude L. DesRosiers

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## LEGISLATIVE ASSEMBLY OF ONTARIO

Monday 4 June 2001

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

Lundi 4 juin 2001

*The House met at 1845.*

### MEMBER'S PRIVILEGE

**Mr Peter Kormos (Niagara Centre):** On a point of privilege, Mr Speaker, pursuant to standing order 21: First let me indicate to you, sir, that notice has not been filed because this is a point of privilege that I submit arose out of proceedings in the chamber during the course of—and, I appreciate, because of the artificiality of the two sessional days. But it's as a result of a matter that occurred at approximately 6:15 pm.

As the Speaker will know, the motion for time allocation of Bill 45 had been debated this afternoon. There had been an amendment by the Liberal caucus and an amendment to the amendment by the NDP caucus. These were voted on: first the NDP caucus amendment, first by way of voice vote. There were noes, which permitted five people to stand, and then a recorded vote. It then went to the Liberal amendment: similarly, voice vote, noes, five people stood, and then a recorded vote. When the main motion—those two amendments being defeated—came to a vote, there was the traditional voice vote.

Now, this is my point of privilege, sir, and I carry with it no criticism of the Chair. But I say to you, sir—and this is particularly troubling, because I speak for myself, obviously; it's my point of privilege. Speaker, I know that you've heard me register my no to various votes in the course of various proceedings any number of times. My voice is reasonably voluminous in terms of the volume at which I can project it, and I tell you, sir, that I said no, in the manner in which the Speaker has heard it so many times. I don't begrudge other members the right to say, "Carried." But I can tell you that I said no and I heard—I don't purport to identify who said it—other noes. That's all I can tell you. I wasn't sitting where you are; I was sitting where I am. I heard other noes.

The Speaker, sir, had the motion carrying. I've had the counsel of people from the Clerk's office, because I sought their assistance in terms of what the procedure is, and I accept their counsel. I appreciate that the Speaker has to hear a no or noes. But I raise the dilemma that we, in this instance, in the opposition—it could happen to government members as well. If indeed one person out of 103 wants to register a no, and the level of volume throughout the House is such that, notwithstanding that others might hear him, the Speaker, being way over there, and me being way over here, can't hear him, that is a very practical problem.

I'm submitting to you, sir, because the effect of the Speaker's decision—and I submit that it did not appear that the Speaker consulted any other person or persons in the course of making the determination that no one said no. I find it, again, a difficult thing. I submit that it's probably difficult for you as the Speaker to respond to this. I know what the rules are, and I have every intention of using my best efforts to abide by them, but it's particularly troublesome for myself and, I am confident, for other members, for when we say no in a voice vote, what do I say to one of my colleagues whose voice may be more sotto voce by nature than mine is? What do I say to him or her?

So I submit, sir, that there has been a breach of my privileges, and I submit, however difficult the dilemma it creates for you, that it requires, yes, some sort of ruling or response from you. Again, it's not one that necessarily—although the protocol is normally to deliver the ruling immediately, that business is, for the moment, done and over with, so it's not something that necessarily requires an immediate ruling.

**The Speaker (Hon Gary Carr):** I thank the member for his explanation. I actually happened to be watching the proceedings. It is very difficult, and as you know, there is nothing that allows us to go back. The Speaker did rule. I also must say it is sometimes difficult, you're right, and I certainly do hear the member from Niagara Centre. In fact, on a number of occasions he will give me a warning he's going to say no, with a nod, as he's doing now. It's a very difficult situation, but unfortunately there isn't anything we can do. It is not a point of privilege in terms of any procedures that we may have here to go back. Unfortunately, the circumstances were that the Speaker made a ruling, heard what he heard, and that ruling has to stand.

### ORDERS OF THE DAY

BROWNFIELDS STATUTE LAW  
AMENDMENT ACT, 2001/

LOI DE 2001 MODIFIANT DES LOIS  
EN CE QUI CONCERNE  
LES FRICHES CONTAMINÉES

Resuming the debate adjourned on May 31, 2001, on the motion for second reading of Bill 56, An Act to encourage the revitalization of contaminated land and to make other amendments relating to environmental

matters / Projet de loi 56, Loi visant à encourager la revitalisation des terrains contaminés et apportant d'autres modifications se rapportant à des questions environnementales.

**The Speaker (Hon Gary Carr):** Further debate?

**Ms Marilyn Churley (Toronto-Danforth):** I didn't get an answer from my House leader here. Can they really do that?

**Mr Peter Kormos (Niagara Centre):** Oh, you bet your boots, sister.

**Ms Churley:** Thank you, brother.

It is with pleasure that I stand to spend a whole hour tonight speaking to my colleagues in the House and people who are watching on TV. It's a bill that I can almost support if we just do some more work on it, but of course it's a bill that has a lot of problems. It does connect with the environment, which is a major critic area of mine, and municipal affairs and the GTA. It sprawls, so to speak, across all three of my critic areas for the New Democratic Party, so I have some things to say that are very related to this.

Let me say that it's interesting that this is before us now, because of what is happening in Port Colborne. There was a story in the Hamilton Spectator today about it, and it's been in, obviously, various other newspapers as well. This story is headlined "Port Colborne Evacuation Urged," and that was me, the NDP critic for the environment, demanding that where tests have been done and there clearly is contamination in people's houses, not just in the yards, to err on the side of caution when it comes to the people living in those houses. I said very clearly that this is not a situation that we should fool around with and take any chances.

The Minister of Tourism, Tim Hudak, represents that area, and I respect his concern and the fact that those are his residents. I genuinely do think and know that he's concerned as well. But he did say, "I don't think Marilyn Churley is the medical officer of health. I don't think we should take any action that does not come with the advice of the medical officer of health. We need to make sure we have the best advice possible."

The article stated, "The Environment Minister ... could not be reached for comment, but earlier in the day she told reporters the government is determined to do all it can to protect the health of residents."

I want to put on the record as we talk about brownfield development here—and this of course is entirely connected—a brownfield we have in this situation, where we have nickel contamination.

I express my concern about this not as the environment critic for the NDP, not because I ran for political office as an environmentalist, and not to be alarmist, but because—and I think many people in this Legislature have heard me speak of this before, and I will speak of it again—we have a lot of brownfield land in my riding, now called Toronto-Danforth, in the south Riverdale area. It was industrial land for a very long time. The community, particularly those who live in south Riverdale down by the lake—and I live in south Riverdale, and

have for a number of years—have had to deal with a lot of contaminated sites, a lot of problems. You'll recall recently we had a fire in an old tannery that had a lot of chemicals in it. There's very little old industry left in the area, but there's still some. It's been mostly cleaned up, but we have a lot of contaminated land.

Several years ago, many years before I got into politics, and one of the issues that drove me to politics, although I personally will not and cannot take a lot of credit for the work that happened in south Riverdale, was around the issue of lead contamination, but it galvanized me to get involved. There were a number of other community activists at that time who were involved with contamination of the land, the lead contamination at that time, who came together in the community and spent years. Mr Speaker, you and I weren't here then; in fact, very few of the members who are still in this House from any party were actually members at the time. There are a few who would remember this.

The soil in south Riverdale around the old lead plant was contaminated with lead, and for a number of years experts said it wasn't a problem. The levels that had been tested over the years, the experts and government officials and MPPs and city councillors and what have you, medical officers of health at the time, said, weren't a problem. Dedicated people in the community, the South Riverdale Community Health Centre and other people, were seeing that there were problems, that there was a high level of schoolchildren with learning disabilities and other problems. People fought over the years to have government pay attention to the issue and at least come out and test the soil and test the blood of the children who lived in the area. Believe me, it took years and years and years for anybody to pay attention. By the time these activists and health care people in south Riverdale got the government of the day to pay attention—I remember David Reville, who was a member in this House, raising it, and Jim Renwick before him, who has sadly passed on, but some of you may remember him.

It was raised time and time again at city hall and in this very chamber, and nobody listened. By the time the community was able to itself get the evidence, it was too late for many of those children. I remember it well, the mobile clinics coming to the community and children lining up to get their blood tested in these clinics. I remember as the test results came in and the shock, the absolute shock—not surprise, but shock—when we saw the high levels of lead in these children and the evidence now that we all well know goes with lead contamination, lead poisoning, particularly for children, which is brain damage in some cases, severe learning disabilities in many.

That's what happened in south Riverdale, and that's why, when we have this contamination problem in Port Colborne, I say I don't feel that I'm being alarmist. I feel I've learned from experience that when there is evidence—and let's not forget that this is now being classified as a class one carcinogen, known to cause cancer—not suspected to cause cancer, known to cause cancer.

That's what we're dealing with here. The day is going to come, and right now we're in the middle of talking about remediation of the soil. In south Riverdale what happened eventually is that the soil was tested and the insides of houses were tested, and what they found was the same situation as in Port Colborne: the lead had got inside the houses. So not only were the children told that they couldn't play in the dirt and do normal things in the school and in their own homes, but they found out that it was in everything in their own houses: in the carpets, in the walls, in their beds. It was everywhere, quite an awful situation once they found out how bad it was.

Eventually, over time, an agreement was made with the then provincial government and, I believe, city council, and it was determined that the most urgent and important thing to do at that time was to get the soil replaced in a large area. In the case of lead, it turned out that there was a method that had been determined in the United States, I believe. It was quite costly, but it was believed to be successful. Not only was soil replaced in the schoolyards and in the yards—it's hard to believe now; it was quite an undertaking, and those people lived through hell for a while while this was going on—but they also had their houses cleaned from top to bottom, including the roofs, outside. Every square inch of their houses was specifically cleaned according to a plan. It took a very long time. We still, in south Riverdale, have periodic testing of the soil in that particular area and there are still high lead levels in certain areas, but overall we got rid of the lead.

#### 1900

That was due to a lot of community action, but let's think back. I don't know if anybody has followed what happened to those children who were poisoned by the lead at that time, but we do know that some of them had severe learning disabilities which were directly related to the lead poisoning. As far as I know, they never got any compensation or any specific help as a result of that. I think at the time we were just so relieved that finally we were believed as a community, that the evidence was there and that the problem was resolved over time.

So when I look at what's happening in Port Colborne and the fact that there is evidence now that, as I said before, nickel oxide can cause—does cause—cancer, no wonder, as it says in this newspaper, "Families Living a Nightmare." Can you imagine, can any of us in this House imagine, what it must be like for those families with kids living in those houses when it's not suspected, but it has already been announced, that it is a cancer-causing carcinogen, and nobody knowing for sure what's going to happen? It was bad enough when it was known to be in the soil, but to find out it's actually in your house must be frightening. That is why I urge the government to act quickly, specifically in the houses where the nickel oxide levels are so high that it could be a dangerous situation for these people to be in. I think that's an absolutely critical thing that needs to be done.

I am talking about brownfields now, of course, because this, as I said earlier, is going to be one big brown-

field to clean up and somebody is going to have to pay for it—which brings me back to the bill before us, because I can tell you that when we had the soil replacement to take the lead out—

**Mr Rick Bartolucci (Sudbury):** Who was the minister who cleaned up your area?

**Ms Churley:** I can't remember now. I was going to do my research before I came tonight and I didn't get around to it, but Mr Bradley might know. I don't know if he was around at the time. Was that Mr Bradley who finally—

**Mr James J. Bradley (St Catharines):** I remember it very well.

**Ms Churley:** It must have been Mr Bradley from the Liberal government, and Mr Bradley would be able to tell you—the member for St Catharines, I should say, the then Minister of the Environment—that at times I was a real thorn in his side—

**Mr Bradley:** No, never.

**Ms Churley:** "No, never," he says—but a friendly one. He could tell you a story of when I was—that was in the days when there were actually grants for environmental groups who were doing good works. I remember—I believe this is what it was about—we had started the Canadian Environmental Defence Fund. Is that right, Mr Bradley? I think that's it, and I wasn't getting a response, or maybe it was fighting garbage incineration. I think I was doing both at the same time in south Riverdale. I was doing that as a citizen and I couldn't get a response quickly enough from the then Minister of the Environment, the member for St Catharines, and I used to call him a lot. I remember one day actually going down to his office. They were very friendly people. They let me go right up to the 14th floor, was it?

**Mr Bradley:** Fifteenth. It doesn't happen now.

**Ms Churley:** You can't get that close to a minister's office now. I sat outside the minister's door. I just plunked myself down and I just sat there—I had a good book with me—and waited until Mr Bradley appeared, and I think we had a good little meeting at that time. He was approachable—we had met before—and we resolved the problem, and I think he came to the founding meeting shortly thereafter and presented me with a cheque. I'm very pleased to tell you that the Canadian Environmental Defence Fund is alive and thriving and is doing excellent work across the country now.

Coming back to the bill at hand here—because I must admit I got a bit sidetracked then—this Brownfields Statute Law Amendment Act before us, I want to say that of course the NDP supports taking special measures to clean up former industrial sites. It goes without saying that, coming from the riding I do, and south Riverdale particularly, I'm very happy to see this legislation before us. It's absolutely key to revitalizing downtowns throughout the province. Again, my riding in Toronto, on the waterfront, with different types of contamination, some worse than others, is one of those areas that desperately need some kind of remediation.

That's why I and my party, the NDP, are disappointed that the government once again did not come up with any

money to help with the actual cleanup. A small amount of money for the Toronto waterfront is not enough. Communities across the province need the help of the provincial government.

I have heard—and I'm not sure, because I'm hearing so many different opinions about the SuperBuild fund that's there—that it's very difficult money to access. Some communities' mayors and councillors tell me that it's very difficult. They have to hire experts or people who know the government to figure out how to fill in the forms and get access to that money.

The other thing I'm hearing, and this relates specifically to Toronto, is that the infrastructure money that the government is making available to communities across the province for—of course, there is a variety of things under the infrastructure money. I'm hearing that the only money the city of Toronto is getting from that infrastructure money—I'm not talking about the SuperBuild fund here—is the money that has already been earmarked to clean up the waterfront, which leaves Toronto high and dry when it comes to asking for any other money for any other infrastructure problems. This is what I've heard. I'm hoping the government will tell us otherwise.

I know the government doesn't accept the reality of the downloading and the exchange of services. They say it's revenue-neutral. That is not so. I'm glad there's a new discussion going on between the Minister of Finance and the mayor of Toronto and others. Hopefully they will sit down and come to a reasoned discussion about what to do around the issues of not just Toronto—

**Mr Wayne Wetlaufer (Kitchener Centre):** Sell off Metro Hall.

**Ms Churley:** Well, I think they are going there, but they're still going to have to spend money on putting these people in offices somewhere. These are real people in real offices doing real work for the citizens of Toronto. They can sell off Metro Hall, and I think they're planning on doing that, but even if they do sell off Metro Hall, which I expect they will when the details are worked out, it's not going to solve the fiscal crisis in the city of Toronto. Indeed, across all of Ontario, across Canada, cities are in a crisis. We know that. I don't think very many people are arguing with it.

The Municipal Act was written, I believe, in—does anybody know the date? It was 18-something, over 100 years ago. That will do. It was written at a time when the majority of people lived in rural areas. I really would like to find that, but I don't have it in front of me. Now we have a situation where about 80% of the people—this is throughout Canada—now live in urban areas. These creatures of the provinces—because that's what we are. That's what cities and municipal governments are under the Municipal Act: creatures of the province. But over 100 years ago when that act was written, everything was so different, the kinds of complexities of the issues.

When the government announced and gave speeches about their Brownfields Statute Law Amendment Act, they talked about Smart Growth, completely missing the point of what smart growth is really all about.

### 1910

Here it is; it was right in front of me all along. This is from a report that was recently commissioned by the FCM. It says here that “in Canada, municipal governments,” as we know, “derive their authority from the provinces. The role, function and structure of local authorities are defined in the 1849 Baldwin Act. When the Baldwin Act was enacted, local governments were preoccupied with the issues of the day, notably drunkenness and profanity, the running of cattle or poultry in public places, the repair of roads and the prevention or abatement of shivarees, noises and nuisances.” “Shivarees,” according to the Shorter Oxford English Dictionary, means “a serenade of rough music made with kettles, pans, tea trays etc, used in France in derision of incongruous marriages.” That's the definition, and when that act was written that's the kinds of things municipal councils dealt with. “At that time,” it says, “we were a nation of rural dwellers. Fewer than 15% of Canadians lived in the urban area. By 1996, our demographic geography had completely reversed, with 80% of Canadians living in cities.”

I was talking about smart growth and the fact that everything has changed in terms of how our municipalities are now structured and the things that they do. We well know by now that—and specifically after all of the downloading. It's not just the Ontario government downloading; it has happened across the country and it has happened from the federal government as well. Cities have been given more and more responsibility.

So now they've had another responsibility thrown at them. We have the Brownfields Statute Law Amendment Act, but there's no money attached to it, there are no dollars attached to it. Once again, the cities and municipalities across the province are happy to see this come through, but how are they going to find the money to pay for it? It doesn't exist.

We have a situation where it appears that the government thinks that brownfield sites will be cleaned up without any real help from them, by magic perhaps. “Contaminated former industrial sites exist near city and town centres throughout the province.” There are also many of those sites in suburban areas. They're all across the province. We well know these sites can be dangerous but also hold enormous potential for appropriate and progressive redevelopment.

“There is substantial evidence that legal liability issues and the former stringent rules of the Ministry of the Environment in regard to removal of contaminants have impeded the remediation and redevelopment of these sites.” Of course, Ataratihi, in east-central Toronto, is a prime example of that. It's one of the major reasons why that never got developed. Although we want to make sure those stringent environmental standards continue to exist, there is real concern, in this act, that the Ministry of the Environment doesn't have enough staff to be able to make sure that the rules are abided by. Then, there's real concern that these sites will not be cleaned up according to the rules attached.

If we want development within existing urban areas, rather than sprawl—and it's certainly what the New Democratic Party is calling for—then obviously we must be prepared to make the changes that will make it easier to redevelop these sites. It's got to be done, and that's why I say I'm pleased that this bill is before us.

"The bill provides for site-specific risk assessment. Instead of matching up a set of contaminants and level of contamination with the state's requirement for specific kinds of cleanups, landowners are given flexibility to recommend a program of remediation specifically tailored to the risk posed by that site for the particular land use that is proposed." That sounds like a complicated sentence, but what it comes down to is that depending on what's going to happen on that site, there can be different rules applied. The ministry can either accept, reject or modify the proposed plan.

The activity will of course be mostly driven by the proponent and "the key rules will be in the regulations." Of course, we haven't seen those regulations yet, so that's going to be key.

"The developer conducts a phase 1 assessment to determine the likely presence of contaminants and then a more detailed phase 2 assessment may be required to determine the concentration of contaminants. In the latter case, a qualified person must certify the record of the site." Then phase 1 assessments, phase 2 assessments and "qualified persons" will all be defined in the regulations. This could lead to even the requirement for certification by a professional to be defined away.

"Specific contaminants will trigger a risk assessment that must be filed with the director. This assessment would certify that ministry standards for contaminants are being met," and then the director can accept, reject or modify the risk assessment. The decision cannot be appealed. Once a risk assessment is accepted, the director can issue a certificate of property use authorizing the use of a property for specific purposes. There will be a site registry providing information to the public on each property on which a phase 1 or 2 assessment has been completed. Then it goes on and on. So there are clear rules written here, but we'll still have to wait for the regulations to see how much further it goes.

One of the important aspects of this piece of legislation is that relief from liability is being provided to developers and owners for pre-existing contamination, "provided that a record of the site condition has been filed and any subsequent order relating to a risk assessment has been complied with. The ministry can make orders to deal with emergencies, including risk to human health and water supplies."

This is a very important part of the bill before us because one of the reasons why brownfields weren't being developed was the very issue around liability, and of course developers weren't going near it with a 10-foot pole, for obvious reasons.

Within this legislation there is a provision allowing municipalities to give tax relief connected with remediation of brownfield sites during the period of time that the

site is being developed. "There is no proposed provincial funding beyond the Toronto waterfront commitment," and I come back to that again. The government and others say municipalities can earn back the money they put into temporary tax abatements because once the property is redeveloped the property's new higher assessed value would, you would think, translate into property tax revenues. "That may work if there is a private owner who is willing to redevelop, but when the city has inherited a property due to tax default, they may not have the money to clean up the site, a cleanup that will likely be needed to encourage possible private sector developers."

"The ministry itself is given an impressive list of powers, including the power to require financial assurances to be paid to do work that a site owner was required but failed to do," etc. But with the cutbacks to the ministry the usefulness of this is doubtful. There again I come back to my concern that we need to empower the Minister of the Environment, we need to bring back the staff and put the money back in. They can't even do the job they're supposed to be doing now. This adds more responsibilities to the Ministry of the Environment and more responsibilities to a municipality, and in both cases they don't have the money and they don't have the resources to be able to do the job.

One of the things the government announced is that they are seeking public-private partnerships to develop seven new highways and extensions of existing highways. Mr Speaker, this is connected. I want to assure you of that in case there is any doubt. If you would look back through Hansard, when the government announced this and made their speeches when we started second reading of this legislation, they all talked about Smart Growth. So I'm going to talk about Smart Growth because it seems that is, in their view as well, part of this bill.

## 1920

The government took the wording Smart Growth from, I believe, Al Gore in the US, who came up with the term. A lot of the problems that we now have in Ontario and across the country in our cities happened in the US before they happened here. So-called senior levels of government neglected their cities, the way we're neglecting ours now, and the cities became shells of what they used to be. You know, it was the hole in the doughnut, which is our concern about what's happening to our cities in Ontario right now. It's a term that is supposed to mean healthy, environmentally friendly growth; that is, it's supposed to be friendly to urban public transportation. It's supposed to mean, in the real sense of the word, provisions against urban sprawl, provisions to encourage building in density in built-up areas. But here, the Harris government cynically uses it when they talk about possibly building seven new highways, without a word about investing in public transportation. It's an absurd, duplicitous way—I'm choosing my words carefully and I think that one's OK—to talk about Smart Growth, because this is not Smart Growth. It really is—and many of us said this; it doesn't even sound funny any more, but it's true—dumb growth.

The other day we had the Sierra Club of Canada come to Queen's Park to talk about the Mike Harris version of Smart Growth in terms of building new highways, encouraging urban sprawl and refusing to fund public transit operations. The spokesperson, Janet Pelley—to my knowledge, the government did not consult with people like this, environmentalists and other community groups, around their Smart Growth plan or around this brownfield legislation before us today, and they should have. They're missing a very important and critical point of view when they go ahead with this legislation without consulting with those on this side of the issue.

What Janet Pelley said was, "Harris has sullied the term 'Smart Growth.'" She noted, "This is a legitimate term and it is a good term and it should not be abused by the Premier," as she put it, "to greenwash the strip-malling of Ontario.... Premier Harris says he embraces Smart Growth, but the facts actually show he doesn't know what he's talking about."

The Sierra Club gave a report card—and I sat there along with one of my colleagues from the Liberal Party, Mike Colle, and watched as the Sierra Club gave the Harris Tories an F for his version of Smart Growth, which calls for more highways, and again not a word about operating funding for public transportation, which has got to be a critical part of Smart Growth. You're trying to preserve our farmland. You are going to be cleaning up brownfields in our city. For heaven's sake, what we've got to be focusing on here is public transportation.

It was ironic today when the Minister of the Environment announced that people should be doing things as individuals to help clean up our terrible smog problem in Ontario. Nobody takes issue with that, but on the same day that she made that announcement, it happens to be, by coincidence—or was it?—the very day that public transportation, the TTC, rates have gone up here in Toronto. Of course, statistics show that as rates go up, ridership goes down. Statistics also show that the more highways you build and the more you widen them, it doesn't resolve the problem. That's why you can't just focus on roads.

The NDP has proposed a partial solution to this and it's a good one. It makes a lot of sense and it's been done, or variations of it have been done, in other jurisdictions, others grappling with this same problem. There are all kinds of methods. This is just one idea of how a public transportation system can be funded without raising taxes. There is already a gas tax—and that's another issue, I know, the fact that gas prices fluctuate and go up and down. There are issues around that. But there is a gas tax, which is a major part, in fact, of what we pay for at the pumps, both federally and provincially. The idea is a transit trust fund. What you do is take just 2% of the gas tax fund and you put it into public transportation. If you do the same at the provincial level, that's about \$300 million a year that is earmarked specifically for public transportation and for roads. Nobody is saying, for heaven's sakes—I heard that the Green Party, as an aside,

in their last convention spent a great deal of time debating whether or not they would close the 401—

*Interjection.*

**Ms Churley:** I'm serious—should they come to power.

We're not suggesting that, I'm happy to say. We're not suggesting closing down the 401 and highways. We recognize that we need highways, but it's really regrettable that over the years the federal government has virtually finished off our rail system because, of course, without a rail system—a very, very damaged and down-sized rail system—there is a need for more and more trucks on the roads to keep our economy going. That is the reality. I certainly want to find a way, as do many, to bring back a viable rail system which is environmentally cleaner and safer all around than having huge trucks on the road all the time.

But no, we're not suggesting that roads be shut down. What we are suggesting is that in fact roads have been downloaded—once again, another expense to the municipalities. They now have to care for them, and many of our roads are in disrepair and therefore unsafe. What this fund would do is 60% would go to public transportation and 40% would go to roads. We're talking about the good repair of roads that municipalities could count on year to year so they could plan. This is \$300 million a year, and think if the federal government came in on it. We could keep our roads in good repair, we could plan ahead and we could make sure that our transportation systems are viable. That's something we wish very much that the government would look at as they continue to talk about building new roads. That is certainly not smart growth at all.

If you'll look in this report that I was actually quoting from earlier—I should tell you a bit about this report. It's called Early Warning: Will Canadian Cities Compete? and it's a study that was prepared for the FCM, the Federation of Canadian Municipalities. They just recently had a meeting in Alberta where this whole issue was discussed in great detail, and that is the crisis that our cities and towns are in across the country. This study is a research paper and what it basically does is not so much suggest policy but look at, as the title implies, what other jurisdictions are doing across this country and across the US and Europe as well in terms of the legal framework and fiscal authority. There are enormous choices and opportunities out there. Again, the European and American cities, and some Canadian cities in fact, are way ahead of us. Coming back to the financing of our public transportation system, this report says one of the innovative financing techniques in France is the national transport contribution tax. This is "a special tax which finances the investment and operation of urban public transport in cities with a population of more than 30,000."

This particular tax is different from the method that we're proposing, taking money from the gas tax. This is paid to the local urban transport authority by all employers with more than nine employees, and it's fixed at

1.75% of wage. That's one of the innovative programs that, in one country, has been used.

**1930**

The conclusion of this report, in terms of the research that she has done in a very quick time, says, "This is what we need to do; these are some of the things we need to do." Cleaning up brownfields is one of them. We need to have the money in place to pay for that. One of the other things that we need—and all politicians from municipalities of all stripes I believe are calling for this now—is legal authority for local self-government. This is available to US municipal governments through what's called a home rule charter.

I would suggest to the Minister of Municipal Affairs, if he hasn't already, to take a look at this home rule charter that some American states have brought in to allow their municipalities to give them more autonomy and legal authority to act. Really, the maturity today—and before the minister came in, I'm sure he was watching me speak on TV about the changes in municipal governments from when they were first given power over 100 years ago, and now the fact that 80% of people live in cities and they've got all these responsibilities but they don't have the legal authority or the financing powers to deal with all these issues they have to deal with today. We're talking about brownfields. We're talking about dealing with housing and welfare and child care, and on and on and on, that municipal governments have to deal with.

The other thing they need is fiscal authority to engage in public-private partnerships through such mechanisms as municipal permission to hold a mortgage, access to growth taxes such as sales tax, commonly used in the US, or local income taxes, as imposed in Europe and in the US. Another conclusion here: opportunities to leverage private sector investment through direct tax incentives. Another recommendation—I shouldn't say it's a recommendation; it's written as a conclusion—access to permanent lending programs for infrastructure such as infrastructure banks and revolving funds.

These are some of the conclusions that came from this particular study. I'm sure the minister could take a look at some of these. Not all of them would work for Ontario; some would. I know that the minister must be aware that municipalities across the province are looking for changes and in fact are making it very clear that these changes are desperately needed. We know very well that right now in our cities across the province there isn't enough money to do a lot of the things that need to be done because of the downloading. Some cities like the city of Toronto have been trying to deal with the federal government in a bilateral way, which is very rare. The federal government generally deals specifically with the province or in a tripartite way, where the arrangements and agreements are made between all three levels of government. That's changing a little bit. I know that the city of Toronto is now making some agreements specifically with the federal government. That's something that should be just a normal process.

But again, these kinds of changes are happening all across the country. It's interesting to note in this study that the government of Newfoundland and Labrador—my hometown—proposed a new Municipalities Act in May 1999. It says:

"The act appears to be responsive to the growing needs of municipal governments, promising to increase the scope of municipal autonomy in the areas of taxation, administration and financial management. New and expanded authorities in the areas of service delivery and municipal controls are also included. The proposed legislation removes many of the restrictive provisions of the current act."

"The proposed act has, in fact, been heralded by many as one of the most modern in municipal acts in Canada, offering more opportunity for flexibility and autonomy within a framework of municipal self-government. Provision is made for the government of Newfoundland to consult with the mayor of a city before the province enacts, or amends legislation or makes regulations or policies that affect the city."

Now wouldn't that be nice? I'm sure every mayor or councillor across this province would like to have an opportunity to be able to consult with the government before it moves and changes things without talking to them first.

I want to read to you just briefly what this report says specifically about Ontario. It says:

"All Ontario municipal governments are governed primarily by the Municipal Act, although dozens of other statutes and regulations also dictate what Ontario municipal governments may or may not do. The current Municipal Act confers specific authority for each power to be exercised by a municipality. The 'laundry list approach'. Changes to the Municipal Act were introduced most recently in 1998 and are still under consideration as draft legislation. The government has promised to make the new act more flexible, less prescriptive, more comprehensive"—I've been to the dentist so I'm having a little trouble here today—"and understandable. Initial drafts suggest the government has fallen wide of the mark; instead trading in one set of prescriptive requirements for another."

The final thing it says about Ontario is this, and this is critical and I hope the minister will understand that there's been some concern about where the new act seems to be going:

"While promising to provide 'natural person powers,' the draft legislation limits the extent of such powers and further entrenches a significant level of provincial regulatory power over municipal governments. For example, one proposed change states that by regulation, the provincial cabinet may limit municipal power to engage in commercial activities that represent inappropriate competition with private commercial activities."

So there are some concerns already being stated about where this province, the province of Ontario, and the Mike Harris government are going with changes to the Municipal Act here. I would ask that that the Minister of

Municipal Affairs consult widely with mayors and councillors from across the province before those changes are finished, because it's become increasingly clear that they want to see changes made to the Municipal Act which will allow them to take their new responsibilities more—they take them seriously, but to be able to carry them out.

Mr Speaker, I'll be back with you in one second; I'm having a little trouble here.

**Mr Wetlaufer:** No problem.

**Ms Churley:** No problem? I'm not so fiery tonight as I usually am. Going to the dentist will do that to you.

The bill before us tonight is one that the New Democratic Party is not prepared at this point to support, but hopefully after public hearings we will, because there are a number of issues—and I have talked to the Minister of Municipal Affairs and he has made it clear to me that he supports, and I believe he said as well publicly when he spoke to this bill—Mr Speaker, do you mind? I know this is unusual, but suddenly I'm not feeling well and I have to sit down. I don't know what the rules are around this—unanimous consent to take a break? Can I have that?

**The Speaker:** Just a quick moment; I'll take a bit of a consultation here.

**Hon Norman W. Sterling (Minister of Consumer and Business Services):** Mr Speaker, I seek unanimous consent to have Ms Churley resume her speech after Mr Wetlaufer takes his turn in rotation.

**The Speaker:** Is there unanimous consent? Agreed. That way I won't have to consult for a few more minutes to give you some time.

**Ms Churley:** Thank you. I appreciate that.

**The Speaker:** Hopefully the honourable member is feeling better.

**1940**

**Mr Wetlaufer:** I'd like to rise and speak in favour of Bill 56, the brownfields act. Let me just be facetious for a few moments and say we don't need this bill. Desolate, closed-up factories in towns, in the middle of residential areas, in the downtowns, are beautiful. We need these brownfields and their polluted land. Why do we need residential development on those lands? Can't we continue to develop farmland? After all, can't intensive farming operations solve our food needs? What does it matter if our downtown areas of urban Ontario are blighted by old, abandoned factories?

I'd like to turn for a moment to the Ontario students debating championship which was held in Kitchener on March 24 and 25 of this year, during which time they were talking about how to make the downtown of urban Ontario like it was in the 1950s and 1960s.

I think of what Ms Churley, the NDP member for Toronto-Danforth, said. She said that the NDP can almost support the bill but that more work is needed. We could do lots of work on this, like the NDP did or like the Liberals did when they were in power: do lots of work on bills and not get anything done. Yes, there are regulations yet to be developed, but that is typical of legislation. Speaker, I think you're aware of that. You've been

around this place longer than I have and certainly that is the way of the world in politics.

But let me get back to the redevelopment of downtown urban Ontario. There are many municipalities, like my riding of Kitchener, that have old factories dating back to the 1800s, mid-1800s, late 1800s or early 1900s, that were the homes of burgeoning industries at that time. Those industries no longer exist. Those industries no longer exist in Canada. They've been replaced elsewhere. Or, in some cases, they're industries that are no longer needed. I can think of the old felt factories, for instance. There are very few of them around any more. There are very few button factories any more. There are very few factories that make shoelaces any more. But there were also other factories, that made shoes, and the tanning of the leathers created pollution in the ground; or metal-working plants, the chemicals that were used.

*Interjection.*

**Mr Wetlaufer:** Coal-burning plants. That's right, I say to the member for Ancaster-Dundas-Flamborough-Aldershot. There were chemicals used. The coal itself was used and it polluted the ground.

We have a challenge today. We as a government, and the opposition parties too, have a challenge because we have children and grandchildren who are coming along. Our challenge is to leave them an environment which will be less polluted.

My daughter just got married on Saturday.

**Mr Ted McMeekin (Ancaster-Dundas-Flamborough-Aldershot):** Congratulations.

**Mr Wetlaufer:** Thank you very much. I hope she brings children into this world whom I can enjoy, and I hope they do not have polluted lands.

One of the objectives of this legislation is to take those old, abandoned, boarded-up factories and clean up the soil. We have one in Kitchener that is about to undergo some rather dramatic soil cleaning. It's the source of some consternation right now, because the company that is going into this subdivision—because much of the area around it is residential—is going to be undertaking a fair amount of cleaning of not only that land, but they are going to bring other soil in to clean, and they didn't give enough notice to put the residents' minds at ease.

They are having a meeting in the residential neighbourhood tonight, and I would have liked to have been there, but unfortunately—or fortunately, as some people would say—I'm here. To the people who are watching, yes, we are live tonight; this is not a tape from this afternoon.

But it's interesting to note that the company that is buying this land and is going to clean it up over a 10-year period, I believe, is cleaning up this soil in order that there can be put on it a nice residential development. It probably will be multi-residential, to fit in with the neighbourhood. Nevertheless, it will be a nice development. The name of the company is General Environmental Group Inc, from Brampton. I'm looking here at an article from the Kitchener-Waterloo Record on Saturday night, and there is a quotation in here from Jim Barker, a

professor of earth sciences at the University of Waterloo. He said, "It's absolutely standard technology. It's normally operated in a very simple, straightforward manner."

Neil Humphrey is one of the advocates of the neighbourhood and is opposed to this development, but I think he's willing to have his mind changed provided there can be some safeguards for the people of the neighbourhood, and I say to the members of the opposition that one of the things provided for in this legislation is safeguards. Neil Humphrey said, "It's a generally accepted technology. When done properly, nothing comes out of it but pretty clean stuff."

The technique used is called bioremediation, and it works much like composting. It encourages tiny live organisms which are yeast fungi or bacteria already present in the soil to eat the oil, gas or grease that has contaminated it. How it works is basically hungry micro-bugs turn contaminants into harmless products, mainly carbon dioxide and water. When there is no longer any contamination, the "bugs" die out, and what is left then poses no contamination risk.

The one thing that I did notice here is that gas discharges and ventilation pose an engineering challenge, and apparently the smells from contaminated soils can be quite foul. Jim Barker said there is a potential for smells and odours, and I think that's understating it considerably. But the company, this General Environmental Group Inc, intends to control odours and vapours using the same bioremediation technology that cleans the soils, and the cleaned sand used in this process can be sold to help make cement after more processing.

With the proper safeguards, we're talking about massive soil cleanup around this province, which will make it a whole lot better for our children and our grandchildren. As I said before, there are safeguards built in here.

## 1950

The member from Toronto-Danforth said that with downloading, the municipalities can't afford to do it. Nobody said anything about the municipalities having to do it; they are allowed to do it. There are some municipalities that can afford it and will do it. But downloading didn't cause all the problems. The federal government has downloaded all kinds of things on the province. This is not the 1950s, it is not the 1960s, when we could just keep on increasing taxes and keep on increasing government spending. It can't be done.

I say to the member from Toronto-Danforth that if it was possible, then your government, when you were in power in the early 1990s, wouldn't have increased the debt of this province 100%. Even the member from York South-Weston said last week that government doesn't have the money.

What is the purpose of this legislation, then? It will encourage private enterprise to go in and buy up these lands. How will they do that? Why haven't they done it before? I say to you that the reason they haven't done it before is because, first of all, there were no financial incentives there, plus there was a prospect of severe

environmental liability. What we are doing is limiting the environmental liability.

If I owned a company, why would I go in and buy a piece of property on which I know there is severe contamination, when I know that the environmental liability is going to fall on my shoulders, if I'm not going to get any tax benefit out of it? Why would I do that? I have an obligation to my shareholders. Do you know who those shareholders are, in many cases? Those shareholders are mutual funds, pension funds, including the teachers' pension fund, I say to you, members from the Liberal Party, and they are many other unions' pension funds. Pension funds in this province and in this country are investing most of the money in the stock market today. What I'm saying is that we have an obligation—

*Interjection.*

**Mr Wetlaufer:** You don't understand what I just said here, I say to the member from Sarnia-Lambton. The problem is that you people don't see that if I am a businessman and I have an obligation to protect my shareholders, who are the union members of this province, the hard-working individuals of this province, if I have an obligation to them, then I cannot incur an unlimited environmental liability knowingly. It would be irresponsible if I was that company president. It would be unconscionable.

**Mr Frank Mazzilli (London-Fanshawe):** Actually, what has Petro-Canada done with all its sites? They've been sitting there.

**Mr Wetlaufer:** Yes, Petro-Canada, owned partially by the taxpayers of the country of Canada; they own 18%. They own all these lands that are sitting there, polluted, and they can't sell them. Well, under this legislation, they will be able to sell them. Many companies will be able to take it on because they will now be able to obtain financing. Banks and other financiers are very hesitant to loan money to allow someone to develop a contaminated property. Why would they do that? Knowing that companies are going to be protected and have some limit to environmental liability, financiers and banks are going to be much more willing to loan the money to have that property cleaned up and developed.

Every one of us has dumps in our riding. This should give us some example of what brownfields can do. Methane gas can be explosive. Methane gas is serious. It can cause illness. It can cause death. There isn't as much methane gas in this province, in these dumps, as there is other contaminants in the soils of abandoned factories, abandoned industrial sites. That is something that needs to be addressed and we have done so in this legislation.

I say to you Liberals and to you NDP, how else do you think you are going to get these lands developed? How else do you think you're going to get these lands cleaned up? You didn't do it when you were in power. You didn't even try, because you didn't have the imagination, but you'll stand in your places and condemn us for putting through a pretty doggone good piece of legislation.

Yes, there can be improvements, minor ones. We're going to have public hearings, and isn't that what public

hearings are for? I thought that was democracy. You people, of course, probably want more public hearings than what you ever held, but that's another argument. That's a case for another day.

What we want as a government is to foster clean, healthy, dynamic neighbourhoods; clean, healthy, dynamic communities.

Two weeks ago, I spent a couple of days in my riding during constituency week. I was talking to some of my constituents about this legislation and, do you know, one thing that really came home to me were a few comments that said, "We don't care how you do it, just do it." Those were the comments from constituents. They want it done and they want it done as soon as possible.

This does tie in with Smart Growth. Smart Growth is designed to encourage, promote and manage growth in a strong economy, in a sustainable economy, in strong communities and in a clean, healthy environment. That's what we want.

There is no alternative. The only alternative is what I said when I stood up, that we don't need the bill; that these desolate, closed-up factories are beautiful; that we can continue to develop our municipalities on existing farmlands; that we can replace all this good farmland, which is now growing crops, with intensive farming operations to meet our food needs. That's the alternative. Is that what you want? It's not what I want. It's not what the people of my riding want. It's not what my daughter wants. It's not what I hope her children want. The children of the people of my riding want a sustainable future, a healthy future, a strong economy and, yes, they can all go hand in hand. This legislation provides us with the means to do so.

**The Speaker:** Questions and comments?

**Mr Bradley:** I looked at the bill that was presented to us initially. In fact, when the announcement was made, I was quite delighted that we might see something that would be pretty substantial. While there are some parts of the legislation that I think are supportable, by and large, it simply does not go nearly far enough to solve the problem that the member for Kitchener describes. And the use of what they call brownfield sites or old industrial sites is a problem around the province..

What a lot of people in the municipalities will see it as is a downloading of responsibility. I think it would be better to be a partnership rather than a downloading. I'm not saying the province would have full responsibility for brownfield sites, because communities themselves can benefit as well, but I think it would be good to have a provincial-municipal partnership, along with the private sector, for instance, in the redevelopment of these lands.

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The other thing I caution for members of the House, and Norm Sterling, as a former minister, is that what you find with a lot of these lands is they're a lot more contaminated than you think they are. On the surface they look like they're easily cleaned-up problems, or fairly easily cleaned-up problems. We've all had them in our communities. By the time you're finished with them, you find out that they're quite expensive.

What I would be concerned about is one municipality vying against another municipality in terms of incentives. The reason I say that is, in the United States they're allowed to do that. In Ontario, wisely, I don't think we allow our municipalities to compete in that way by offering these kinds of very special incentives that others do.

I see some hope for this. I couldn't support the bill as I see it right now. I see some good things in it; I'm just very concerned that the provincial role is not going to be a sufficient enough role in this. If it were a true partnership, I think there'd be a lot more enthusiasm among people in the municipal sector to support it.

**Mr Gilles Bisson (Timmins-James Bay):** It's on the question of partnership that I want to question the parliamentary assistant. First of all, yes, this bill gives the municipalities some tools to escape some of the liability to do the necessary cleanups, but what it really comes down to is that you might be giving them tools to do that at the local level but there really isn't a partnership between the province and the municipality if we're serious about cleaning up some of these sites.

I speak specifically of the city of Timmins. In the centre of our city, between Schumacher and Timmins, there are the old Hollinger mine tailings—actually the old McIntyre mine tailings—which were reclaimed by a company back in the mid-1980s and left one heck of a mess right in the middle of the city. One of the issues for us has been that we've been unable to clean that for two reasons: one, because of the liability issue, which this legislation tries to address, and for that I think the bill is OK; but the bigger issue is that of the cost of being able to clean up something like this. No developer and no municipality, either on their own or in a partnership between the two, have the money to do the kind of cleanup that it's necessary to do there.

I would give the government a good mark for trying to put forward a piece of legislation that deals with the liability issue, but a failing grade when it comes to the ability to create the kind of financial assurances that are needed to do those cleanups.

To the point that the parliamentary assistant made, "Well, you were in government from 1990 to 1995 and you did nothing," what BS. Our government was quite proactive in dealing with a number of these issues. I can remember a number of sites within my own riding that were cleaned up as a result of actions the NDP government took by not only providing the legislative framework but providing the funding, such as we did with the Hollinger mine stack tailings when those particular areas had to be cleaned to the tune of millions of dollars. We were there with the money; where are you?

**Hon Mr Sterling:** This piece of legislation comes after a long time of consultation. I think the consultations on brownfield sites did go back into the early 1990s, perhaps even back into the 1980s.

The conundrum that a government finds itself in is trying to give some kind of comfort to the financiers of developers who would develop on brownfield sites and, as well, to try to clean up a problem that municipalities

have with bankrupt companies, bankrupt people who would leave a site which was badly contaminated, not paying their taxes, and municipalities being reluctant to step in and take over that particular site.

I would only say to members that I hope they would approach this particular bill with an open mind, to try to create some solutions to all those kinds of conundrums that we face. I don't think this is a particularly political bill. I think it's an attempt for a start at a solution to trying to get some of these brownfield sites redeveloped. I don't think the provincial government should take all of the responsibility here without some kind of compensation coming forward from the landowners, who are going to greatly benefit from the increase in value of their land by being able to develop it. I throw the challenge out to members opposite that if they can come up with some ideas, I don't think this government has closed the debate on this with regard to this bill.

**Ms Caroline Di Cocco (Sarnia-Lambton):** In the context of this bill, and I agree with the member from St Catharines, initially it sounds like a wonderful idea, but unfortunately when you scratch the surface, again it's appearing to do something. The fact remains that once you give this idea—and I heard Minister Sterling saying that it's to comfort the financiers and the developers, brownfield sites, or even the cleaning of brownfield sites. It's more than comforting financiers. It has to do with environment, environmental integrity of our communities.

There are good ideas out there and I believe that partnership is what the cleaning up of brownfield sites should be about. It shouldn't be divesting yourself of the responsibility and saying, "We're just going to hand it over to the municipalities and we're going to allow them to clean it up. We're going to allow them to do the things they need to do to, let's say, give tax incentives. The loss and the responsibility lie in the hands of the municipalities."

Partnership means that people work together and that they are provided the financial tools. It's very expensive to truly clean up these brownfield sites. Unfortunately, it's painful to sit here and listen to the rhetoric that is not dealing with the facts and the complexity of the problem, but with the simplistic appearance of doing something when in actual fact there is very little being done.

**The Deputy Speaker (Mr Michael A. Brown):** Before I call on the member for Kitchener Centre I would like to bring the attention of the members to the Baden-Powell Timber Wolves, who are visiting us from Thornhill, in the east gallery.

The member for Kitchener Centre, in response.

**Mr Wettkaufer:** Speaker, it was very nice of you to recognize the Baden-Powell Timber Wolves, but I wonder sometimes if you aren't taking great privilege. If I would have done that, you would have told me that wasn't a point of order. But that's OK, Speaker; I'm really happy you did that.

I thank the members from St Catharines, Timmins-James Bay, Lanark-Carleton and Sarnia-Lambton for entering into this debate and for giving their comments.

I'm particularly interested in the comments from the member for Sarnia-Lambton when she says that financial tools aren't all that "necessary," that it's just for appearance. This is the same member who didn't seem to know what I was talking about when I was speaking and I had to explain it in much simpler terms.

**Mr Dave Levac (Brant):** What else is new?

**Mr Wettkaufer:** I know. That's right. I usually have to explain things in simple terms for you people, I realize that, member from Brant.

She talks about rhetoric. My heavens, talk about the pot calling the kettle black. Rhetoric is all that emanates from those benches on that side. I cannot believe some of the things that I hear from the benches on the Liberal side.

She says this is simplistic. No, it's not simplistic; the word is "simple." It is very simple legislation designed to achieve a very simple resolution to a very difficult problem, but one that you people in the Liberal Party and you people in the NDP never attempted when you were in government. That's all this is about. It's not that difficult; it's going to be achieved with this legislation.

**2010**

**The Deputy Speaker:** By unanimous consent we are returning to the member for Toronto-Davenport for the lead-off speech.

**Ms Churley:** Toronto-Danforth, Mr Speaker.

I certainly would thank all the members in the Legislature for giving me unanimous consent to take a break. I appreciate that very much and I'd like to specifically thank the member for—is it Leeds-Carleton these days?

**Hon Mr Sterling:** Lanark-Carleton.

**Ms Churley:** Sorry, Lanark-Carleton—for making that motion. There's a lot of cool air coming from the chamber back there, so I appreciated that opportunity. It also gave me an opportunity to perk up a little bit.

I heard the member for Kitchener Centre. I think the member for Lanark-Carleton said something to me like, "Your speech was more balanced tonight." I know he wasn't trying to suggest that maybe I should be feeling ill more often when I give a speech. In fact, that may be part of the reason why it's more balanced tonight. But the other reason is that although I have some problems with this legislation—I've outlined some of them and I'm sure others will be outlined and I have spoken directly to the minister. I liked his response. He agreed that the bill can be improved and I liked the fact that he said there will be public hearings. I have great hope that we'll use that opportunity in a constructive way.

I do feel that this is one of those bills where I don't want to be particularly confrontational and I was a little disappointed by the approach by the member for Kitchener Centre, particularly coming back again, over and over, to, "When you guys were in government, you did nothing and we have the only solutions to every problem in the universe and there's no alternative but to listen to what we say"—the mantra.

I don't think we need that kind of mantra tonight because it is provocative in a bill that we need to be

discussing in a way that the government listens with some respect, which is very rare, to the opposition. The minister has told me personally that he is interested in what we have to say. Every now and then there are bills that are extremely important to this province, to all of our ridings, although we have disagreements in what's been presented. I have very strong feelings about certain aspects of the bill. I know environmentalists have strong feelings about certain aspects of the bill and municipalities have grave concerns about the lack of partnership when it comes to funding. That is a reality.

For a member of the government to stand up tonight and say, "It's a complex problem but we've got a simple solution here that's going to work," doesn't make any sense whatsoever. This is a complex problem which needs a complex solution. It is not going to be easy. There are all kinds of levels of different contamination in these brownfield sites across the province. Let's face the reality here: the private sector will not do this all by itself. The private sector will cherry-pick. Nobody's arguing with that. They're out to make money. They are going to focus on the sites which are least contaminated, and they know they're the least contaminated. Even with the new liability aspects of this bill, that is the reality. Other jurisdictions understand that.

Once again, I would ask the government to look at what's happened in other jurisdictions that are ahead of us in this area and to see that some kind of fund has got to be put in place. There's absolutely no doubt about it. I believe anybody who looks closely at what's happened in other jurisdictions will understand that. We'll have to face that reality if we truly want to clean up brownfield land in our province, and it think we all do.

That is why tonight I wasn't my usual confrontational self. I know, it was very boring, wasn't it? I kind of hate it myself. But I think that there—

**Mr Bisson:** You kind of hate yourself?

**Ms Churley:** No, I wasn't hating myself. I was not enjoying the fact that I wasn't as bombastic as I usually am.

I do want to say in my last few minutes here very directly to the government members who are here that this is legislation that I am very interested in supporting, and I do want to say that I hope the suggestions being put forward by my caucus and by the public at large will be listened to. I know that the government had some kind of task force on this and I also know—and I did not hear from any of the speakers from the government side speak to it—that AMO suggested to the government that funding was an issue and a problem, and that has got to be acknowledged.

I also want to point out that—and in my view it's a really serious problem, it's connected, and the member from Kitchener talked about it when he was coming forward with the usual mantra that our government didn't do anything about it and the Liberals didn't do anything about it. But I want to say to the government, and this is very serious, that we have been living through some very prosperous times. Now, I know members of the

government will say that's because they're governing so well that they, and they alone, have created this wealth and prosperity. In fact, they've even taken credit for the good economy in the US. I don't know what's going to happen while that's going down, if the members of the government are going to, shall we say, take credit or responsibility for that, and, as the economy here starts to fall a little bit, "Well, I wonder how that happened?" We know what happens: it comes in cycles, and that's the reality.

What is disappointing is that we have been living through very prosperous times, and those are the times when governments need to be investing in things like infrastructure, because you know darn well it's not going to happen during bad times. We, the NDP, did invest in infrastructure and affordable housing and all kinds of other things. We chose to do it, and it was that party there, along with the Liberals at the time—but particularly the then third party, the Tories—who went after us daily for spending money at a time of recession and daily asked us to stop spending the taxpayers' money during a recession. "You have to cut back; you have to cut back; you have to cut back." We did choose to invest. We invested as much as we could. We invested in unprecedented ways, for instance, in the Ministry of the Environment when we came to power. We built that ministry up higher than it ever had been before. We made a choice to do that.

In my view, it still wasn't enough. I kept fighting for more protection; I admit that. I would like the members to know that even when we were in government and in a recession, I continued to fight in my cabinet, fight my government, for even more investment in the Ministry of the Environment. I'm quite sure the previous Minister of the Environment, Jim Bradley from the Liberals, did, and I expect environment ministers in this government do, because once you start understanding the connection between our environmental protection and our health, you understand that you have to have a strong Ministry of the Environment with the proper resources. That's something we chose to do even in a recession.

But now we've got a government that's been lucky enough to govern during very good times and to not invest in that infrastructure—and there he goes. The member for Durham is laughing at that. I can just see his two-minute special—

*Interjection.*

**Ms Churley:** That's OK. I take it back if he wasn't laughing at it. I take it back. He wasn't laughing at it. Apparently he was laughing at something else.

**Mr John O'Toole (Durham):** I wasn't even listening to you.

**Ms Churley:** He wasn't even listening to me, so it's OK.

Some members over there will respond to what I just said, when I say that they've been lucky enough to govern during good times, with, "It's not luck. We're the ones who created that wealth." I must admit the member for Durham would be the first one to say that.

After we finish debate on this—and I think it should be a good debate—I'm looking forward to public hearings across the province. I'm looking forward to the ability for all of us from all three parties to go out not just here in Toronto but across the province to hear from municipalities, to hear from mayors, to hear from the developers in the private sectors, to hear from the environmentalists, to hear from those who have experience in their own jurisdictions who can give us advice on how we can best improve this bill.

I believe the bottom line for all of us in this Legislature tonight, despite our disagreements about what is or isn't in this bill, is that it is imperative that we move ahead with finding ways to develop brownfields. That's why I say to government members tonight that I'm taking the position that I want to support this bill and my party would like to support this bill. We are unhappy with some aspects of it now but, as I said, the minister has also agreed with me that there are some areas for improvement.

## 2020

It's not often in this place we can stand and make a decision that we'll try to work together. I'm sure it will get partisan at times; things always do in here. But we can try to work together to improve this bill and make sure at the end of the day that we get out there and for the first time in quite a while find a way to start developing these brownfields so that we don't continue to have more and more urban sprawl and so that pressure to build on our farmland will be alleviated by the ability to develop on brownfields. We'll continue the debate and go out to public hearings and we'll go from there.

Thank you for this opportunity.

**The Deputy Speaker:** Questions or comments?

**Hon Brad Clark (Minister of Transportation):** It's my privilege to have an opportunity to respond to the member for Toronto-Danforth. I'm glad she is taking a non-partisan approach to this, because this is a very important issue for the province of Ontario. It's one that I take very seriously in my community of Hamilton. Brownfield development is something that is vitally important to that community. There have been millions of dollars' worth of property sitting there not being used because of risk of liability, environmental and otherwise.

She does mention the issue of funding. I've heard from a number of municipalities that they have some concerns about the funding also. The one thing I want to encourage the member to remember is that back when she was in government, there were issues with the federal government where they were trying to get funds out of the federal government for a number of things and the feds simply didn't come to the table.

The member for Toronto-Danforth did mention the United States in her address at least once or twice, I recall, some of the issues they are dealing with. In the US there is a Superfund model. She's nodding. She's in agreement; she understands. The Superfund model is where the federal government is at the table. So not only should the province and the municipalities be partners in

this, but the federal government has to be at the table. I sit here as the Minister of Transportation and I recognize we have about a \$17-billion deficit nationwide for highways and transportation from the federal government. In the US, \$250 billion is given out to the municipalities, much of it for brownfield development.

So we have a long way to go, and I would encourage all parties, in the spirit of co-operativeness, in the spirit of non-partisanship, to encourage our federal government to recognize that they have a role to play in this too. They have by far the larger purse and we need them at the table, perhaps providing some of the funds for the brownfield development. The municipalities very clearly are sending those signals forward, and I think that's a good thing, but I also think it's important that if there were some unanimity in this House, it would probably send an even stronger message to the feds.

**Mr McMeekin:** I'm pleased to add my voice, albeit for just a short period, to the wonderful remarks that have been made from several quarters here.

The member for Toronto-Danforth has talked about some of her hopes. We heard earlier from the member from Kitchener, who waxed on, I thought, in quite a moving way about his daughter and his hope for future grandchildren who could benefit from the clean, healthy, dynamic neighbourhoods and communities that he was fantasizing about, and the importance of getting that sorted out. I was touched. He almost had me convinced at one point that it was going to work. Then the finger started being pointed again. You don't point direction; you point fingers, right? That's the partisanship that my colleague from Toronto-Danforth was working so hard to try to avoid.

The minister himself acknowledged that the bill was in need of some improvement. I think he was suggesting that none of us in this House has a particular monopoly on truth or that we're necessarily always on the side of the angels. There are some improvements that can be made. The minister said, "Offer up some alternatives." We did the other day, and I'll just recall a few of them.

First of all, I think we need to demystify SuperBuild. Nobody understands it. They don't understand the rules. It would have been much better had the government come forward with a proposal for some kind of heritage reclamation project.

I think also the government needs to revisit and reread very carefully the recommendations of both its own task force and the AMO task force: a couple of suggestions—

**The Deputy Speaker:** Thank you.

**Mr Bisson:** Just a couple of points in response to some of the comments I heard where government members go on and say, "Oh, you were government from 1990 to 1995 and you did nothing. You sat on your hands and did nothing for five years on this issue."

I was a member of the government, Mr Speaker. I come from northern Ontario, as you do, and one of the large issues we have to deal with when you talk about brownfield development is what's happened in the mining industry. In our area it's not steel mills, it's not

auto plants. It's not those types of operations that we deal with; we deal with gold and copper mining. One of the things we did is pass the mine reclamation act, which did a couple of things.

Rather than trying to clean up the problem after the fact, we took a two-pronged approach. We set in place legislation by way of the mine reclamation act to make sure that mining operators, as they put their mines into operation, had decommissioning plans and, more importantly, that they had the dollars set aside to make sure they had the money for the cleanup. If they didn't, there was a set-aside fund that the province then would be able to use to go back and do the cleanup, something the Conservative government did away with under the megabill that was brought in in 1995.

The other one has to do with the Crown Forest Sustainability Act. I was a member of the government that, under the leadership of Howard Hampton as Minister of Natural Resources, put in place the Crown Forest Sustainability Act, which said that forest companies, among other things, have to have set-aside funds to make sure that if they don't do what they should be doing when it comes to reclamation, the dollars are there for the province not to be held on the hook. So for the government to say we did nothing, excuse me, is a long stretch. We had both a proactive approach and also the approach of making sure the dollars were there, not necessarily just at the taxpayers' expense. That's something I'm quite proud of. I don't need to be lectured by the government members saying we didn't do anything, because we did far more than you did.

**Mr O'Toole:** I spoke at some length on Bill 56 last week, but out of respect for the member from Toronto-Danforth, I'm heartened by her comments of support, more or less. She said clearly on the record here today that she would like to support this as a way of moving forward. I commend her for that. It takes courage to set yourself apart, rather than just following along with the pack. I'd say probably it's the first time that I've respectfully responded.

When I was on council, this same issue of the brownfields and ways of strategizing around it was ahead of us, and no one had the courage. Certainly, I haven't heard anything from the Liberals. Of course, you never do. But at least you hear it from the NDP from time to time, a glimmer of hope. I think it's important and it is encouraging.

What you're really trying to find is that ever-elusive balance to do the right thing for the environment but also to do the right thing for municipalities, to give them the tools so they can solve their own problems without the legislative hammer—sort of like the social contract hammer—to solve all the problems. I think there are tools here.

I think if you want to look for some detail, under part VII, the Planning Act amendments provide that municipalities may make grants or loans to tenants as well as property owners for the purpose of carrying out community improvement plans. So it's right there that they can work out some arrangements and partnerships.

I want to be on the record as supporting the member for Toronto-Danforth—as, I think, the member from Stoney Creek, a minister, one of many ministers here tonight, as a testimony to the importance of this debate. Thank you for your support. We look forward to working with you in the next election.

**The Deputy Speaker:** Response?

**Ms Churley:** I'm wondering, what have I done here tonight?

**Mr Levac:** You're in trouble.

**Ms Churley:** I know. I think I have to take it back, although the member for Durham's non-partisanship seems to only go so far.

The key issue here is moving forward, and we're all agreeing on that. But I want to remind the members—and it's important to remind the members here—that the concerns I raised tonight should not be taken lightly. They are really serious concerns that we're going to have to deal with.

**2030**

We haven't talked a lot about it, but some environmentalists are very concerned about the site-specific risk assessment. We haven't had an opportunity yet to hear from them and to hear the reasons why and what might be done about it. I think in many ways it's a good approach, but there are some issues and problems around that as well that we need to look at.

I would say that overall the public is generally supportive of moving forward with this. They are not terribly engaged in it, but should we do it all wrong, because it is a complex situation, and end up with, God forbid, another Love Canal, which is a reality that happened in the United States that we have to be aware of as we move through this, that some of the land we're talking about is extremely contaminated—those are very serious concerns that I'm expressing. The government, given its environmental record, makes them somewhat vulnerable—I would say quite vulnerable—when we're talking about issues such as this.

I just want to remind members, as I speak not supporting the bill tonight but hoping to do so, that the issues I raised are very serious concerns that need to be addressed.

**The Deputy Speaker:** Further debate?

**Ms Di Cocco:** I am pleased to rise and speak on Bill 56, this brownfields legislation. It's important, first of all, to know that, because the legislation is before us, at least the government recognizes that there is a problem with contaminated industrial sites throughout this province. Often, these sites are near lakes and rivers as well. I can speak in the context of my own riding, because 40% of the chemical industry in Canada is located in Sarnia-Lambton and we certainly have a number of brownfield sites that need to be dealt with.

One of the things I've done as I became an MPP is to understand how industry is dealing with some of their sites and also to understand the role of the environment ministry when it's expanding landfill sites. The problem I have with this legislation, and I've said it before, is that unfortunately it seems to me that it's designed to assist

municipalities in reclaiming the sites but it provides absolutely no assistance in their ability to clean them up. They say they can give tax incentives, but these tax incentives of course come out of the municipalities' pockets, don't they? They don't come out of anyone else's pockets.

I believe when it comes to brownfield sites, they are the responsibility of all levels of government and I believe that a partnership is what we need to have. Partnership doesn't just mean to divest the responsibility to do something to the other level of government; it means not only to be at the table with them, but also for the different levels of government to provide assistance. The government keeps saying, "You have to take responsibility. You have to pay for it and we're going to allow you to pay for it." That seems to be the style of the government that we have and what this legislation unfortunately seems to do.

I'm very much concerned about the state of the environment in Ontario because the track record we have in this province is abysmal, in my view.

One of the things that is a contradiction to this whole brownfield legislation—and I say this only in an attempt to understand the process that the government uses. I'd like to know if the government has done any kind of analysis, some kind of inventory of where the brownfield sites are—I don't think they have; my understanding is they have not—and prioritized where they are and which ones have to be cleaned first. There are some very serious areas that need to be cleaned, but the analysis isn't done. All we say is, "Well, there are brownfield sites out there and somehow we'll allow municipalities to reclaim these sites if taxes aren't paid and let them carry on with the responsibilities." But again, the government has done no analysis, in my view. It certainly hasn't prioritized what should be cleaned up first. And it definitely isn't developing a partnership; it is downloading a responsibility.

I'd like to speak to the issue of what has actually happened when it comes to the development of brownfield sites. I mean development in how we've created some, and I'll say in my own riding. I want to talk about the way the government, in 1997, allowed for a toxic hazardous landfill to be expanded in St Clair township. They allowed it to be expanded under what I would call a fast-track process, so that now we have 300 acres of toxic hazardous material, most of which is being imported from outside the province. Some 90% of it is coming in from outside the jurisdiction.

By the way, if you take a look at the checks and balances there, they asked the company to put up very little money for remedial. They didn't take the approach that the business and the industry also had a responsibility and therefore they should at least put up funds to clean up their act once they leave.

Here again we have a government that is talking out of both sides of their mouth, because they're saying, "We really need this brownfield legislation now," but they acted in 1997 in such a way, at least in my riding, that they've created a huge site, fast-tracking it, and it's all toxic hazardous waste.

The other area that I find incredulous is that they just allowed this site to be self-monitored. They didn't even put an inspector there, the way they would put one in every other large landfill across this province. I ask myself often, why would they do that when this toxic landfill is going to have a huge impact on the groundwater?

I have read the review of that document of when they allowed this landfill to be expanded. They allowed it to be expanded under criteria called "opportunity"; not under the criteria of "a problem to be solved," but under the criteria of "opportunity." It stated that it was an opportunity for the company to expand its market share. We're talking a toxic hazardous landfill, not to be developed because we needed to resolve a problem in the province or in the jurisdiction, but to allow the company to expand because it would provide a greater market share for that company, in other words, to be able to bring in more toxic hazardous waste faster and in a greater amount.

You'll have to excuse me if I question the intent of this bill, because, again, I say we have legislation that is appearing to do something. In that context, I have a great problem in supporting this kind of legislation, because the government is not taking responsibility in assisting the municipalities; it's just telling them that they're allowed to do it. That relationship, in my view, is not a relationship that's going to be productive and I don't think it's going to have the outcome that I certainly would like to see across this province when it comes to the cleaning up of our brownfields.

#### 2040

One thing I have done, as I said, is gone to a number of our local industries. I've met with Nova, Shell, Imperial Oil and Dow Chemical, a number of them, to understand what they're doing, how they do business and what philosophy of doing business they have. Dow Chemical has an incredible project with their environmental engineers in developing a wetland area where there was a hazardous site. They have been able to do it without any kind of government initiative. They have researched various plants that they have planted on this site and it is quite remarkable what has been done. If we're talking about ideas for the government in the development of brownfields, why is it that they do not partner with some industry that's doing some remarkable work when it comes to cleaning up?

Sometimes you can only rehabilitate; you can't actually clean up some of these landfills. I believe Minister Sterling said, "The reason we're bringing in this legislation is to comfort the financiers and the developers." I don't quite understand what he means by that because the cleaning up of brownfields is not to comfort but it is actually to create a landscape and a livable area, one would hope.

It's amazing to me that after six years in government, there has been no discussion about working with companies that have done groundbreaking work in development of hazardous sites. Again, I will use the word "remarkable" for this work in redeveloping and rehabilitating the area.

The government has sat back silently and has neither dealt with these companies in a way that says, "We should use you as a model and maybe we should provide you with some tax credits, because you're doing what is environmentally viable here," nor encouraged companies to take the responsibility in cleaning up their mess. Instead, what they do is divest themselves of their responsibilities and introduce legislation that in my view is a first step, because they admit there is a problem, but once again it is appearing to do something.

We have a company called Welland Chemical that has abandoned their site locally for numerous years. They owe hundreds of thousands of dollars of taxes to the municipality. They've abandoned the site for two reasons: they don't want to pay their taxes and it's too expensive for them to clean it up. The municipality has called on the environment ministry and on the Ministry of Municipal Affairs to assist in talking to these people or at least to come to the table to discuss what we should do here. The province literally washes their hands of that responsibility.

We're now going to go into the Olympics. We're hoping to get the Olympic Games and therefore we want the 4,500 hectares of brownfields in Toronto, in the lower Don River and portlands, to be cleaned up. There is a very specific reason that the government wants to have these sites cleaned up so that they can be redeveloped, and they want to be a part of that process.

The rest of the province has hundreds, probably thousands, of brownfield sites that need immediate remediation, that need immediate attention, yet we don't have the will, or I would say the Harris government certainly doesn't have the will, to even get an inventory of what exists out there. You've had six years. Why is it such a huge problem to get an inventory? "These are the hot spots we have in this province. Now let's put a plan together how we can systematically clean them up." But no, there's no plan here; there is a bit of an appearance of attempting to show that they're doing something.

The redevelopment of brownfields, as you know, is very expensive and there is a strong concern that the tools included in Bill 56 are insufficient to encourage development. Not only that, there are many of these areas that will never be developed. I think that is something this government has to understand. It's very easy to give approval to expand a toxic hazardous waste site; it's not so easy to clean up the mess. When you see that kind of record or, I would suggest, an almost irresponsible approach to allowing expansion of a toxic hazardous waste dump, as I have in my riding, I question the government's intent in producing this legislation.

In addition to local communities that may wish to use these sites for public spaces and buildings, the municipalities alone wouldn't be able to afford the cost of these developments. I think it's unrealistic for you to expect them to be able to afford this.

The other issue here, too, is that the bill doesn't really include any protection for the new land purchasers from civil suits, nor does it include protection for officers and directors of corporations that develop or finance the

development of brownfields. So there isn't that much of an incentive to develop these brownfields.

I believe that the key elements in this bill are that—again, it's a good thing. I presume that the sites would be reviewed by the MOE staff and the landowners, and that they would provide a site risk assessment. My question is, if we don't even have enough Ministry of the Environment staff now to do the job that's required today, what are we going to do? Are you going to hire? Are you going to add more people to the Ministry of the Environment? First of all, there's no deadline. There would be no timeline for the MOE to complete these reviews, but nonetheless you're saying the MOE staff are going to do a site risk assessment.

You're so understaffed in your Ministry of the Environment. For instance, we had a benzene spill last December in my riding, over a million litres of benzene. The Ministry of the Environment said it will take them two years to give a report. Therefore, I suggest that this bill is not realistic in the Ministry of the Environment's role in ensuring that the sites are being cleaned up properly, to ensure that there is a risk assessment that's effective, because I certainly wouldn't want to see development of a huge area only to find that the contamination of that site hasn't been cleaned up appropriately and then to have all kinds of problems coming back after the fact because we haven't had the staff to properly assess and to properly carry out the job.

## 2050

Again, I believe that if we're going to bring a bill and we're going to clean up our brownfields, we do have to have partnerships with all the different layers of government and with the private sector, and I believe that those responsibilities have to be on all those fronts. If we don't take those credible steps, you can't just write legislation that says we're going to allow municipalities to take more control but at the same time say, "You do what you need to do, but you pay for it," because the funds and the ability are just not there.

**The Deputy Speaker:** Questions or comments?

**Ms Churley:** I'm happy to respond to the comments made by my colleague from Sarnia-Lambton. One of the points she makes, and we repeatedly make this point tonight, is the funding issue. One of the possibilities we should look at is a special and well-staffed unit in the ministry to at least conduct random audits of sites before permission is granted to proceed with the work. I want to stress that this unit should not be funded by reducing commitment in other parts of the ministry and that this would be essential. That suggestion being put forward by me tonight is something that, again, we need to look at during the course of hearings. That will be absolutely essential for this to work; otherwise, we could end up with very, very serious contamination problems down the road.

The other thing the member touched on, which I did as well, and other members, is the need for funding. I think we're all agreeing with this, that we're not just talking about the provincial government here but we're also

talking about a partnership with the federal government, which as noted has been done by other jurisdictions, particularly in Europe and the United States. The only way that any jurisdiction has been able to get at this very difficult, very expensive and very complex problem is for all three levels of government to come together and form a partnership and come up with some kind of special fund.

Those are two key areas that we need to talk more about: the partnership between the three levels with funding and the need to find a way within the Ministry of the Environment to make sure that kind of work is done properly.

**The Deputy Speaker:** Questions or comments?

**Mr Raminder Gill (Bramalea-Gore-Malton-Springdale):** It is a pleasure to join in the debate on the brownfields. I am very thankful, I guess, that the members opposite seem to be agreeing that this is an important bill. It does give the authority as well as the partnership with the municipalities, because it does happen that from time to time that the industries develop and, as the demand for the product is there, they expand. If the demand is not there, unfortunately sometimes the factories have to close. It is very important that we allow the municipalities, in partnership, to be able to clean up those sites so we can revitalize our growth, if you want to call it that.

I know we are out there getting proposals, getting comments from the public. Even in Saturday's paper, I believe, there is a call for the citizens to get involved or get engaged, and that is for Ontario Smart Growth, because we do want to hear from the public. Contrary to what the opposition sometimes says, that we don't hear enough, we are holding all kinds of public hearings, and even on this bill, as you know and as we discussed, we agreed that there will be public hearings. We do encourage people to get involved. I think by June 18 we're looking for people's comments and they can certainly get in touch with the proper authorities. I'm going to mention the Web site: [www.smartgrowth.gov.on.ca](http://www.smartgrowth.gov.on.ca).

We are out there always soliciting good input from the citizens on how best they want to see Ontario coming up in the next 10, 15, 20 years for themselves and for their children so that we can be great partners. We want to continue, as we have done in the past, to make this the best place in the world.

**Mr Bradley:** I think the member for Sarnia-Lambton recognizes that certainly it is desirable, if we can, to redevelop, as I'll call that, the brownfield sites, but I think she's right in cautioning people about the great difficulty in doing this.

Just so nobody is under an illusion that it's going to be an easy process, by the time you look at all of the contaminants that are there—I remember being told once by somebody very important in this province that my problem was that I didn't understand the macro issue; I only understood the micro issue. I said to this very important person in the province, when I was in a discussion about a piece of land that was going to be redeveloped, "The only thing that's going to be macro is

the cost once you're finished trying to redevelop that land." I hated to be right on that particular occasion but it turned out to be the case. So I caution on that.

There are other situations I look at, and those are places like Port Colborne, Ontario. It's been in the news lately, because there's a section of Port Colborne which is immediately adjacent to the processing of metals that takes place there. Sudbury has the same situation. We have people now who live on land which I think most people would concede objectively is contaminated land. We have houses which have the dust of that material inside. There is a model for that. It's the Niagara neighbourhood in Toronto, the south Riverdale neighbourhood in Toronto, where the soil was scraped far deeper than the civil service thought it should be and where there was what I call an industrial cleaning of the inside of those houses. It seems to me that we may have to go across this province, look at the inventory of land and move people out of those houses until the land can be reclaimed.

**Mr Mazzilli:** It's certainly my pleasure to speak on Bill 56, the brownfields act in this short session. I will be speaking for approximately 20 minutes or so coming up.

I know the other night I had the opportunity to do your job, Speaker, and a difficult job it is. I got an appreciation for it in the few short minutes that I had that opportunity. You do get challenged from different directions, and you do have to be decisive and make some decisive decisions. Those decisions have to come spontaneously. You have to be ready for whatever comes at you from many directions. So I know that you do have a challenging role.

In relation to his legislation—and as I said, I will be speaking on it for 20 minutes, so there's certainly no shortage of time to get into the issues—we heard from the member for St Catharines. I'm glad that the now Minister of Consumer and Business Services got into this. This is an issue that has been facing several different governments, including the Liberal government of David Peterson, the Bob Rae government and now ours. It's an issue of brownfields. We all have them in our communities. Perhaps we call them different names in our own communities, but in their technical form we know them as brownfields.

What are they? They're lands that are contaminated, that no one will touch because of the liabilities that are associated with them. Although this legislation does not address all of the issues, it's certainly a step in the right direction in starting to move the dialogue on how we use these lands that are now sitting there doing nothing, and how we get some use out of them and allow some people to access them.

**2100**

**Mr Levac:** On a point of order, Mr Speaker: Unfortunately, the member for Sarnia-Lambton had to exit the House immediately and asked me if I could do the last two-minute roundup for her. I seek unanimous consent to do that.

**The Deputy Speaker:** The member for Brant has asked for unanimous consent. Agreed? Agreed.

**Mr Levac:** I'd like to say thank you to the House members for allowing that to take place. Unfortunately, the member had to exit the House quite quickly, so thank you for that opportunity. She did ask me to convey a couple of quick ideas to you.

The brownfields issue in her municipality, as in my municipality, is very serious, but we wanted to make sure everyone realized that municipalities across the province have been working on brownfields for many, many years and asking for those partnerships to take place. So the challenge today from the member for Sarnia-Lambton, and I would suspect from all the members here representing their own constituencies, is to ask the provincial government to step up to the plate.

I have to tell you something about my own riding. We've just gone through on a declared brownfield site, for the fourth time, an arson fire that took Northern Globe down to the ground again. Quite frankly, this is a situation that we've asked the Minister of Municipal Affairs to assist us with, and he does have the letter present. He acknowledged to me today in the House that he does have that letter and will try to help municipalities overcome these very difficult situations, particularly in the sense of the liability issue.

Quite quickly, just to wrap up, the member for Sarnia-Lambton also has two or three of these types of sites in her riding. She did want to make sure that everyone was aware that with the help of the provincial government and indeed, as one of the members on the other side said, with the help of the federal government, these things can be resolved. She does acknowledge that it's a complicated issue and that we have to have all levels of municipality and private sector come to the table, yes, with their wallets open, to make sure that we can recover these lands.

Finally, the last point that she asked me to relay to you is very simple: the provincial and federal government have pocketed hundreds of millions of dollars in taxes over the years from these derelict sites. It's time to put some of that money back into this situation and correct it for all of us.

**The Deputy Speaker:** Thank you. Further debate?

**Mr Mazzilli:** I promised you just a few moments ago that I would be back, and I am. As we left the debate on the brownfield statute act, most of us certainly are—

**Hon David H. Tsubouchi (Chair of the Management Board of Cabinet):** The Brownfields Statute Law Amendment Act.

**Mr Mazzilli:** And that's the amendment to the act, as the Chair of Management Board correctly pointed out to me.

Most of us know brownfields, as I said earlier, in our communities, and most of the time we don't know what they are. Earlier through this debate I suggested, and not properly—I was speaking out of turn and perhaps heckling—that Petro Canada has many sites in many of our communities and these sites have been for sale for many years. We drive by them every day. I'm not trying to pick on Petro Canada for any particular reason other than that

the federal government owns a certain percentage of that company, I believe. These lands have been for sale for many, many years, and no one will touch them. Often they're valuable pieces of property. You wonder, as you're driving by them, why these lands are not being sold to businesses that normally will locate at those particular types of corners. As you check it, you find out that no one in their right mind would touch those lands because of the liabilities associated with them. When lands are contaminated, certainly not a person wants to purchase them, let alone be liable for what may have happened 100 years ago on those lands.

The other thing we know is that no one will finance those lands. We heard the member for Kitchener talking about financing. How do you move ahead and get financing in place, no matter what you want to do with those lands? Perhaps you want to build affordable housing. How do you build affordable housing—the member for Toronto-Danforth is nodding, as I'm sure she would like to see—if no one will give you the financing because they're concerned about the associated liabilities of what potentially may happen down the road because they know of the previous land use? These are all real issues.

Let me say that there are different levels, because there are some government and corporate people who are not treating this issue fairly. All levels of government own, to some extent, these lands, whether it's the federal government or provincial governments through shares of crown agencies, and they should clean up their lands. They should. I say that with no misgivings. And some of the multinational companies deserve to clean up those lands.

But at the same point, there are some of these lands that have been left in place and no one clearly knows who the owners are. You hear stories in different communities about some former company that was there 20 or 30 years ago. The company is gone, has long been dissolved. The lands are just sitting there without a clear owner on the title. In some cases, whoever financed the property is arguing that, no, they're not on title. They are just the mortgagee, so they don't own the land. So they get dragged into this long legal debate about who owns the property, and they clearly never did.

Until we get through some of these issues, we will never resolve some of the issues on brownfields. I think that's what this legislation is intending to do. It's intending to start the debate on how we address these problems.

As I drive through London, I see some of these lands that certainly have enormous value because they are located on corners where per acre cost is high; then in other areas, it's not. But in those other areas, perhaps parking is required. What happens is, you see a fence around some of these properties. They can't even be used for parking. Somehow you can park on the lots adjacent to the fence and that's safe, that's OK, but no, you can't park on that land. As an average Ontarian myself and not being deep into this issue, I just don't see the relevance of that.

Today I was listening to the member for Renfrew-Nipissing-Pembroke, and he spoke about the relevance of politicians and how we're having no relevance out in our communities because of the positions that we take on certain issues. It's either yes, you're for it, or no, you're against it.

Early into this debate, the Minister of Consumer and Business Services suggested that this is not a partisan issue. This is an issue that we need to start somewhere on, and this is a good place to start. How do we move it forward? How do we get some of these lands developed or even used? How do we limit the liability so that someone will actually make an attempt to do something with some of these properties? If not, if we think that somehow we're going to have more relevance to our constituents by doing nothing and allowing these fences to stay around these properties, I would say we're sadly mistaken. Our constituents are looking for us to come up with some solutions for these things, as imperfect as those solutions may be, but as perfect as we can make them.

While we're on the issue of relevance to our constituents, I want to compare this, because we're debating this bill, to the school tax credit. There are comparisons, and you'll see them as I get into it.

Politicians of all different parties want to jump on the bandwagon in one way or another and say, "Yes, we're for this," or, "We're against this." If you're against, you want to embellish the situation. It bothers me that Dalton McGuinty has been calling our tax credit a voucher, because clearly it's not. If you look at the definition of a voucher, of what a voucher really is, you take your tax dollars and you direct them to whatever school you want. That's not what's happening here. What's happening here is that the Mike Harris government is committed to publicly funded education. Almost \$14 billion a year is committed to public education. We believe a publicly funded system is the only system that should occur in this province, and we make that commitment.

I would draw the comparison to this legislation. You see, the tax credit—again, just responding to the member for Renfrew-Nipissing-Pembroke—is just that, a tax credit.

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There are many different tax credits in the Income Tax Act, and certainly there's nothing wrong with giving a small percentage in the way of a credit to parents who choose some other type of religious school, as there is no harm in our approving this type of legislation that would limit liability to some people who are willing to develop brownfields and to those who choose to finance properties and developments that are going to be developed. It's the same argument as the tax credit. There's nothing wrong with allowing, in good conscience, the debate to move forward with different kinds of ideas to do these things.

I would join the member for Renfrew-Nipissing-Pembroke in saying that I agree with him. As long as we take these attitudes that, no, the world is collapsing

because you have come out with this policy, we are not going to have any relevance with our constituents. I think our constituents are very open-minded on all these issues. They want to hear us debate. They certainly don't expect that we're all going to agree on every issue, but they don't think that all sides of the House are going to disagree.

I intended right from the beginning to share my time with the member for Waterloo-Wellington, and he had been delayed because he was working hard for his constituents. I know a sad matter came up in his riding and he had to attend. I would now like to turn over the debate to the member for Waterloo-Wellington.

**Mr Ted Arnott (Waterloo-Wellington):** It's a privilege to rise this evening to speak on behalf of my constituents in Waterloo-Wellington on Bill 56, An Act to encourage the revitalization of contaminated land and to make other amendments relating to environmental matters, that stands in the name of the Minister of Municipal Affairs, who I'm pleased is present with us tonight.

This government is moving forward with its Smart Growth vision. The Brownfields Statute Law Amendment Act, 2001, is a key piece of that vision. Redeveloping brownfields supports three principles of Smart Growth: a strong, efficient economy; strong neighbourhoods and communities; and a clean and healthy environment.

Brownfield redevelopment supports Smart Growth by allowing more efficient use of existing infrastructure and services like sewers and public transportation. Promoting the recycling and reuse of brownfields will allow communities to improve their quality of life and better protect their environment. By encouraging brownfield redevelopment, Bill 56 will help us to foster clean, healthy, dynamic neighbourhoods and communities that all Ontarians want and deserve.

I am pleased to have this opportunity to highlight the tremendous environmental benefits of this government's proposed brownfields legislation. Almost all Ontario communities have brownfield sites within them, a legacy left over by decades of inaction by previous governments. Brownfields are lands where industrial or commercial activity took place in the past that are now often contaminated.

First and foremost, cleaning up these sites improves soil and water quality and protects human health by removing contaminants. Cleaning up contamination now also benefits future generations as it prevents future environmental problems. Without this legislation, many brownfields would remain contaminated and continue to pose a threat to the environment and human health.

The Oak Ridges Moraine Protection Act, 2001, announced May 17, also demonstrates the government's commitment to Smart Growth. Brownfields redevelopment can relieve pressure to encroach on environmentally sensitive areas of the Oak Ridges moraine as well as farmland and greenfield sites. Brownfields are usually located in well-serviced areas where infrastructure such as sewers and public transportation already exists.

In greater Toronto and greater Hamilton, it is estimated that 10% to 15% of available lands for development are brownfields. Any way you look at it—environmentally, economically or for revitalizing communities—it only makes sense to recycle and use these lands first. Bringing abandoned commercial or industrial sites in the heart of Ontario's towns and cities back to life can preserve unused lands in the suburbs and rural areas and create new opportunities for people to live and work in a well-developed and relatively clean urban environment.

Mr Speaker, these opportunities are not being realized today because the current legislative framework makes it difficult to clean up and redevelop these sites. Over and over, we have been told that the prime barrier to widespread brownfield redevelopment is environmental liability. Financial institutions and developers are often reluctant to invest in these sites. They are concerned about their potential liability for future environmental problems.

Currently the liability net is very broad and retroactive. Everyone with any involvement with a site risks being 100% responsible for contamination and could be issued an environmental order for cleanup even if they did not cause the contamination. This liability carries with it significant financial implications that discourage many who would otherwise voluntarily clean up contaminated sites.

We have listened to those involved with brownfield sites. Clearly, limiting environmental liability will encourage voluntary cleanup of contaminated sites. Checks and balances must be put in place to ensure environmental cleanup standards are met and that the people of Ontario are protected. Bill 56 sets out an environmentally responsible approach to cleaning up brownfields.

First, I'd like to tell you what this legislation doesn't do. It does not in any way alter the Ministry of the Environment's ability to issue orders, to address an emergency or to take strong action against polluters. This includes those who cause contamination of soil and water. The ministry will also continue to take strong action to address off-site contamination and new contamination. It also doesn't displace the current liability net outlined in the legislation. It merely clarifies the liability rules for those who voluntarily clean up a contaminated site. This proposed statute maintains the principle of "the polluter pays." And make no mistake, polluters will be held accountable.

I turn now to what the proposed legislation does do. It provides clarity and certainty to those involved with brownfield sites. Changes to environmental legislation focus on three main areas: clear rules for environmental liability; clear rules for the cleanup of contaminated sites, and mechanisms to ensure quality cleanup. In addition to clarifying environmental liability rules, the proposed legislation also clarifies the rules for assessing potentially contaminated sites and cleaning up those sites that need it. It also puts in place provisions to ensure site cleanups are conducted properly and to ensure public accountability for those involved in the cleanup.

The proposed legislation limits future environmental liability through providing protection from future environmental orders in certain circumstances. Limited liability would apply, for example, to municipalities when taking action related to tax sales or other municipal responsibilities; secured creditors when taking action to protect interest in a property; persons conducting environmental investigations and owners who follow the prescribed site assessment and cleanup process, including using a certified site cleanup professional and mandatory reporting to the public site registry.

Municipalities, developers and investors realize the potential of brownfield sites. These proposed legislative changes create a win-win situation that will encourage municipalities and the private sector to develop and revitalize these sites. Limited exposure to future environmental orders is complemented by clear rules for assessing and cleaning up brownfield sites to ensure both the environment and public health are protected.

Environmental standards for site cleanup will be stronger in that they will now be regulated and have the force of law. Site assessment will now be mandatory when industrial and commercial sites are being redeveloped into sensitive land uses such as houses and parks. If contaminated, the sites will be cleaned up prior to their redevelopment. The requirements for conducting site assessments will be prescribed in regulation.

Finally, the proposed legislation will assure high-quality cleanups by requiring that site cleanup professionals be certified and by requiring mandatory signoff on site cleanups by certified professionals. These measures will ensure that the site meets the required environmental standards. Mandatory reporting of site assessment and cleanup to a public registry will ensure the public's right to know. The proposed legislation demonstrates this government's commitment to building cleaner, more prosperous communities.

The proposed legislation builds on Ontario's considerable expertise on cleanup processes and standards. The provincial government was the first to take action on brownfields through the release of cleanup guidelines in 1996. We are now giving the guidelines, processes and standards the force of law, clarifying the rules and establishing strong standards to ensure environmental quality and the future health of our citizens.

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The government held extensive consultations on this issue over a two-year period. Bill 56 incorporates many of the recommendations of the advisory panel appointed by the government in September 2000. The panel brought together some of Ontario's leading experts and most experienced practitioners on brownfield issues.

This government was the first to introduce a process and a set of tough environmental criteria for site cleanup in Ontario. Introduced in 1996, the Guideline for Use at Contaminated Sites in Ontario outlines methods for assessing the environmental condition of a property, options for restoring a property, as well as soil and groundwater cleanup standards for a wide range of

metals and other contaminants commonly found at contaminated sites. Bill 56 builds on the guideline to provide clear, regulated processes and strong standards.

The proposed legislation is just one instance of steps taken by this government to encourage and strengthen both environmental and human health protection.

Ontario is also moving forward on preventing contamination or pollution. Pollution prevention has long been recognized as the best way to protect the environment. In order to become a world leader in sustainable development, this government is moving forward beyond enforcement measures to offer a wide range of regulatory and non-regulatory tools, incentives, benchmarks and educational opportunities.

The Ontario Initiatives in Pollution Prevention — Progress Report 2001 shows that pollution prevention is working in Ontario through partnership and voluntary actions. The progress report illustrates how the government's pollution prevention programs have kept tonnes of pollutants out of the environment and how millions of dollars have been saved in the process.

In conclusion, Mr Speaker, clear rules and certainty mean that more sites will be cleaned up across Ontario.

The Brownfields Statute Law Amendment Act, Bill 56, is an important part of our government's Smart Growth strategy. Without it, many brownfields would remain vacant and unused. Many sites would remain contaminated and would continue to pose a threat to the environment and public health.

The proposed legislation balances the incentive of limited environmental liability with stronger, clearer rules for cleanup and strong quality assurance measures. I would encourage all members—

**The Deputy Speaker:** Thank you. Questions or comments?

**Mr Bartolucci:** I'm happy to respond to the members for London-Fanshawe and Waterloo-Wellington. I thank them for their comments. Although I don't agree with everything they said, they did present it in a very succinct manner, and I thank them for that.

I invite both members—in fact, I invite anyone in the House—to visit Sudbury if you want to see a success story with regard to healing the landscape. I would suggest to you that the re-greening of Sudbury, which took place over the course of several years, is an example for this government to follow with the process, and an example for any area in Canada or the world to follow.

I remember well when the then Minister of Northern Development and Mines, Chris Hodgson, came to Sudbury to plant the 10-millionth tree. It was a very, very joyous occasion in our community because it was a tangible sign that in fact we had healed the landscape. We continue to heal the landscape as I speak. But you know, it wasn't only done with the company and the municipality. Our healing of our landscape and the re-greening of Sudbury had to involve the federal government and had to involve the provincial government in very real and tangible ways. Certainly provincial governments of the past, the Davis government, the Peterson

government and the Rae government, gave generously to our program in order to heal our landscape.

I would suggest to you that you have provided municipalities with some tools, but you've also taken some tools away from them. One of those tools is the money necessary to ensure that this type of work, this very important type of work, is done. The direction of this bill is good. I believe, though, more tools are necessary.

**Ms Churley:** In response to the members for Waterloo-Wellington and London-Fanshawe, I believe the member for Waterloo-Wellington is the parliamentary assistant to the Minister of the Environment, and I recognized the tone of that speech that you gave—it was a very good speech—defending from an environmental point of view what this bill will do. It was very well written, but I take real issue with some of the content of that speech in terms of what's really happening at the Ministry of the Environment these days, particularly when he talked about the preventive measures, pollution prevention, taken by this government. I take great issue with that, but in two minutes I can't point out all the areas where the Ministry of the Environment is in fact not doing that.

I do want to say to the members who spoke, and I alluded to this before in two areas, that the consultations happened, but it is my understanding that public health professionals, scientists, environmentalists and urban planners were largely left off the list. That's another reason why public hearings are so important, so that we can hear more from those people and get their points of view.

The other thing I've spoken about is the depletion of the Ministry of the Environment and not having enough staff there. I talked about the possibility of setting up a well-staffed unit in the ministry to conduct random audits.

I want to point out as well that the combination of site-specific risk assessment and sign-off by the professionals working for the developers could lead to very serious problems if the ministry isn't vigilant. That's why this is so important. I want to remind the members that those, again, are the kinds of things that we have to look at further down the road.

**Mr Garfield Dunlop (Simcoe North):** It's a pleasure to rise tonight to make a few comments on the speeches of the members from Waterloo-Wellington and London-Fanshawe. After hearing a lot of comments on this particular second reading of the brownfields act, I'm very pleased to see that, in my opinion, the opposition is finally coming on side with this. I don't know if you're going to support it in the end or not.

As we look at sites across our province, a lot of them as a result of the industrial revolution-type factories that we've seen, I still think that other governments in the past could have done something about this. That goes back in the last four, five, six decades. Nothing has actually occurred until now. I'm pleased to see that our government, and Minister Hodgson, have taken the leadership role here.

I think there are a lot of opportunities for the development of lands. It will help our Smart Growth policies, particularly the fact that it will allow municipalities and the private sector to develop lands that have the infrastructure on the sites. We look at storm sewers, water mains and sewers themselves; they're very expensive to install. This will be an opportunity to develop those lands to the best of their abilities and to the best use that the municipalities will find for them.

I thank the members for making these few comments tonight. I hope everyone in the House will support this legislation. It is good legislation. It is good for the province of Ontario and for the environment of Ontario.

**Mr Bradley:** I recommend, to those who are responsible on the government side for this, some advice that's given by Dianne Saxe. Dianne Saxe used to work in the Ministry of the Environment. I think she was on the committee that made recommendations on brownfield sites. She mentioned how she thought the legislation could be improved. Here's what she saw as the problems in the legislation. Let me share them with you so you can address them, if you can, either now or in committee.

"First of all, innocent purchasers get some protection from government orders but no protection at all from prosecution or civil suits. While there's some protection regarding on-site contamination, there's no protection for off-site problems, a huge problem for any site with groundwater contamination. There's no protection for officers and directors of corporations that might consider getting involved in brownfield development.

"There's no assurance that innocent buyers will be able to get mortgage financing for contaminated sites. There's no deadline on the province for completing reviews of cleanup of lands, meaning developers may face long, unpredictable"—and these are sometimes years—"waits after buying a property.

"On the matter of who pays, the result is pretty much as expected. Municipalities will be able to provide some financial assistance for rehabilitation of contaminated sites, although the province isn't planning to help.

"This legislation, unlike much important business, will go to committee for hearings. The minister has said that. The government should come armed with a slew of amendments and a commitment to share the costs, otherwise the bill will represent little more than an attempt to appear to be acting on a major problem without actually doing much."

The reason I say Dianne Saxe, I think she was on the advisory committee that dealt with brownfields. So, there is some good advice in there. If you can try to address

those, you may find that the bill can be improved considerably. It might even get improved enough at third reading to get the opposition to vote for it, but I wouldn't hold your breath until that happens.

**Mr Arnott:** To briefly respond, because it is past 9:30, I want to thank the members for Sudbury, Toronto-Danforth, Simcoe North and St Catharines for responding to the speech I made, as well as my colleague the member for London-Fanshawe.

To the member for Sudbury, I've visited his fine community on a number of occasions, and good work has been done in the community of Sudbury by the local citizens in partnership with the provincial and federal governments. Certainly I know our government is committed to continuing those partnerships.

To the member for Toronto-Danforth, who is very passionate and outspoken, if I might say, in terms of her ideas on the environment and does a great job, I would refer her to the Gibbons report, which she has perhaps already read. It has a lot of very good recommendations that the government is working to implement, changing the philosophy of the Ministry of the Environment and the whole government toward a strategy of continuous improvement as opposed to just meeting simple standards.

She is quite right, the Minister of the Environment is interested in hearing from the environmentalists on this issue. As this bill comes forward, that will be abundantly clear. She's also right when she says that the ministry must be vigilant in terms of its enforcement of these new practices.

To the member for Simcoe North, when I first met him he was the warden of Simcoe county, and he has amply demonstrated his experience at the municipal level with his contribution tonight and the benefits of these kinds of tools. He deserves a round of applause for the work he does. It is pretty clear that this bill will assist their municipalities.

The member for St Catharines has made a very constructive suggestion and given some ideas I know the Minister of Municipal Affairs will want to consider very carefully and seriously during the course of the processing of this bill.

I want to thank, again, all members of this House. It is almost time to adjourn, so I'll leave it at that.

**The Deputy Speaker:** It being past 9:30 of the clock, this House stands adjourned until 1:30 of the clock tomorrow afternoon.

*The House adjourned at 2133.*

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Prince Edward-Hastings Renfrew-Nipissing-Pembroke Sarnia-Lambton Sault Ste Marie Scarborough Centre / -Centre	Parsons, Ernie (L) Conway, Sean G. (L)  Di Cocco, Caroline (L) Martin, Tony (ND) Mushinski, Marilyn (PC)	Windsor West / -Ouest Windsor-St Clair York Centre / -Centre York North / -Nord York South-Weston / York-Sud-Weston York West / -Ouest  Vaughan-King-Aurora	<b>Young, Hon / L'hon David</b> (PC) Attorney General, minister responsible for native affairs / procureur général, ministre délégué aux Affaires autochtones  Papatello, Sandra (L) Duncan, Dwight (L) Kwinter, Monte (L) Munro, Julia (PC) Cordiano, Joseph (L)  Sergio, Mario (L)  Vacant

A list arranged by members' surnames and including all responsibilities of each member appears in the first and last issues of each session and on the first Monday of each month.

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

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