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Tuesday 27 November 2001

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Mardi 27 novembre 2001

**Standing committee on
justice and social policy**

Nutrient Management Act, 2001

**Comité permanent de la
justice et des affaires sociales**

**Loi de 2001 sur la gestion
des éléments nutritifs**

Chair: Toby Barrett
Clerk: Tom Prins

Président : Toby Barrett
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LEGISLATIVE ASSEMBLY OF ONTARIO

**STANDING COMMITTEE ON
JUSTICE AND SOCIAL POLICY**

Tuesday 27 November 2001

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**COMITÉ PERMANENT DE LA JUSTICE
ET DES AFFAIRES SOCIALES**

Mardi 27 novembre 2001

The committee met at 1536 in room 151.

NUTRIENT MANAGEMENT ACT, 2001

LOI DE 2001 SUR LA GESTION
DES ÉLÉMENTS NUTRITIFS

Consideration of Bill 81, An Act to provide standards with respect to the management of materials containing nutrients used on lands, to provide for the making of regulations with respect to farm animals and lands to which nutrients are applied, and to make related amendments to other Acts / Projet de loi 81, Loi prévoyant des normes à l'égard de la gestion des matières contenant des éléments nutritifs utilisées sur les biens-fonds, prévoyant la prise de règlements à l'égard des animaux d'élevage et des biens-fonds sur lesquels des éléments nutritifs sont épanchés et apportant des modifications connexes à d'autres lois.

The Chair (Mr Toby Barrett): I'd like to welcome the committee to our regular meeting of the standing committee on justice and social policy for November 27. The agenda today is Bill 81, An Act to provide standards with respect to the management of materials containing nutrients used on lands, to provide for the making of regulations with respect to farm animals and lands to which nutrients are applied, and to make related amendments to other Acts. Our business today is clause-by-clause consideration of the bill.

I always like to ask if any of the parties wish to make any brief opening statements. If not, we can go right into—not section 1 but actually the section before section 1. In keeping with tradition, I will start with the Liberal Party.

Mr Steve Peters (Elgin-Middlesex-London): Thanks, Mr Chairman. Just a few comments. This is legislation that farmers, municipalities, local politicians and residents have been asking for for a long time. I just want to commend you on how you've been able to keep it along through the nine-city hearings.

We'll deal with the amendments today, but I just want to reiterate the comment the minister made on his initial visit here, that is, his assurances that the regulations would also have consultations. That commitment the minister made is something I know he's going to honour. It's something the agricultural community very much appreciates. Because of the potential ramifications of this legislation, the consultations on the regulations are going

to be of utmost importance. I'd just go on the record saying I wish other ministers would make that commitment, to commit to consultation on regulations, and I commend the minister for that.

The Chair: Ms Churley, any opening comments?

Ms Marilyn Churley (Toronto-Danforth): Just briefly, Mr Chair. I too thank the government for making that commitment to consult on the regulations, because, as we know and as discussed in the committee hearings, this is a permissive bill; it allows for certain things to be done. But we all know that the devil is in the details. This is a framework before us today, and the regulations are really going to tell the story of what's going to happen. There's a fine balance between that consultation, which is critical not only for the farm community but for AMO, because, as we remember from the hearings, there are some very strongly felt differences of opinion on a couple of very key areas. We have to find that balance as well between the proper amount of thorough consultation and the need to get on with this.

I'm pleased we're here today to go through the amendments. Whether mine will win or lose, I can already guess, but you never know. But whatever happens, we need to continue with this, get the consultation happening and move forward, especially after Walkerton. Although in my opinion and in the opinion of many who came before the committee this only goes a small way toward where we need to be in the whole watershed—you will recall that the conservation authority and others talked about this being a small piece but a very important piece of the work we need to do to protect the environment and our water. So it's important that we move forward and get the consultations in place. Hopefully, the leadership contest going on won't interfere with that whatsoever and we'll get going and get the regulations in place and start doing our best to protect our environment and give the farm community and municipalities some surety about what they're going to have to be doing.

The Chair: Any other opening comments?

Mr Doug Galt (Northumberland): I appreciate the comments made by both opposition members. It has been a major effort of both ministers to ensure that there be extensive consultations. It started with a green paper and developing that in the fall of 1999, through the extensive consultations that you will recall, Mr Chair. You and I travelled the province as a task force to get input, and it's been evolving ever since. We just might have had it

moving along a little quicker had certain events not happened in the province. However, as a result of that, I think this is better legislation than it might have been if we'd brought it through earlier.

There's no question that I re-emphasize and support the comments made about the minister and the commitment to further consultation as the regulations are being developed. I can assure you that staff have been working on these from information gleaned to this point. Certainly we'll be back touching base, so to speak, with the stakeholders as we work our way down the road.

Ms Churley made reference to the protection of the environment. Once we get the regulations in place, there will be some protection for the farmers as well, that they're working within a framework, and that's very important for our agricultural community. But I also empathize with her comments about the protection of the environment, because within any group there are always a few bad actors. That's why this legislation is coming forward, because of the odd one, rather than the majority who do just a great job out there.

I look forward to this. Maybe we can get through these amendments today and get this moved into the House and get it completed prior to the Christmas break.

The Chair: We do have a number of amendments. Everyone will have a copy of them.

If we turn to page 1, there is a government motion, an amendment for a new section 0.1, in front of section 1.

Mr Galt: I move that the bill be amended by adding the following section:

“Purpose

“0.1 The purpose of this act is to provide for the management of materials containing nutrients in ways that will enhance protection of the natural environment and provide a sustainable future for agricultural operations and rural development.”

If I may, this is a government motion proposing to amend Bill 81 by adding a clear and concise purpose section. We want to ensure that there is no doubt about the intent of the legislation, that is, to ensure that the materials containing nutrients are managed in ways that protect the environment and provide a sustainable future for agriculture and rural development. During the consultations, the committee heard this suggestion from several environmental groups in order to clarify the direction of the act.

Ms Churley: I just want to ask a question. You will see that the next amendment is mine. It also adds a new section which goes further than the purpose clause the government is putting in. I'm wondering, if this is supported, does my amendment still stand for debate?

The Chair: Yes, your amendment would stand. You're concerned that—

Ms Churley: I'm concerned because they're both dealing with the purpose, that if this one is passed, it would make mine moot because a purpose amendment is already passed. Or will that not happen until this section is actually passed? I'm trying to figure out if I'll have my say now or when we debate my amendment.

The Chair: Could I ask you to explain that again? The clerk missed part of that. I think I understand where you're coming from.

Ms Churley: I just want to be clear. My amendment, the second amendment, has different wording for the purpose of the act. They're both dealing with the purpose, but in different wording. I think that even if the government amendment passes, we'd still debate mine, because until the end of this section, when we've done all the amendments in the section, we can debate all the amendments until we actually vote on the section. Is that correct?

The Chair: Could I ask the clerk to respond to that?

Clerk of the Committee (Mr Tom Prins): Your motion is in order. We would deal with this motion next; then, if you chose to move your motion, you would move your motion next and—

Ms Churley: OK. That's all I wanted to know. Thank you.

The Chair: Is there any further discussion on the government motion?

Ms Churley: I'll be speaking in more detail about the wording of my amendment when we get to it, but I just want people to understand I will be voting against this amendment because the amendment that follows it is stronger. Although I support the intent of the government to bring forward a purpose, which is very important and which was missing from the bill, it doesn't go far enough, in my view. I would prefer to have my amendment pass. That's my explanation of why I won't be supporting this amendment.

The Chair: Are the members ready to vote on the government motion, page 1? All those in favour? Those opposed? I declare this motion carried.

We turn to page 2, the NDP motion, as we know.

Ms Churley: I move that the bill be amended by adding the following section:

“Purposes

“0.1 The purposes of this act are,

“(a) to protect the health of the natural ecosystem by maintaining the interaction of the dynamic complex of plant, animal and micro-organism communities and their non-living environment as a functional unit and in a manner characteristic of the natural region of the complex; and

“(b) to ensure that, in making decisions about carrying out the powers and duties of this act where there are threats of serious or irreversible damage to the environment, the persons making the decisions do not use the lack of full scientific certainty as a reason for postponing measures to prevent environmental degradation.”

The Chair: Do you wish to expand on that further?

Ms Churley: Yes I do. As we're all aware, we heard from many, many people who expressed concern that this bill—and the government admits that they're not trying to cover the entire ecosystem with this bill and deal with all the other components that could be injected into the soil. So we have a situation where this bill, Bill 81, addresses one aspect of protecting surface and ground-

water from agricultural impacts, but we also heard and are aware that agricultural practice may put other contaminants, such as pesticides, sediment and pathogens, into our water. I would like the purpose to be more inclusive in terms of protecting the environment, our soil and our water.

Clause (b) speaks specifically to the issue that if there are reasonable grounds to believe there could be serious or irreversible damage to the environment or to human health, that's inclusive in the environment. We heard a lot from people, farmers included, that research needs to be done in many areas, but sometimes, because we don't have full scientific knowledge or there are debates about the science we do have—I suppose the most common one is cigarettes, tobacco. It's very hard to prove that tobacco actually kills people and causes disease, yet by now pretty well everybody accepts the fact that it does. A little while ago, not much was known about the E coli strain that killed people in Walkerton. So I've included that to suggest that if there's a possibility of harm being done to the environment of a serious nature, then that confusion or less than full scientific knowledge should not be used as an excuse to not do certain things, which might mean we'd end up being very sorry after the fact.

1550

I made this amendment simply to try to make the purpose of the bill more inclusive and therefore to perhaps have more impact on the regulations which the government will be consulting about in the near future. I was hoping that if this amendment passed, it would have some impact and influence on the regulations, which are going to be the meat of the bill.

Mr Galt: While we certainly agree with the need for a purpose for the act, the wording being referred to here is very broad and does little, in our opinion, to clarify the intent of the act. It fails to explain the purpose we're trying to define. Standards will be developed through an established process of public consultation, government review, and then of course the approval by the Lieutenant Governor in Council. This process allows the development of standards that will be based on a number of factors. Science indeed is an important factor, but not the only one. Clause (b) attempts to unreasonably limit the development of new standards.

Mr Peters: We won't be supporting this resolution. I support an amendment for clarity about the purpose of the legislation, also with the knowledge that the issues are going to be addressed in the regulations and the standards. A lot of the issues raised here we also saw when the presentation was made to us by the Ontario Federation of Agriculture about the nutrient management planning process, the work that goes into a nutrient management plan. These issues are addressed during that planning process.

Mr Marcel Beaubien (Lambton-Kent-Middlesex): I've got a question for the mover of the motion. In clause (b), when you mention that “the persons making the decisions do not use the lack of full scientific certainty as a reason for postponing measures to prevent environ-

mental degradation,” are you suggesting that somebody should be making a decision without having the full facts in front of them? Is that what you're suggesting?

Ms Churley: No, not at all. Perhaps I wasn't clear, but I'll try to clarify my position on that. There are times, certainly now, when there are situations where there are different opinions among scientists about a certain substance, a certain chemical, anything, I suppose. I used E coli as an example. It wasn't that long ago that scientists weren't aware of the impact of the strain that killed people in Walkerton, the effect that could have on human health.

In my riding of Toronto-Danforth—it used to be called Riverdale—many children ended up with brain damage and learning disabilities as a result of ingesting lead for a number of years from a lead plant. The scientific knowledge at the time was not there. Although it was certainly suspected to be causing health damage to these children, we were unable to get governments of any stripe anywhere to move on it because at that time there wasn't 100% scientific knowledge that—we now know this and there's no argument any more—lead has a very detrimental effect on children's health.

What I'm trying to address here, and I think it's pretty clear—where there are threats of serious or irreversible damage to the environment, sometimes we see scientists arguing among themselves when the evidence is out there: people getting sick, kids brain-damaged, whatever. But sometimes more work needs to be done. As with tobacco, to make the connection is sometimes very difficult. I don't think anybody in this room would deny now, in this day and age, that tobacco kills and causes all kinds of diseases, but it's sometimes very difficult to get that 100% scientific proof.

Mr Peters: We had three of the Big Five tobacco representatives here in the room.

Ms Churley: We could call them as witnesses. I recognized them. That's my point; they would have a different opinion.

Mr Beaubien: The motion is kind of vague, so I'll take it at that.

Ms Churley: Well, yours is even vaguer, if you want to get into that.

The Chair: This concludes discussion on this amendment, on page 2. Are the members ready to vote?

Ms Churley: I'd like a recorded vote.

Ayes

Churley.

Nays

Beaubien, Galt, Guzzo, McLeod, Peters.

The Chair: I declare this motion lost.

If we turn to page 3, we have an NDP motion.

Ms Churley: I move that the definition of “nutrient” in section 1 of the bill be amended by inserting “or

applied to golf courses for the purpose of establishing or maintaining them” after “a prescribed use.”

That’s simply to make sure that we’re not just talking about farmland, agricultural land in this case. There are all kinds of pesticides and other applications, as you know, applied to golf courses, and we had several deputants suggest that they should not be exempt, that they too should come under these new rules. This is a very simple amendment. It simply establishes a bit of a level playing field here. In terms of protecting the environment and the watersheds that golf courses are also in, I think, as did many deputants, that golf courses should be included in the regulations and under this law.

Mr Peters: I want to speak in support of this resolution. Farmers have been unfairly blamed for a lot of the water quality issues around this province. We have seen that municipalities have been as much of a culprit as anybody, with the bypasses from their waste water treatment plants. It’s important that we are dealing with nutrients, and we know there are a lot of golf courses across this province, many of which have been constructed in rural Ontario, on former farms. There are water courses running through these golf courses. If we’re going to stand behind this nutrient management legislation and ensure that our farmers use best practices, we need to ensure that everybody who is applying nutrients follows those best practices as well. As I say, we will be supporting this.

Mr Galt: The current definition of “nutrient” allows for the regulations to prescribe other uses besides the growing of agricultural crops. The primary focus of the act is to deal with nutrients on agricultural land. There is not a need to list other secondary areas where regulations may be needed in the future. This amendment would list only one secondary area, and if this one is included, then one would reasonably expect a full list of what other secondary uses should also be included. The current wording of the act allows for more flexibility and clearly retains the focus on the primary area of agricultural land.

1600

Mrs Lyn McLeod (Thunder Bay-Atikokan): Forgive a somewhat naive question, because I come newly to this, as all the members of the committee will be aware, but I’m just not sure why the application on golf courses isn’t as relevant as on agricultural lands. Why would that not be an obvious one to include, even if there are some others that are missing?

Mr Galt: The focus and the original purpose was for agricultural land. That’s where the issue arose to begin with. Yes, during the hearings, the concern about golf courses came up, but also about people’s front lawns, parklands, baseball diamonds, and the list goes on. It would not be an advantage to list one of these others, outside agricultural, without listing the whole list, or you’d have to go back to the legislation. This way, it gives a primary focus to agricultural lands but doesn’t limit it there, so we can do that kind of thing down the road through the regulations with this bill; we wouldn’t have to go back and change the legislation. By putting

this in, it might be interpreted by lawyers that we’d have to go back to add other areas, like parkland. The way it is, it will do what we’ve been asked for and what’s come up during consultations.

Mrs McLeod: Is there a fairly clear commitment and intent on the part of government to move quickly to include other areas in regulation?

Mr Galt: There’s a clear commitment on the part of government to get on with nutrient management over the next roughly five years—that’s what’s being looked at—to implement all of that. Depending on the need, these others will be looked at. Certainly your concern and the concern of the NDP is very genuine, and I appreciate it. It’s what we heard out there and it will be looked at as we work with regulations.

Ms Churley: To follow up on what Mr Galt had to say, it is true, and he makes a good point. Golf courses came up more often than any of the other land uses, no doubt about it, and that’s because there are a lot, and we seem to be getting a lot more. Golf is a very popular hobby. Golf courses are huge and tend to use vast amounts of pesticides. I’m not aware of some of the other applications, but to keep the grass really nice various nutrients and pesticides are put on that land. They’re big. That’s why I chose that as one that should be included in this bill. I recognize, as the parliamentary assistant said—it’s quite true—that there are other land uses that need to be considered.

I believe I heard the parliamentary assistant say that those will be looked at during the course of regulations, so we can expect to have discussions around golf courses. When you get into people’s lawns, that gets us into the whole area of municipal bylaws and the Hudson decision in Quebec and whether it should be municipalities or the provincial government doing that. But large tracts of land, like golf courses, in my view and in the view of many who came to speak to us, should be included in this bill simply because they take up huge tracts of land and can and in fact do have impacts on our water. I thought it was important to deal with this one specifically right away, but I’m pleased to hear that during the discussions and consultations around the regulations—I believe, if I can confirm—we will be looking at additions to the existing description. Can I have that on the record?

Mr Galt: It’s already on the record.

Ms Churley: OK. So that’s what you said, that we will be—

Mr Galt: We’ll be looking at all aspects of nutrient management in all areas, no question.

The Chair: Are there any other comments? Are the members ready to vote?

Ms Churley: Could I have a recorded vote?

Ayes

Churley, McLeod, Peters.

Nays

Beaubien, DeFaria, Galt, Guzzo.

The Chair: I declare the motion lost.

That concludes the amendments to section 1. Shall section 1, as amended, carry? Carried.

We have an amendment on section 2, on page 4, a Liberal motion.

Mr Peters: I move that clause 2(1)(c) of the Nutrient Management Act, 2001, be deleted.

In explanation, my concern with this as it stands right now is that this leaves the opportunity for alternative service providers to play a role, and I have some very serious concerns with that. I want those individuals who are going to be involved with the administration of any of the provisions of this act to be ministry employees. My concern is that clause (c) leaves the door open for alternative service providers to be appointed.

Ms Churley: I support this amendment and share the same concerns. Again, this was an issue that came up during the hearings. I would like to ask the parliamentary assistant why it's there and what he is envisioning. What shape do you think this is going to take and how would the private sector be involved?

Mr Galt: In response to both of the opposition members' questions, this clause forms an integral part of the legislation, needed for the eventual shift to alternative service delivery for the non-enforcement components of the act.

Ms Churley: Aha: privatization.

Mr Galt: This is a clear government direction, so this section is indeed necessary. This section also needs to be included to allow for the appointment of those outside the ministry, such as conservation authorities etc, who may be appointed as directors for a specific role under this act.

The Chair: Any further comments on that motion?

Mr Peters: I'd just ask for a recorded vote.

The Chair: Are the members ready to vote?

Ayes

Churley, McLeod, Peters.

Nays

Beaubien, DeFaria, Galt, Guzzo.

The Chair: I declare the motion lost.

The next question, shall section 2 carry? Carried.

Section 3: there's a Liberal motion on page 5.

Mr Peters: I move that clause 3(1)(c) of the Nutrient Management Act, 2001, be deleted.

In explanation, it's the same as the comments I made previously on clause 2(1)(c) and the concern we expressed over alternative service delivery providers. We feel this is legislation that should be administered by the ministry. We're not supportive of alternative delivery providers.

The Chair: Any further comments on this motion?

Mr Peters: I request a recorded vote too, please.

The Chair: The members are ready to vote?

Ayes

Churley, McLeod, Peters.

Nays

Beaubien, DeFaria, Galt, Guzzo.

The Chair: I declare that motion lost.

Shall section 3 carry? Carried.

We now turn to page 6, a Liberal motion.

Mr Peters: I move that clause 4(1)(c) of the Nutrient Management Act, 2001, be deleted.

It's the same rationale as for the two previous clauses we dealt with, expressing our concern about allowing alternative delivery providers into an area that should be administered by the ministry and government employees.

The Chair: Any other discussion on this one? Are the members ready to vote on this?

Mr Peters: Recorded vote, please.

Ayes

Churley, McLeod, Peters.

Nays

Beaubien, DeFaria, Galt, Guzzo.

1610

The Chair: I declare the motion lost.

Shall section 4 carry? Carried.

We now go to section 5. We have amendments from all three parties. The first amendment to section 5 is found on page 7, and it's a Liberal motion.

Mr Peters: I move that subsection 5(1) of the Nutrient Management Act, 2001, be amended by striking out "may" in the first line and substituting "shall."

We need to be very clear with this legislation, and I think including the word "may" just leaves it open. It isn't clear that anybody will have to act on this. To clarify and ensure what the role of the Lieutenant Governor is in the creation of these regulations, the word "may" should not be in there; it should be "shall."

Mr Galt: Subsection 5(1) lists the possible areas where regulations may need to be created over time. They're deliberately under a discretionary heading, as not all subjects may need regulations right away. The breadth of topics is to allow for potential areas of concern now and in the future. The intent in section 5 is to deal first with those practices that pose the highest risk, and the others may be the subject of future regulations, if they are needed.

Ms Churley: I speak in strong support of this amendment. Given that so much of the bill is left to regulation, changing the word—and I note Mr Peters has further amendments in other sections where he changes "may" to "shall." That seems to show up a lot in government legislation, leaving the door open so that some things may be

done and some things may not be done. In my view anyway, and according to what Mr Peters was saying, in all aspects of this bill it's important that it all be done. The door shouldn't be left open so that some of these things, because of the word "may," might not happen. It's strengthens the bill. It makes it clear that these things are going to happen.

Mr Peters: When we toured around, we heard very clearly the support for the development of this legislation and the real need for this legislation. I don't think we want to leave things open-ended. Every one of us around this table wants to make this the strongest legislation we possibly can have. Leaving it open with the word "may" doesn't give assurance to farmers, citizens or municipalities across this province that the government will do something. People in Ontario want to know that the government will or shall do something. We've got other amendments dealing with the words "may" and "shall" throughout this. We want to send a clear message to people in Ontario that we want strong and effective legislation.

The Chair: Any other comments? Are members ready to vote on this motion?

Mr Peters: A recorded vote, please.

Ayes

Churley, McLeod, Peters.

Nays

Beaubien, DeFaria, Galt, Guzzo.

The Chair: I declare the motion lost.

The next amendment to section 5 is a Liberal motion found on page 8.

Mr Peters: I move that subsection 5(2) of the Nutrient Management Act, 2001, be amended by striking out the word "may" in the second line and substituting "shall."

The rationale is the same as the previous subsection 5(1). We want this to be strong legislation, and leaving the word "may" in leaves it too open-ended.

The Chair: Is there any discussion on this motion? Are committee members ready to vote?

Mr Peters: A recorded vote, please.

Ayes

Churley, McLeod, Peters.

Nays

Beaubien, DeFaria, Galt, Guzzo.

The Chair: I declare the motion lost.

The next amendment is found on page 9. It's a government motion.

Mr Galt: I move that clause 5(2)(r) of the bill be struck out and the following substituted:

"(r) requiring that studies be conducted in relation to the use of materials containing nutrients on lands, including topographical studies and studies to determine soil types on those lands and studies to determine the depth, volume, direction of flow and risk of contamination of water located on, in and under those lands;

"(r.1) requiring that the studies mentioned in clause (r) be conducted by a person who has the prescribed qualifications;

"(r.2) requiring that the recommendations, if any, contained in the studies mentioned in clause (r) be followed in the use of materials containing nutrients on the lands being studied."

The Chair: Do you wish to explain that one further?

Mr Galt: If I may. The act provided for geophysical studies that would deal with the types of soils and the direction of the groundwater flow through the lands. The amendment is to clarify and provide a clear listing of what might be included in geophysical studies. In this way, everyone will know what would be needed to ensure compliance with the law. The reference in Bill 81 seemed to cause confusion with respect to what types of studies would be required. The new wording is clearer and more descriptive.

Mr Peters: Perhaps the parliamentary assistant can explain the difference between a topographical study and a geophysical study.

Mr Galt: I think we'll call on an expert for that one, if you don't mind.

The Chair: Please do.

Mr Randy Jackiw: My name is Randy Jackiw, with the Ministry of Agriculture, Food and Rural Affairs. That was exactly the point: "Geophysical" was difficult to define, as to whether it meant things like topographical. "Topographical" is very specific as far as the surface etc. It's clearer.

Mr Peters: Just so I understand, "topographical" was leaving it too open to just what's going on on top of the ground. "Geophysical" is going to allow making sure it's on top of the ground and below the ground.

Mr Jackiw: Right.

The Chair: Well, what is being inserted is—

Mr Peters: Oops. I've got that twisted. They're dropping "geophysical" and inserting "topographical."

1620

The Chair: Yes.

Mr Jackiw: Yes.

Mr Peters: I have another question, Mr Chairman, on (r.1), if I may. It says "be conducted by a person who has the prescribed qualifications." Where will we see the definition of what those prescribed qualifications are? Is that something intended to be clearly defined in the regulations?

Mr Galt: Yes.

The Chair: Further discussion on this amendment? Are members ready to vote on this amendment? Do you wish a recorded vote?

Mr Peters: No.

The Chair: We're voting on the government motion found on page 9. All those in favour? Those opposed? I declare this motion carried.

If we could turn to page 10, we have an NDP motion again on section 5.

Ms Churley: I move that section 5 of the bill be amended by adding the following subsection:

"Nutrient management plans and strategies

"(4) Despite anything in the regulations made under the Environmental Bill of Rights Act, 1993, nutrient management plans and nutrient management strategies are class II proposals for instruments for the purposes of that act and the regulations made under it."

That's pretty self-evident. It means that nutrient management plans and strategies have to be posted on the EBR registry for public comments. Right now, there's nothing to suggest that there can be any input or comment from the public when the plans are being developed and approved. I understand that it does allow for local communities to help and be involved in prescribed matters, but we're not sure what's going to happen to this under the regulations. Given the huge impacts on communities—and the public certainly made it really clear when they came before us that they wanted to have a say and to have the ability to know what's going on and how these plans look. It's very clear that's why the EBR was set up. I believe these are important enough that these plans should be posted on the registry so the public can have a say before the plan is finally approved.

Mr Galt: This would be a rather unusual method of designating what should be proposals for instruments and then classifying them. The Environmental Bill of Rights Act, 1993, has a process in place to deal with a proposal for an instrument under the EBR regulations. The classification does not need to be done in this act.

The broader issue is one of the appropriateness of what should be a proposal for an instrument under the EBR, as the intent of the Nutrient Management Act, 2001, is that all farms will have a nutrient management plan over the next few years. Some plans may be quite minor and the consequences would not warrant their being treated as a class II instrument. To require this now would be premature and unnecessary.

The intent of the government has been that alternate service delivery partnerships are an option that needs to be included. The act makes it clear that alternate service delivery will not be allowed for enforcement. This proposed clause would interfere with the ability to use a third party for approval, as the nutrient management plans would no longer be able to be posted on the EBR once approval is not done by the government. The proposed clause is not appropriate to be inserted into this act. The issue of what needs to be included as proposals for instruments under the EBR can be pursued without changes to this act.

Ms Churley: What an interesting answer. Can you explain that?

Mr Galt: I thought you would clearly understand it.

Ms Churley: I did, and I disagree. I'm surprised at that response, although I'm reading between the lines.

Interjection: You've got to read the lines.

Ms Churley: I read the lines as well, but you know what? Sometimes you've got to read between the lines.

I think this is extremely important. Your own government has just come forward with the Gibbons report, which talks in detail about the need for all ministries to be more environmentally aware and take that into account in all decisions and changes made within each ministry. Certainly that's what the Environmental Bill of Rights is about. This is very much connected to our environment and health. It seems incredible to me that the government would not want to make it clear in this bill that the public would have the opportunity to review the plans being made.

The response just didn't make any sense to me. To me, this is cut and dried. You've got communities directly affected by the plans; those should be posted and they should have the right to have a comment.

Mr Galt: I can try once more to explain.

Ms Churley: In your own words.

Mr Galt: I'll give some examples. We have over 60,000 farms in Ontario, and 60,000 plans on the EBR registry would be a lot of clutter.

If I could give you an example, about four years ago, maybe three, you remember a water-take permit for Lake Superior for bulk export of water? It was missed, because I believe there's too much already on the EBR for most people going in to check to pick up on the various issues. It wasn't identified that that one was for export purposes until after it had been granted. As you understand, for a water-take permit the granting was about how much effect it would have on Lake Superior. Well, taking a boatload of water out of Lake Superior, as you understand, wouldn't have that much effect on it, but certainly the public was very concerned about export. It was the province that responded, not the federal government, on that export situation.

I use that as an example that I believe there's an awful lot already on there being missed by people monitoring for that kind of thing. If we started adding in, every few years, 50,000 or 60,000 nutrient management plans, it's really going to add a lot to the problem. It would be advantageous to add and require through regulation the ones with the greatest risk or possibly largest number of animals. I think that's the way to address it in a responsible way.

Mr Peters: There's going to be a logistical nightmare, with approximately 67,000 registered farms in this province. It's not just the question of posting them on the EBR. We heard a lot about public access to the nutrient management plans. I don't even want to think what 67,000 nutrient management plans look like and how many rooms like this are going to be filled. I think that's going to be one of the challenges in the development of the regulations. I heard the parliamentary assistant make some comments about some farms or some applications. That is something that's really going to have to be clarified at the regulation level: where do you draw the line as to what is posted and what isn't posted? But with this

resolution as written, to post 67,000 applications is going to be a logistical nightmare.

Ms Churley: Could I ask the parliamentary assistant how he views the community involvement in the plans? What would your solution be for communities to have some say and some input and knowledge of the plans in their own communities?

1630

Mr Galt: Through discussion and through consultation, a lot of that will be sorted out, but there are various levels, from having it on the EBR to providing for public notice for having full-blown public town hall-type meetings. There are various ways it can be handled. We're dealing with nutrient management plans that vary from a farm of a few acres to literally thousands of acres. We're dealing with trying to put through something that would look at handling, what you do with these manures in the wintertime? Ranging from New Liskeard, Thunder Bay through to southern Ontario, areas like around Chatham, east to Kemptonville—there are very different soil types, very different kinds of slopes on lands. That has to be addressed with almost each and every individual nutrient management plan as it comes forward to be approved. A lot of consideration has to go into it. That's why it's based on a nutrient management plan rather than a lot of detail, in both the bill and—there will be some detail in regulations, but an awful lot of it will be based on the approval of that plan.

Ms Churley: If I may, this amendment was made as a result of a recommendation from the Sierra legal organization. It's not clear to me from their wording whether their proposal is to have every—because you make a good point about the thousands, every single nutrient management plan. I would agree with you that that many plans on a registry just wouldn't work. I must admit I'm not clear about their recommendation, whether they're suggesting that every plan be put on that registry or if there is another way of classifying groupings within municipalities. I don't know. But I do recognize the concern you raised around the logistics of posting every single little plan that comes through. I think I heard you agree with me that some of the major, more controversial plans may indeed be subject to posting on the EBR and that that might be dealt with through regulations?

Mr Galt: Yes, that's the thinking. I don't want to go all the way out, but probably some of them will go on the EBR. Some of them are very large and there are definite public concerns. I expect you'll see, in some of the regulations, that it would appear that way, yes.

The Chair: Is there any further discussion? Are the members of the committee ready to vote? We're voting on the NDP motion found on page 10. All those in favour? Those opposed? I declare the motion lost.

That concludes the amendments to section 5. Shall section 5, as amended, carry? Carried.

Section 6: we have a Liberal motion on page 11.

Mr Peters: I move that section 6 of the Nutrient Management Act, 2001, be amended by striking out the word "may" in the first line and substituting "shall."

Again, just for clarity and strength of this legislation, the word "may" is too open-ended and we feel the word "shall" gets more to the point.

A recorded vote, please.

The Chair: OK. Is there any further discussion? Seeing none, I assume members are ready to vote.

Ayes

Churley, McLeod, Peters.

Nays

Beaubien, DeFaria, Galt, Guzzo.

The Chair: I declare that motion lost.

Shall section 6 carry? Carried.

Section 7: I see no amendments. Shall section 7 carry? Carried.

In keeping with tradition, we could collapse several sections for the purpose of voting. Shall sections 8 through 51 carry? Carried.

We have a government motion on section 52. It's found on page 12.

Mr Galt: I move that clause 52(6)(a) of the bill be amended by taking out "within 10 days of taking or being appointed to take possession or control of the property" and substituting "within 10 days after taking or being appointed to take possession or control of the property, or within 10 days after the issuance of the order."

This section of Bill 81 was modelled after an existing section in the Environmental Protection Act. Recently, a clarification to the EPA resulted in the change above. The motion would make the two acts consistent again. The wording of clause 52(6)(a) in the first reading version of the bill only addresses those situations in which the order was in place before the receiver or trustee in bankruptcy took possession or control of the property. The proposed amendment expands the meaning of the clause to include orders made after a receiver or trustee in bankruptcy take possession or control of the property.

The Chair: Is there any further discussion on this motion? Are members ready to vote? All those in favour? Those opposed? I declare that motion carried.

Shall section 52, as amended, carry? Carried.

We'll turn to section 53: we have a government motion, found on page 13.

Mr Galt: I move that subsection 53(2) of the bill be amended by striking out "on the third day after the day of mailing" and substituting "on the fifth day after the day of mailing."

This change would allow for any document given or served under this act to be deemed to have been served five days after the day of mailing instead of three. The proposed motion deals with the practical matter of life in rural Ontario. To assume that mail was received within three days of posting was not acceptable in the rural area. This will also bring Bill 81 into alignment with requirements under the EPA. This addresses concerns expressed

by several farm organizations about the shortness of the time periods in the bill. The change to five days allows for a more reasonable time allowance to receive mail.

The Chair: Any further discussion? Are members ready to vote? All in favour? Those opposed? I declare that motion passed.

Shall section 53, as amended, carry? Carried.

Turning to section 54, there are no amendments. Shall section 54 carry? Carried.

Section 55: on page 14, we do not have an amendment; the NDP has filed a recommendation. This is not a motion, so I would declare this out of order.

Ms Churley: What should have been here is deleting that one reference, but I understand what you're saying. I'm not quite sure what happened here, because what it says is "recommends voting against this section" as opposed to—is that what yours says?

1640

The Chair: I have "recommends voting against this section." I also understand that you cannot make a motion to delete a section.

Mr Peters: Mine is "deleted," and we're both out of order.

Ms Churley: I assume, then, that that's what happened; we must have been told we couldn't make a motion to delete it. Perhaps this was a trick to try to get it through, but it didn't work. Does that mean I can't speak to it?

The Chair: We can certainly discuss this, but we can't vote on it.

Ms Churley: Once again, what this is about—and my Liberal colleague brought this up earlier—is privatization and contracting out these services. It prevents the privatization of the management of the registry of the nutrient management plans and strategies and review of the same etc. As it turned out—you're quite right—it was difficult to find a way to word that. We weren't allowed to delete it. Obviously, I will be voting against it, but if you move to the next one, which is also going to be ruled out of order for the same reason, it's a partner to the preceding one. I have a critical question to ask, therefore, of the parliamentary assistant, given that neither of these are in order.

Given the fact that any corporation—and "corporation" is one of the words in the section that I wanted to delete—can end up doing this work, we don't know who's going to be doing it. The next amendment, which will be ruled out of order, talks about liability. It removes the crown liability. You've got to ask the question, since it's not going to be deleted, if the crown is removed from any liability and these duties are contracted out or a corporation is doing it, whatever, and the crown is not liable and something goes wrong, who would be liable?

Mr Galt: I'll give an opinion, but I'd like to invite legal counsel to confirm or expand. My understanding is that if we're contracting out, those who would be contracted would be bonded. There would be assurances. But I really need legal counsel to help me with that particular question. Who would like to come forward? Just state

your name for Hansard and assist me a wee bit. The wheels need some oil.

Mr Leo FitzPatrick: My name is Leo FitzPatrick. I'm a lawyer with the Ministry of the Environment. In circumstances like this, where the government would be contracting for services to be performed, one would assume that there would be provision made in the contract that the contractor would be required to provide sufficient insurance for liabilities that might be encountered in carrying out the contract.

Mr Galt: Just to help with the question, if the government didn't require that in the contract, then who's liable? Would it come back to the crown?

Mr FitzPatrick: It would depend on how the contract was drawn up, but one would expect that the contractor would take on the liability as well as the duty to perform the function. That's the reason it would make sense for all concerned that the contractor be required to ensure that liability.

Ms Churley: If I could follow up, I'm just reading that section again, and I can't see anything in the act that states that. Is there? Am I missing it? There isn't. This is a problem, then, because it's not stated in the act. You say that is the intent, but right now we have a situation where—and it's very clear if you read through this section. It goes on for several paragraphs making sure every which way you can that the crown, a crown employee under the Public Service Act, "a minister or an employee or agent of the crown because of anything arising out of or in relation to a matter carried on or purported to be carried on pursuant to a regulation that exempts a person from the requirement to obtain a certificate, licence or approval.... No personal liability"—

It's important that we take a look at this. I don't have an amendment ready, but this is a problem, where the crown has been exempted but there's nothing within the act that says anybody would be liable should there be some problems. Do you have any suggestions? You made the suggestion that that is the intent, but it's not in here.

Mr FitzPatrick: As the parliamentary assistant has mentioned on a number of occasions, if this approach to carrying on these affairs is pursued, there is a need for flexibility; there would be a need for flexibility in this matter as well, depending on exactly what form of service is being contracted out, what sorts of potential liabilities might be there.

Ms Churley: There may be some more information coming.

Mr FitzPatrick: My colleague is pointing out that in section 55, dealing with delegation of powers, the agreement under clause 55(3)(c) would require "the delegate to obtain and maintain specified kinds and amounts of insurance." That's mandatory: "delegation agreement shall contain."

The Chair: Further discussion on this issue?

Mr Peters: Recognizing that our own resolution is going to be out of order, we certainly won't be supporting section 55. It's the same as some of the comments I made earlier expressing our concern about alternative delivery providers. We want this legislation to assure all

citizens of Ontario that they can have the utmost confidence that as an agricultural operation chooses to either change the way they do things or come up to 21st-century standards—we've seen what has happened, the results of contracting out and the privatization of services in numerous instances across this province. We want to ensure that people have confidence in what the farmers of Ontario are doing. I have some serious concerns about delegating the authority through alternative service providers, that the public confidence isn't going to be there. For that reason, we will be voting against 55.

The Chair: Are all members now ready to vote?

Mr Peters: A recorded vote, please.

The Chair: We're voting on section 55.

Ayes

Beaubien, DeFaria, Galt, Guzzo.

Nays

Churley, McLeod, Peters,.

The Chair: I declare section 55 carried.

We now turn to section 56. On page 16 we have an NDP motion. I will mention, Ms Churley, that for the same reasons this is out of order.

Ms Churley: I recognize that, for the same reason, this is out of order. I spoke already to this. I have to tell you that notwithstanding the one clause that was pointed out, I have serious concerns about this entire section. I'll be voting against it.

1650

Mr Peters: We too will be voting against it, for some of the reasons outlined in the comments about alternative delivery providers. Even though 55(3)(c) says the government is requiring those individuals delegated to provide this service to have insurance, I don't think it's responsible for the government to wash its hands of this issue, to just say there's no liability on the government and we're confident that the alternative delivery providers have insurance. I don't think that's responsible to the citizens of Ontario. I think the government needs not to rely on private insurance but to stand up and be counted. For those reasons, we won't be supporting 56 either.

The Chair: Is the committee ready to vote?

Mr Peters: A recorded vote, please.

The Chair: We're voting on section 56.

Ayes

Beaubien, DeFaria, Galt, Guzzo.

Nays

McLeod, Peters.

The Chair: I declare section 56 carried.

Section 57: we have a Liberal motion on page 17. I understand that for the same reason this is out of order. Discussion on this section?

Mr Peters: We will not be supporting section 57. This is a piece of legislation that, as we've heard and talked about, has been called upon by virtually all segments of society. This is also a piece of legislation that is going to benefit all of society. All taxpayers will have comfort in the knowledge that this legislation is there to protect them. Because this is something that all taxpayers receive the benefit from, I feel that in this case there should not be fees, that the government should accept the responsibility for this and not require fees to be paid. It should be a government responsibility.

Ms Churley: The other motions around this were out of order. They would have been lost anyway, but we've had an opportunity to discuss them. We have no idea who will be doing this work, and this means that the private sector can charge any fees they want to charge. There's no government control. It could be cost recovery. We just have no idea. The details are to come later about who's going to be doing this, but the bottom line is that fees can be charged. There's no amount. We don't know who's going to be charging them. There's no clarity about cost recovery.

While recognizing that this is out of order, given that the other sections have been voted on and passed, I consider this to be a very serious issue. For that reason, I will be voting against this section.

Mr Galt: I'd be willing to put on the record that the payment of fees will be based on cost recovery for services provided under this act. The fees are not going to be a tax and will not be bigger than the cost to deliver the services.

Ms Churley: How do you know? You don't know who's going to be providing those services. I mean, look what happened with Andersen Consulting and the millions and millions of dollars they've been getting from the government. You have nothing to base that on. There's nothing in the bill.

Mr Galt: This isn't going to be a floating fee. It's something the government will establish. Certainly the government will start it out, and down the road, alternative services will be looked at but not necessarily implemented.

Ms Churley: OK.

The Chair: Thank you for that discussion. Are the members ready to vote on section 57?

Ms Churley: A recorded vote, please.

The Chair: This will be a recorded vote. All those in favour of section 57?

Ayes

Beaubien, DeFaria, Galt, Guzzo.

Nays

Churley, McLeod, Peters.

The Chair: I declare section 57 carried.

For section 58, we have a government motion on page 18.

Mr Galt: I move that clause 58(g) of the bill be struck out and the following substituted:

“(g) respecting procedures for inspections under part IV, including procedures to prevent the transmission of contagious diseases, and requiring inspectors to follow the procedures;”

This motion deals with the concerns of farmers, farm groups and some municipalities about protecting their animals from health hazards. They don't want to worry about diseases inadvertently being transmitted to their animals by enforcement officers, and we agree. We think it's only prudent to provide assurance to farmers that any provincial officers entering their property will follow strict biosecurity protocols.

The Chair: Is there further discussion? Seeing no further discussion, if members are ready to vote, we're voting on the government motion on page 18. All those in favour? Opposed? I declare that amendment carried.

Shall section 58, with this amendment, carry? Carried.

Section 59, page 19: we have an NDP motion.

Ms Churley: I move that section 59 of the bill be amended by adding the following subsection:

“Deadline for regulations

“(7) Despite anything in this act, no regulations shall be made under any provision of this act later than six months after the day that provision comes into force, except for regulations that amend or replace regulations that have been made under that provision within six months after the day that provision comes in force.”

This bill, it has been noted before, by all who came before us during the hearings, is regulation-heavy; this is a framework. Despite the speech made by the minister some time ago that this would be done quickly—and we were guaranteed that—it's been a long time coming. If you look at the bill, there's absolutely nothing anywhere that guarantees that this is going to happen quickly. The minister did say things like, “What we are now proposing will address these concerns, safeguard our environment and ensure continued prosperity for our agri-food sector.” He goes on to say, “[N]ew standards would immediately be established for the new construction or expansion of large livestock operations. These standards would be applied to existing larger animal operations within three years, and appropriate standards for all other farms would be phased in over five years.”

He made some commitments right there in his speech. Then he talked about the following steps: developing in partnership “strong new standards for all land-applied materials containing nutrients relating to agriculture, including livestock manure” etc, etc. He said, “We propose to establish and deliver the required education, training and certification programs,” and he ended with, “We know just how important it is to every one of us who lives in this great province to make sure we do this right.”

He talked in his speech about the need to make this happen quickly, but there's absolutely nothing anywhere

in the bill that compels the government to meet the goals that the minister himself outlined. Because of the concerns expressed—and we all know that before the incidents in Walkerton there had been some issues here, not just around the so-called factory farms or intensive livestock but overall. I think it's really critical that we establish time frames so it will become a major priority to get the consultations done and get the act in place.

1700

Mr Galt: I empathize with the concern the member is putting forward, but this clause would appear to require that all regulations contemplated should be prepared within six months or not at all. This is contrary to the government's stated intent that this act will allow for continuous improvement. As the need arises for new regulations, the act presently allows for their creation over time. This clause is unnecessary and limiting. It would not improve the ability of the act to deal with environmental issues or changes to farming practices that may arise in the future.

Mr Peters: I just want to echo similar concerns about trying to get a time frame. Every one of us wants to have this in place as quickly as possible. The government is going to have to move very quickly anyway, because you have interim control bylaws that municipalities have put in place. They've renewed those interim control bylaws, and an interim control bylaw can only be renewed once. These bylaws are going to be running out next year so they are going to have to move quickly.

My concern is that tying the hands—how quickly are we going to deal with the golf course issue, as an example? We heard earlier that that is going to be dealt with in regulations. We need to do everything we can to keep lighting a fire under the government to deal with these regulations, but I would hate to put a time frame in and say that after six months, we're not going to be able to do anything else. I want to make sure that this is a good piece of legislation, and I'm afraid that this could tie some hands.

Ms Churley: I would like to point out, though, that governments can make changes, get rid of or delete regulations any time by order in council. That's one of the specific issues around this bill: it's a framework. What this does is commit the government to speeding up the existing promises that have been made to people to move quickly on getting those regulations in place. But the government can, at any time—it's a complaint we often make in the House, in fact, that we have so much legislation that requires regulations, which really are the meat of the legislation. That's the fact with this. This is not going to happen until we get those regulations in place, but there's nothing to stop the government from proceeding to bring in new regulations if new and necessary changes need to be made. That often happens when new regulations are brought in, for a variety of reasons.

I understand the concerns expressed, but the government's hands aren't tied. The intention of this is to get moving and have it happening over the winter. Spring

is coming and these concerns are going to be raised again after the snow and ice starts melting. We all know that.

It doesn't restrict the government from continuing to work on regulations. It puts a tough time frame on it and makes us get moving.

Mr Galt: In response to some of those, certainly I'm empathetic to the concerns expressed by both opposition members. There's a whole balancing act here. This is approaching two years in the making, and a lot of people would have liked to have had this through much earlier, myself included. We also had the concern expressed by the opposition, and rightly so, that there will be extensive consultations as the regulations are being developed. We also have the issue of interim control bylaws, that they can only be made for one year, with a one-year extension, and then municipalities have to develop their permanent bylaw, which can be quite expensive.

Certainly the thinking right now is all-new construction, as soon as possible. Of course, you're wanting some consultation—that would certainly be looked at, which is where the interim control bylaw comes in—and then start moving through from there. But there's a whole balancing act with all those issues. As soon as we can get this bill through, we'll be on to regulations.

The Chair: Any further discussion? Are the members ready to vote?

Ms Churley: Recorded, please.

The Chair: A recorded vote on the NDP motion found on page 19.

Ayes

Churley.

Nays

Beaubien, DeFaria, Galt, Guzzo, Peters, McLeod.

The Chair: I declare the amendment lost.

Shall section 59 carry? Carried.

Section 60: on page 20 we have a recommendation from the NDP. As before, this is out of order.

Ms Churley: Can I ask why an amendment to delete a section is out of order? I still don't understand why it would be.

The Chair: I'm going to ask the clerk to explain why a recommendation or a motion—

Ms Churley: If it achieves the purpose, as opposed to putting in new words—if deleting a particular section actually achieves a purpose, why would you not be able to do that?

The Chair: Very simply, I understand that if you don't want a section in there, you can vote against it.

Ms Churley: So it's as simple as that, and that's why the wording is "recommends voting against this section."

Mr Beaubien: To be fair to the mover of the motion, they're only recommending to vote against a section. Am I wrong? Isn't that a proper procedure? You can recommend voting against a section, can't you?

The Chair: Yes. We can debate it, we can discuss it, but we can't vote on the motion to vote against something.

Mr Beaubien: So you cannot present a written motion suggesting voting against a section.

The Chair: I guess you could present it and the committee can discuss it, but we can't vote on it, because—

Ms Churley: That's fine. I just wanted clarification. I haven't done this in a while. You're quite right. As long as we can discuss it, you're certainly right that voting against it achieves the same purpose. So I now have an opportunity to talk about this particular non-amendment?

The Chair: Yes. We can discuss this, certainly. We can discuss your recommendation.

Mr Garry J. Guzzo (Ottawa West-Nepean): Free advice is always worth the price.

Ms Churley: It certainly is. We get a lot of free advice around this place.

This last section is an extremely controversial one, one where we heard both sides of the issue. The section deals with the question of municipal bylaws. We heard from AMO and we heard from many in the farm community and from communities, as well as from environmentalists, and we heard both sides of the issue.

I understand the concerns expressed on both sides, but I was particularly concerned about the submission by AMO. I want to remind people about AMO's concerns and what they had to say in their submission. They generally supported the bill and the movement forward. They had some concerns, and one of their major concerns was the municipal planning powers. I've made this point before, and I want to make it again for the record.

What AMO said in their submission is, "The legislation draws into question the impact of provincial regulation of nutrient management on the planning powers of municipalities. Section 60 would make municipal nutrient management bylaws inoperable if the subject matter is already addressed in regulation.... It is not yet clear which authority will decide whether a municipal bylaw, especially one based on the Planning Act, conflicts with a provincial regulation."

They go on to say, "This legislative override may restrict the ability of councils to limit large-scale operations near sensitive areas,... aquifers, environmentally sensitive lands, urban areas, beaches or tourism areas." They go on to express real concern about that. They made the point that municipalities need to have the ability within their own planning acts to have a say in land use and land planning in their own regions.

1710

I mentioned previously that there was a Supreme Court case recently in Hudson, Quebec, around pesticide use. It was the same kind of situation, where the municipality of Hudson tried to ban pesticide use in its own municipality. It went all the way to the Supreme Court because the province said they didn't have the authority to do that. The Supreme Court ruling was very

clear that in fact they did have the authority in their own municipality to have some control over land use.

That's the same kind of situation here, and I'm very concerned when AMO, which, as you know, represents almost all of Ontario's 447 municipalities and a membership representing 98% of Ontario's population—they point out that of course many of these members come from rural and small-town Ontario. ROMA was part of their presentation.

It is also true that community groups, environmental groups and others expressed this same kind of concern. I'm not going to cite some of the things that have happened in certain areas that we were all made aware of at committee level and why this is so important to municipalities.

I recognize the other side, and it was presented to us as well. There is concern by some of the farm groups that nuisance—tourists and more people from the city move into rural areas and start movements to try to get rid of farms. These kinds of concerns were brought up, but one of the arguments we continually make is that local government—in most every other area of legislation we bring in, we try to the extent possible with the Municipal Act, although it hasn't gone very far in that direction. There's more and more of a call from municipalities, not just cities but smaller towns as well, since they've been downloaded so many more responsibilities, that they have the authority to make decisions, to raise money and to do the things to allow them to do the job they have been handed. This goes against the grain. It's taking away a power they already have and many feel they need because of the controversies and difficulties in some areas where there are already huge problems, which we've all been told about.

That's why I put the amendment forward, recognizing that it's been ruled out of order. Of course I have the opportunity to vote, but I just wanted to put on the record why I put this before us.

Mr Galt: I'd like to make a couple of comments to help clarify this. The intent of section 60 is for the regulations to supersede municipal bylaws that are in place at the time the bill is passed, as well as the new ones developed later. This section is intended to deal with any municipal bylaws, whether they are passed under the Municipal Act, the Planning Act or any other authority that allows the passing of bylaws. One of the needs that has driven the preparation of the Nutrient Management Act, 2001, was the patchwork of municipal bylaws that currently govern the land application of nutrients. There was an expressed need from the farm organizations, the municipalities and other stakeholders for a comprehensive approach to the issue that would include tough, clear standards.

To delete this clause would allow for the current system to continue. There would be no certainty for the farm operator from one municipality to the next. There would be no clear standards, as they would vary from township to township. To encourage this type of system would negate the value of Bill 81 completely.

This section is essential to the creation of a uniform set of standards that can be based on individual, site-specific features. One set of standards does not automatically assume that the rule is the same across the province. One set of standards means that the same environmental checks are taken into account across Ontario, based on such information as the specific local soil type, slope and area of environmental considerations. The same standard would be applied to ensure that all municipalities are treating the farm operations in a consistent, safe, environmentally protective manner.

Mr Peters: We won't be supporting the resolution; rather, we will be voting in favour of section 60. A lot of it is because we want to have a level playing field province-wide and the concern that that wasn't necessarily the case right now with different bylaws.

But there are some issues that are going to have to be addressed in the regulations. The one that really stands out to me was the land ownership question in various bylaws. One township said you had to own 20% of the land, one said you had to own 30%, another said you had to have 40% of the land. That's going to be a real challenge and something that's going to have to be addressed at the regulatory stage. I would hope that the ministries'—either environment's or OMAFRA's—legal counsel have reviewed situations such as West Perth, where there was a legal challenge to a bylaw. Have these court challenges been reviewed and is the government confident that we're not going to end up having small court challenges across this province? More importantly, has the West Perth case been examined in light of what's in front of us?

The Chair: Further discussion? Are the members ready to vote? Shall section 60 carry? All in favour? Those opposed? I declare section 60 carried.

I see no further amendments. We could—

Mr Peters: I don't know whether the parliamentary assistant is in the position to give us some idea as to—or maybe this has to be left to the minister. We've got to get this passed. It's only had first reading.

House division bells were heard to ring.

Mrs McLeod: Excuse me for interrupting. I'm not sure whether this is quorum or if this is actually a vote call. There was some thought that the debate might collapse and the vote would be called early.

Ms Churley: I think it may be a vote, because I was going to go in and try to speak, but they said it was too late.

Mrs McLeod: It is a vote. We'll have to adjourn the committee, Mr Chair, and resume for the final consideration after the vote.

The Chair: How many minutes do we have?

Mrs McLeod: Mr Chair, if you're thinking of not coming back, as the opposition whip for the committee I did want to raise with you the fact that we will be concluding clause-by-clause on this bill with two days remaining to the committee. I wanted to ask you to have some discussion about how we will use the remainder of the committee's time, so I would appreciate being able to come back after the vote.

The Chair: OK. Is the committee amenable to that? We will recess for the vote.

The committee recessed from 1719 to 1741.

The Chair: If we could reconvene, committee, as I understand it, we passed section 60. It did carry. When the bells started ringing, I pointed out that there were no amendments brought forward for section 61 on. For the purposes of voting, shall I collapse sections 61 through to and inclusive of section 67? I'll put the question. Shall sections 61 to 67, inclusive, carry? Carried.

Shall the long title of the bill carry? Carried.

Shall Bill 81, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? I will so do.

Mr Peters: On Bill 81, before you go to something else, I wanted to make a couple of comments. I hope that at some point maybe the minister can give us some idea of the timelines and spell out what the consultation process is going to be for the regulations.

I want to go on the record. One of the things we didn't hear a lot about—and we talked about this—was the whole question of septage and pulp and paper. I would hope that as the regulations are being developed, we're going to have some further work done. Septage is potentially going to be a big issue. If we're not dumping it on the fields, which is the right way to go, we've got to find a place to put it. You've got cottagers all over the north and a lot of rural properties on septic systems, so that's an issue. We need to put the challenge out to do that.

I just want to go on record and say thanks to George Garland. George was the one trouser who, like yourself, Mr Chairman, made it to all the locations. George did a lot of work leading up to this legislation and in talking to people. I just want to offer my thanks to you, George, for what you've done.

The Chair: Certainly on behalf of the committee we do wish to thank George, and for other assistance we received from staff when we were on the road.

Mr Galt: If I can toss in a comment, Chair, I support Mr Peters in his comments on Mr Garland as well as the rest of the staff. They've been very diligent in working to get this bill through. I know we dragged George all over the countryside prior to the committee meeting, when the task force was out there going hither and yon. It has been quite a long ordeal, and they're not finished yet. They have a lot of work with regulations.

Just a comment or two. This is really preventive legislation we're putting through to try and ensure that water and land and air are well protected. I thought maybe you were going to ask about the speed of the legislation going through and how quickly that would happen. I can assure you that with all-party agreement we could get it through tomorrow, through second and third reading, if the other parties were so inclined.

Mr Guzzo: If you had it printed.

Mr Galt: Well, we might even be able to do it with unanimous consent. It's amazing what can be done. Then we could get on with the regulations and might have

some in place for the 1st of January. Maybe the other two parties would like to—

Ms Churley: That's not going to happen.

Mr Galt: Well, they're anxious to get things moving. We could get on with consultation in December and get some of those priorities in place. I know you're enthused about the legislation and look forward to its speedy passage.

The Chair: Should we maybe wrap up any discussion on Bill 81, and then if there's other discussion—

Ms Churley: If I can still talk, I want to join in thanking the staff for their very hard work on this bill. I know they've worked extremely hard. Make that unanimous.

In response to Mr Galt on the possibility of passing this bill immediately, I want to reassure the staff that that's not going to happen. I showed good faith today. We were allocated three days to do the amendments for this bill, but I recognized the urgency, although, as you know, I have lots of problems with it. I'm interested in the regulations and that being done as speedily as possible, recognizing that the staff is going to have to put a lot of work into making that happen.

There are many other important bills as well that we're trying to get through the House. I imagine that this one will be subject to a long list of negotiations of what gets passed and what doesn't. I believe we'll be discussing that. We now have two extra days that were allocated for clause-by-clause on this bill, and those days are now available. But as you know, Mr Galt, there are a lot of other bills sent to other committees that haven't been heard yet. I just want to put on the record that New Democrats are happy to sit right until Christmas Eve and we're happy to come back in early January and continue debating and passing important legislation.

Mrs McLeod: Mr Chair, we had some informal discussion prior to the committee coming back. The issue I wanted to raise, and I'll just mention it for the record, is that there were three days time-allocated for clause-by-clause on Bill 81. We've completed the clause-by-clause hearing in a day, and that means there are essentially two days of scheduled time that will not be used for government business. We have Bill 86 before us. It can be moved up by one day, according to the subcommittee report. Whichever days are used for Bill 86, it still leaves us with two days scheduled for the committee. There are a number of outstanding private members' bills, and I would ask that the subcommittee be convened so we can consider using this committee time for private members' business.

The Chair: I think all three parties have discussed several times for a subcommittee meeting tomorrow?

Mrs McLeod: Yes.

Ms Churley: It's either going to be at 1 o'clock or right after routine proceedings.

The Chair: Any other discussion before we adjourn? This standing committee is now adjourned.

The committee adjourned at 1749.

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