



Legislative Assembly  
of Ontario

Third Session, 37<sup>th</sup> Parliament

Assemblée législative  
de l'Ontario

Troisième session, 37<sup>e</sup> législature

**Official Report  
of Debates  
(Hansard)**

**Journal  
des débats  
(Hansard)**

**Thursday 17 October 2002**

**Jeudi 17 octobre 2002**

Speaker  
Honourable Gary Carr

Clerk  
Claude L. DesRosiers

Président  
L'honorable Gary Carr

Greffier  
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ASSEMBLÉE LÉGISLATIVE  
DE L'ONTARIO

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*The House met at 1000.  
Prayers.*

PRIVATE MEMBERS'  
PUBLIC BUSINESS

ONTARIO WATER RESOURCES  
AMENDMENT ACT, 2002  
LOI DE 2002 MODIFIANT LA LOI  
SUR LES RESSOURCES  
EN EAU DE L'ONTARIO

Mrs Marland moved second reading of the following bill:

Bill 183, An Act to amend the Ontario Water Resources Act / Projet de loi 183, Loi modifiant la Loi sur les ressources en eau de l'Ontario.

**The Acting Speaker (Mr Michael A. Brown):** The member for Mississauga South has up to 10 minutes for her presentation.

**Mrs Margaret Marland (Mississauga South):** It feels strange to open a debate on a private member's bill that is virtually the same as a bill I introduced some 13 years ago, in 1989. At the time, I was environment critic for our party. We had a Liberal government sitting on this side of the chamber and my friend the member for St Catharines was Minister of the Environment. My bill was unanimously supported by all three parties but died on the order paper.

Since then some things have changed very little: like a public worried about the safety of our drinking water and drinking more and more bottled water, believing it to be safer than tap water—an increase in consumption of 45% in the last three years alone; like federal regulations for bottled water that are outdated and inadequate; and like a complete absence of Ontario standards for bottled water.

Presently, the provincial government only controls the taking of water for the purposes of bottling under the Ontario Water Resources Act.

I want to state upfront that my bill is not intended as a criticism of the bottled water industry. To Health Canada's knowledge, no water-borne disease outbreaks have ever been associated with drinking bottled water in Canada. Indeed the Canadian Bottled Water Association asks its members to comply with association standards and more rigorous testing than Health Canada requires, but only 85% of water producers belong to that association, and its standards are voluntary.

If there is one thing all the parties in this House surely can agree on following the Walkerton tragedy, it is that we cannot be too careful about monitoring water safety. Sadly, Walkerton has led even more people to assume that it is safer to drink bottled water than tap water. I have talked to young mothers who make baby formula with bottled water. When I tell them that tap water is much more strictly regulated for safety than bottled water, they are astonished.

But make no mistake, the consumption of bottled water will continue to increase. Not only safety concerns are driving demand up. For many people, it's a dislike of the taste of treated tap water. Bottled water is also a convenience product in our fast-paced lives.

God forbid that we should ever experience a tragedy like Walkerton from the consumption of bottled water. But what if it happened? Who would be held responsible? Would the public say, "It's OK, province of Ontario. We know the federal government regulates bottled water, so it's not your fault"? I think not. Could you accept an explanation that the province's responsibility, under Canada's constitution, for the management of water as a resource does not include water sold in bottles? Would you be satisfied, when the provinces are free to establish stricter standards than Health Canada's minimum standards for bottled water, that Ontario did not see a need for action, even though Quebec did? Ontarians should be able to assume that any water they drink, whether from the tap or bottled, is safe and meets strict provincial standards.

How do we correct the lack of provincial standards for bottled water? If passed, my private member's bill will give the province the authority under the Ontario Water Resources Act to prescribe standards similar to those for tap water. It will create a new section 34.1 that forbids selling or offering to sell, for human consumption, bottled water unless that water meets the standards that are prescribed by the regulations to the act. It will also create new clauses in subsection 75(1) to authorize regulations prescribing standards for bottled water, and for the manufacture, repair, service and sale of bottled water dispensers. In other words, it will put tap water and bottled water on a level playing field when it comes to regulating safety and quality.

I want to spend a few minutes demonstrating why the federal regulation of bottled water is inadequate compared to Ontario's existing, much stricter provincial regulation of tap water.

Bottled water is regulated as a food product under division 12, "Pre-packaged Water and Ice," of the federal

Food and Drugs Act. But these regulations, developed in 1973 with minor amendments in the 1980s, are badly in need of updating.

Current federal regulations do not contain specific, detailed parameters for chemical and radiological contaminants in bottled water, other than setting limits on arsenic and lead, nor do they require analysis of ground sources, conditions resulting from natural runoff through aquifers, etc. Moreover, the federal regulations do not oblige manufacturers to observe the guidelines for Canadian drinking water quality during the production of bottled water.

Federal inspections of bottled water focus on bacterial counts; however, there are several other important measures of water safety and quality. As well, federal regulations do not require labelling that clearly classifies the many types of bottled water, such as spring and mineral, being sold today. There are other ways bottled water labels can mislead. As Ed Oliviera, manager of water plant operations for the region of Peel, pointed out to me, a label showing the amount of lead present to be zero is meaningless. Lead, a heavy metal, needs to be measured in parts per trillion. Rounded off to zero, there could still be dangerous concentrations present.

In September 2002, the federal government released a white paper seeking input on proposed new regulations. A firm set of regulatory proposals is expected in 2003. But even if the federal government corrects these deficiencies, there remains a critical problem with the federal regulatory scheme. Quality control occurs through inspections by the Canadian Food Inspection Agency. Although regular, these checks are no match for the exhaustive testing required of municipal water supplies.

Just consider the testing done in my home region of Peel, as required under Ontario's drinking water protection regulation. With the second largest water treatment system in Ontario, Peel performs more than 100,000 tests per year. They test for 104 chemical parameters; there are more than 26,000 of these tests per year. Bacterial tests, for example, for E coli and total coliform are done daily, for a total of 12,000 tests per year. Other tests—for example, turbidity, pH, temperature, chlorine, ammonia—are also performed several times a day.

This intense scrutiny is required under Ontario's tough regulation, updated in August 2000 as part of Operation Clean Water, the most comprehensive strategy ever undertaken in this province to ensure safe drinking water.

Consumers deserve to know that bottled water is also subject to strict provincial standards. By adding the regulation of bottled water to Operation Clean Water, we would achieve that end.

What, you may ask, will be the cost to our government and to Ontario's taxpayers of the rigorous testing this bill will require? As water is bottled by private companies, the cost will be borne by the industry itself. Companies belonging to the Canadian Bottled Water Association already do much more testing than the federal regulations require as part of the requirements for membership in the association.

#### 1010

In other words, Ontario regulations will simply create a legal requirement for what many companies already do on a voluntary basis. For these responsible businesses, additional costs should be minimal.

I wish to express my appreciation to all the members in this House who will be participating in this debate. As well, I would ask that the bill be referred to a standing committee for further deliberation, including discussions with consumers and the bottled water industry. Thank you for your consideration.

**The Acting Speaker:** Further debate?

**Mrs Leona Dombrowsky (Hastings-Frontenac-Lennox and Addington):** I'm very happy to have the opportunity this morning to speak to the bill that has been introduced by the member for Mississauga South. I am also very happy to say that it would be my intention to support this bill. When we consider the intent of the bill, it really is a very important one, to ensure that the water purchased in bottles in the province of Ontario is of the same quality as the water we get out of our tap. I think there is a perception within the public that if bottles of water are purchased, somehow the water contained in bottles is safer than what one might get out of the tap. I think what the member for Mississauga South has so ably pointed out this morning is that in fact it's not the case. I think it is critical that we bring this kind of legislation to the Legislature.

I'm also heartened to understand from the member that it would be her intention to have this bill go to committee to have stakeholder groups have an opportunity to come together and talk about how the bill is good and how we might improve it, how we might make it stronger. I would also suggest that it's a pattern that other government bills should follow, and that other members of the government might follow the example of their member from Mississauga South. Regrettably, the record of this government in terms of which bills get sent to committee is not good. It tends not to want legislation to take, in my opinion, that very important route that offers input from the public about the impact it will have. It also provides an opportunity for the public at large to comment, to strengthen the bill. As the member has indicated this morning that that would be her hope, I hope it would ultimately be the case at the end of this business session that we see the bill pass and go to committee for that kind of scrutiny and review.

I found it interesting as well that in the remarks of the member she pointed out that there has been a 45% increase in bottled water consumption in Ontario in the last three years. That is a significant increase. That is particularly interesting to me, of course, because, as many members of this Legislature would know, I have also introduced a private member's bill relating to water. The member from Mississauga South made reference to the fact that bottled-water-taking is regulated by permits to take water in this province, and my private member's bill was around that very issue. When water is taken from water sources in Ontario, it is required that a permit to

take water is issued. Permits to take water are issued by the Ministry of the Environment, and what I have come to understand is that when such permits are considered, there is an inconsistent practice in terms of the consideration of the community at large and the impact the water-taking permit might have on the community.

While the member's bill deals with quality of water in the province, the bill that I introduced dealt with the quantity. I think that's an important issue as well in the province. Many people are very proud of the many natural resources we enjoy in this province. However, there is now, very recently, a serious concern about our lack of regard for ensuring that there is some kind of regulation to ensure that the quantity of the fresh water we have in Ontario is somehow considered when permits to take water are issued.

The report from the Environmental Commissioner this year, recommendation 2, relates specifically to permits to take water. That recommendation very clearly indicates that the Ministry of the Environment should be more careful and should employ their own statement of environmental values when considering permits to take water. That was incorporated in my Bill 121, that when considering permits to take water, the director, who would have responsibility for issuing the permits, must consider the ministry's statement of environmental values.

Heretofore there has been some concern within communities that that perhaps has not been happening. There have been cases in the province around permits to take water whereby permits for significant amounts of fresh water have been issued and neighbours are worried that their own water sources might be in jeopardy when such large amounts of water are taken from a water basin and put in bottles and shipped outside their community. This water in bottles does not necessarily remain in the watershed, but is exported out of the community and perhaps, in some cases, out of the province.

I was at estimates actually this week. When the minister was asked about permits to take water in the province of Ontario, at the present time there are 5,600 permits to take water. The total draw on our natural water sources is 569,977,693,094 litres. It's significant that water is being pulled out of water sources in the province and, I think, a very good reason why, when permits to take water are issued, there needs to be a more comprehensive process in place to ensure that truly an ecosystem approach has been taken and that we don't have situations where water sources are ultimately or eventually going to be drained or it is going to have a negative impact on water sources or wells around a water source that would be used for bottling purposes.

With respect to the bill that we have before us today, the member has very appropriately and responsibly recognized that, given the fact that consumers in the province have the misconception that somehow water purchased in bottles is safer than water that might come from the tap, it is absolutely appropriate that we would implement legislation to address that and to correct the situation so that water in bottles is as safe as what we get

out of the tap. For that reason I am very happy that I am going to be able to stand in my place today and support this bill that has been brought by the member for Mississauga South.

**Mr Tony Martin (Sault Ste Marie):** I first of all want to commend the member from Mississauga South for bringing this bill forward. I think it's a bill that does meet some requirement to protect the public interest and should probably be supported. I'm here this morning listening. I listened to her. I listened to the Liberal member who just spoke as to why we need this further regulation. I'm trying to get straight in my head why it is that at this time in our history we have become so dependent on bottled water that we need to put in place these kinds of protections.

I don't know about you, Speaker—you come from Algoma-Manitoulin—but up in our part of this province it wasn't that long ago that we would laugh when people talked about drinking bottled water. It was a joke, with all the water that we had in Canada. We were surrounded by it everywhere and it was clean; you could go swimming and boating. The only bottled water we drank—I said this last night—was at the end of a day when we were tired and sweating and we had drunk the bottle of pop that we had brought along and it was empty, and we dipped it in the river or whatever and we drank it. That was the bottled water that we drank. To think for a second that anybody would be paying for a bottle of water was unthought of, but here we are, 10 or 15 years later, and we are standing in our place in the Legislature debating regulation to protect people from possible contamination of water that would come to us in bottles.

**1020**

We certainly, in this caucus, suggest that we should first of all be doing everything in our power to make sure that the water that comes from our tap, that we and our children walk up to every day and turn on, continues to be clean, safe and readily available and thought of as healthy for us, whether it's to drink directly or to make coffee or tea with and that kind of thing.

We believe that water should be available safely and readily through the tap, and the fact that consumers are spending money on bottled water indicates that the public doesn't trust that their drinking water is clean. That may be a message today that is being sent out there, or certainly it's one that is out there and that we may be confirming: that the public doesn't trust that their drinking water is clean. Certainly since Walkerton that's more the case. I've heard more comment in my own community over the last year than I heard for the first 11 years of my time in this job about water and concern about water, and requesting testing and asking questions about testing.

Of course, drinking water is a critical issue in Ontario, but the problem is not bottled water, although I agree we need to consider bottled water. Walkerton didn't happen because of bottled water. It happened because the Conservative government, of which this member is a part, cut the staff and resources that would have prevented the deterioration of water systems in the province.

The cutting of the staff in the Ministry of the Environment was a direct result of recommendations made by the Red Tape Commission that we talked a bit about last night. I don't think anybody in this place understands where they get their power, who resources them and why it is that they weigh the influence they have on decisions made by this government, but it was a direct recommendation by the Red Tape Commission, in terms of some of the regulations and standards that existed where the environment and water was concerned, that gave us Walkerton.

So this government cut the staff and resources that would have prevented the deterioration of water systems in the province, and now we have across the province municipality after municipality desperately, in vain, trying to find the money they need to upgrade their systems because they can't trust the water around them any more.

It happened because the government failed to enact its own statement of environmental values which states that it would take an ecosystem approach to watershed planning in the province. Ecosystem: I don't know if the government understands that concept. It means everything is connected, that you can't cut down too many trees, you can't dump toxic waste, you can't kill too many animals. You've got to keep a balance of things in place if you're going to have a clean environment and, in this instance, if you're going to have clean water; you've got to take an ecosystem approach. The government has failed to act on that by putting in place the kinds of environmental rules and regulations that would make sure that was in fact the case.

In Canada, one of the biggest countries in the world, with all kinds of natural resources—I had a group here a couple of weeks ago from Ireland; we introduced them in the House. We flew them from Sault Ste Marie to Wawa, and they couldn't get over the vastness of this country, the number of trees that were out there, the water, the lakes, the rivers that were there. We told them that today in Canada—because it's all interconnected—none of those waterways is completely safe, that we can no longer, paddling down the Montreal river, whichever one of the Montreal rivers you're paddling down in this province, just dip a cup in the water and drink it and think it's going to be absolutely safe and not think for just a split second that maybe there's something in that water—because there are all kinds of things going on out there that affect the toxicity of that water. My Irish friends were appalled that this was the case, that we allowed the deterioration of our environment to the point where now we even questioned the safety of the water out in those remote, far-flung portions of this jurisdiction that we govern over. But that's the case and it's unfortunate. Communities are having an awful time trying to come up with the money to purchase the technology that's necessary to protect their citizens against the possibility of their water not being clean.

The Conservatives also have not solved the problems with, and they have not restored public confidence in, drinking water in Ontario since Walkerton. Over 40% of

municipal water systems in this province are out of compliance with your supposedly tough new standards. Another 60 municipal water systems have gotten extensions on deadlines for meeting these standards. We have communities up in my part of Ontario, in your riding, Mr Speaker, that have been on boil-water orders for over a year now—two years—with no end in sight to when they will be able to tell their citizens, "You no longer have to boil the water; you can simply turn the tap on and it'll be as safe as anyplace else in the province." This isn't in southern Ontario, where you have a buildup of communities, of people living, of problems with waste disposal and traffic and cars and all kinds of industry; this is up in northern Ontario, on the edge of a couple of the biggest Great Lakes that we have going for us, where we have communities now issuing boil-water orders to their citizens. This, five or 10 years ago, would have been unthought-of, unthinkable that that would be the case, that we would allow the deterioration of our system to a point where that's what we're calling for now.

There are 60 water systems to whom you've said, "Go ahead and stay out of compliance for another year or two until you can scrape together the money to fix your problem." Imagine. You've looked at their system, deemed that it wasn't safe, called on them to replace the systems they had in place, or to introduce systems they haven't needed, and then you've said, "If you can't afford it right now, just go ahead, don't worry about compliance, and try to pull the money together," so that you could get out from underneath your responsibility to provide some portion of that money to them.

It's significant; we're talking millions of dollars here. We're talking communities of maybe 100 to 200 people needing to put in place water filtration systems that cost millions of dollars. We're talking an assessment to those folks, if they had to pay for it themselves, of thousands of dollars—people who, in these small communities, are seasonal workers or, at best, working in industries that don't pay substantial amounts of money, and they can't afford to change their systems to be in compliance. So you've said, "Well, don't worry about it." These 60 systems are waiting for money from your failed Super-Build program and you haven't provided it. Nothing; nothing has flowed from that program.

The Conservatives' latest budget stated that they underspent on municipal infrastructure projects last year. In other words, you had the money targeted, dedicated to infrastructure for municipalities, particularly where the safety of their water is concerned, and you underspent. We're wondering, where is that money?

It's a bit like the northern Ontario heritage fund. We discovered that they underspent \$300 million of that fund, and they came back to us to say, "Well, that money is dedicated. The projects have come in over the last seven years and we've set that money aside. Yes, it's sitting in an account somewhere, but sooner or later it's going to go to those projects or those communities that have applied." Well, we say to you that those communities and those projects need that money now,

particularly if they're projects dealing with the cleanliness of water.

So there's \$300 million sitting in a fund someplace that the northern Ontario heritage board has that isn't being spent. There was an underspending in the Super-Build program, where municipal infrastructure projects are concerned. You only spent \$29 million of your budgeted \$200 million for projects that could have brought these municipalities into compliance. Imagine, you spent \$29 million of some \$200 million that was budgeted for these projects. So communities like Bruce Mines, Thessalon and places like that which have had boil-water orders in place for a number of years now, which thought the government was acting in good faith in processing and dealing with their applications, now discover that of the \$200 million that was budgeted in last year's budget, only \$29 million has been spent. They still sit in fear of somebody turning the tap on, not boiling it, drinking it and having the complications that would bring on.

1030

The Conservatives' failure to provide the resources to municipalities that would allow them to bring their water systems into compliance is nothing short of dangerous. It makes your tough new rules almost meaningless, including this little piece of work that we're doing here this morning.

The Conservatives are about to unveil the flagship of their response to the tragedy at Walkerton, a drinking water act. Even though this is built on the foundation of our colleague and New Democrat member Marilyn Churley's Safe Drinking Water Act and has the benefit of the Walkerton Inquiry report recommendations, this bill will be weaker, we suggest, than Ms Churley's bill that came through here last year—not to speak of the fact that we've been told about and been waiting for this Safe Drinking Water Act to come before us so that we could debate it, and it hasn't arrived yet.

It will not accomplish any of the first 17 of Justice O'Connor's recommendations, all of which have to do with the implementation of source protection and watershed planning in the province. O'Connor recommended a source-to-tap approach to protecting our drinking water. The first step in that is protecting the quantity and quality of drinking water as it naturally occurs in our environment. This government has done nothing to accomplish that.

The Environmental Commissioner, who has had a lot to say about water, identified a range of problems with the province's postings to the Environmental Bill of Rights for permits to take water. They reviewed a sample of postings and found a whole list: 46% of the decision notices did not indicate the length of the permit; 49% of the decision notices had a different length than the actual permit. So you get the gist here, the trend. The government isn't taking seriously its responsibility where water and safe drinking water is concerned.

Even though we will probably support the member's bill here this morning, we suggest to her that she go back

to her government, speak to the Minister of the Environment, Mr Stockwell, who is always out there talking to us about how wonderful the things the government is doing are, and tell him that they're not moving quickly enough, that they're underspending the budget that was dedicated by the Minister of Finance last year to deal with infrastructure and municipalities and their drinking water and that they should be doing something about that. Because really, in Canada we shouldn't be so dependent on bottled water that we have to now begin to look at the safety of that product. We should be able to count on the water that comes out of our tap.

**Mr Ted Arnott (Waterloo-Wellington):** It's a pleasure and an honour to participate in this important debate this morning on Bill 183, An Act to amend the Ontario Water Resources Act, that has been brought forward this morning by my friend and colleague the member for Mississauga South.

I feel very privileged and honoured to participate in this debate this morning, as I said, not just because the bill is important but because I have the highest regard for this particular member of the Legislature. I feel privileged to serve with her because of her eloquence in the House and the way that she puts forward the issues that are of concern to her and her constituents. I recall serving with her in opposition, where I felt she was the very best questioner that we had in our caucus in those days, and the compassion that she brings to every issue that she is concerned about. When she was recently serving as minister responsible for children, I saw her in many different circumstances where she was dealing with constituents and people who came to the House, and the compassion that she showed, in terms of how she listened to them and worked hard on their behalf, was something that I always admired; her sensitivity as well; her forthrightness in terms of how she deals with things, the no-nonsense approach—you certainly know where you stand with this member, and that helps in terms of the working relationship that we have; the honesty that she has and the trust that people have in her as a result; the stamina that she shows in terms of her work in the Legislature—17 years representing the constituents of Mississauga South, seven years on Mississauga council before that and four years on the school board. In total, 28 years of service to the people of her area.

I can recall, going back to when I served with her in opposition, shortly after the NDP's first budget where they surprised us with a \$7-billion deficit, or maybe it was \$9-billion, that first budget. We in opposition were attempting to show our opposition to the budget and we were at a GO station in Mississauga South handing out brochures as the commuters were coming off the trains at the end of their day. This member had so much stamina and energy I just couldn't believe it. I couldn't keep up with her after a long day at the Legislature.

Even thinking back to those days, when we were trying as an opposition party to get our ideas out, our leader Mike Harris had an opportunity to go on television to talk about our agenda. We had a document called New Directions, which was one of the precursor documents to

the Common Sense Revolution. We were so pleased and impressed when 13,000 people called our offices to request copies of this document. Of course, we were short-staffed. We only had 20 members, and as a result we had very few staff, but in those days all the members were chipping in to stuff the envelopes. Margaret and I, I can recall, were here quite late one night stuffing envelopes with the New Directions document so the people could have a better appreciation and understanding of what we stood for as an opposition party. Those were the days—weren't they, Margaret?—when I think back.

The principle of this bill, as the member has indicated to me, is that she is attempting to raise this issue in the Legislature, Bill 183, to ensure that the public is equally protected when they're consuming drinking water, whether they're drinking municipal drinking water, in other words tap water, or bottled water. I think that's a very important principle that all of us as members would want to support.

We know as private members, when we're here on Thursday mornings with private members' bills, that when we're debating the bill, we're debating the principle of the bill. The bill, if it's passed by this House at second reading, may very well be referred to a standing committee of the Legislature or may be referred to the committee of the whole. I'm hopeful that this bill will be referred to a standing committee of the Legislature, because at a standing committee there's an opportunity for more discussion on the issue, and I think that's what this member would want in regard to this issue. I think it's important that we as members allow private members' bills to go to committee so that public hearings can take place and members can consider changes, amendments, perhaps, which perhaps will improve the bill. That to me is a very important aspect of our opportunities as members of provincial Parliament.

This purpose of this bill would provide that no one may sell for human consumption bottled water, or water from a water dispenser, other than a water dispenser that is connected to a water distribution system of a municipality in Ontario, unless the water meets the minimum standards prescribed by the regulations made under the act. The regulations can also regulate water dispensers. This bill is similar to the bill that was introduced by this member in 1989 when the Liberals were in power and the Conservative Party was in opposition. At that time, it was Bill 61 and it received all-party support in the Legislature but unfortunately died on the order paper.

As the member has pointed out in her presentation, currently the federal government regulates bottled water as a food product under what's known as division 12, "Pre-packaged Water and Ice" of the federal Food and Drugs Act. But of course, we are aware that it is the provincial governments, under the Constitution, that have responsibility for the management of water as a resource. I know that this member is sponsoring the bill because she believes that Ontario's management of water should include the regulation of bottled water quality and safety.

She pointed out in her speech that the consumption of bottled water has increased dramatically in recent years:

in the last three years alone, I think, the consumption is up 45%. More and more people are drinking bottled water, and in most cases they believe that it is absolutely safe, and some cases the perception by the consumer is that it's actually safer. As the member has pointed out, the federal regulations that apply for bottled water manufacturers are not as stringent as the regulations which affect municipalities in terms of tap water. I think it's important that people know that. It's also important that people know that the federal regulations have not been revised for a considerable number of years. While the federal government may have a white paper in terms of looking into this issue, white papers sometimes don't proceed very quickly. I think it's very relevant and important that we are debating this issue in the House today.

#### 1040

There's another issue I want to bring up. It concerns my constituency, with regard to regulation 459. This was the regulation that was brought into effect by the government after the tragedy in Walkerton. It's the regulation on communal well operation and the water testing protocol that exists today.

There are a number of communities in my constituency that exist in rural parts of my riding that are on communal wells and that are affected by this regulation. Of course, all of us as members want to make sure the residents of Ontario are consuming safe drinking water. I certainly would concur with that, but I'm concerned about the cost of the testing. This has been brought to my attention by a number of communities in my constituency, people who live in Pine Meadows, for example, which is located in the old West Garafraxa township, now Centre Wellington. Pine Meadows is a land-lease community; in other words, the people who live in the community own their houses but the land the houses are on is leased and there's a developer, a property owner, who provides services for the people who live in the community.

Their water costs have gone up exorbitantly. I've raised this issue on a number of occasions with the Minister of the Environment. I think we need to review the whole regulation. We've got to find a way we can provide the safety and security of our drinking water in a more cost-effective way, and I'm hopeful the minister will review this issue.

In sum, that's my view on this bill. I think it's an important bill that we all need to support in principle, and I would encourage all members of the House to consider doing so. When the bill goes to committee, if it does, we'll have an opportunity to continue to discuss it. If indeed it is passed into law, there will of course be a regulatory power the government will acquire. That will mean, I'm sure, that there will be continued discussions on the regulations that would be forthcoming. When you think of the model of the nutrient management legislation the government has passed, you can see that there is ongoing consultation on those regulations. In the end, I think it's the right kind of process. Certainly that's the process I would recommend for this bill as well.

Thank you, Mr Speaker, and I would encourage all members of this House to support Bill 183.

**Mr James J. Bradley (St Catharines):** I wanted to make a point of being in the Legislature today to support the bill of my colleague from Mississauga South, who raised this issue some years ago.

All of us who are familiar with the field of water protection and water quality would recognize that many people are under the impression that because water comes in a bottle of some kind, somehow it is safer than that of a municipality; in other words, that coming out of the tap. It's going to be difficult, in light of some of the experiences we've had with some municipal water supplies, to convince some people to consume water that comes from the tap. That's most unfortunate. My personal choice is that, for the most part, I consume water that is from the municipal tap. I seldom purchase bottled water, but that is a choice people have.

If it's a choice people have, then it seems to me those individuals should feel protected by legislation; in this case, legislation that would supersede federal legislation to ensure bottled water is at minimum as safe as water coming out of a municipal tap.

I know there are some people who say they don't like the taste of municipal water because it's, well, whatever it happens to be. I can recall that, as to Lake Erie, a little while ago the water in my own community—by the way, we receive our water from the Welland Canal, a wonderful thought before it is processed. There was a feeling the water was tasting very swampy at that time, and indeed it was. The regional municipality of Niagara took action to ensure that was no longer the case. It was expensive but it was worthwhile.

So people have that reason, or they'll think there's too much chlorine in the water for their choice, and will make the choice of drinking water from a bottle. I'm apprehensive that many people think that because it's bottled water, it's automatically better than municipal water. We know that with the regulations that are out there, that isn't necessarily the case. It might be the case, but it isn't necessarily the case. The member brings forward the bill because she believes it should be the case, that it should be equivalent to the quality of water that would be produced by a municipality. I think that's fair.

I have a couple of other concerns about the whole bottling industry, and that is the amount of water being taken from our lakes, rivers and streams across the province. Some of the members, particularly in rural or semi-rural areas, recognize there is a genuine concern about the quantity of water being taken, for a variety of purposes, but some of those purposes are for bottled water works. I hope that in another piece of legislation we can deal with that. I know my colleague Mrs Dombrowsky had a bill before the House that dealt with the quantity of water that could be taken. Unfortunately, my recollection is that bill has never come to fruition.

One of the things I think we also look at in this hour devoted for private members' public business is that so many bills, as the member has stated in her communica-

tion to us, die on the order paper. What that really means, for the public who watch, is that a bill is indeed passed by the Legislature, but the government of the day, whichever government it happens to be, chooses not to proceed with that piece of legislation. When the session is ended and there is prorogation, that bill is gone and has to be reintroduced and re-debated.

Certainly the tragedy of Walkerton where seven people died and where thousands were extremely ill as a result of drinking municipal water, that incident, that tragedy has increased public apprehension about water and has prompted the government, at long last, to reverse its trend away from less regulation in the field of production of drinking water in the province and toward more regulation.

One of the things the provincial Environmental Commissioner noted in his most recent report was that insufficient action was being taken to protect our water supplies; in other words, the raw water supply. I think we all recognize that while we have some sophisticated tools and technology and science to purify water, as we would say, to at least take the contaminants that would cause us immediate problems out of that water, one of the basic steps that must be taken is that there must be protection of that raw water supply—the streams, lakes and rivers around the province.

The commissioner noted that by 2000 the government, which once had 730 monitoring stations on those rivers, lakes and streams, now had—at least at the point in time the commissioner did the study—240. It was down to 240. I would like to see as well, perhaps in another piece of legislation—quite frankly, I would like to see it in the Safe Drinking Water Act that is purported to be coming soon to this Legislature. I would like to see it included in that act. I am apprehensive that it won't be. It should be.

There is the issue, as well, of private labs that do the testing and the supervision of those labs. We want to ensure the provincial government is doing the appropriate job in setting out the rules and regulations, and then inspecting to ensure those rules and regulations are followed. Unfortunately, from time to time it happens that is not the case. There are some laboratories that have given a bad name, unfortunately, to all laboratories. One I can think of is Fine Analysis Laboratories in Hamilton, which has been involved in some legal action against it. Therefore, people started to be apprehensive about all these laboratories.

I do intend to support this legislation. I hope it does not die on the order paper, if it receives unanimous support in this House.

**1050**

**Mr AL McDonald (Nipissing):** It gives me great pleasure today to speak to Bill 183, An Act to amend the Ontario Water Resources Act.

I must commend the member from Mississauga South, Margaret Marland, whose work on behalf of her constituents is well known here at Queen's Park. She's a tireless worker. Her bringing this bill forward has shown her commitment to a safety factor for individuals in the province of Ontario.

I think of my riding of Nipissing: we're surrounded by lots of fresh water; we have Trout Lake, which the city takes its water directly out of, right now just through a UV system. Of course, Lake Nipissing should be the sixth Great Lake in Ontario.

But having said that, with water obviously we have a responsibility to assure the people of Ontario that it's safe to drink. Here's a case where bottled water is becoming so popular these days. Although the bottlers of this water do a tremendous job—and by all means it is not a slight against them, in whatever way people want to push. I think they do a great job, and there haven't been any problems.

Having said that, obviously we need to consult with these bottlers. We have to assure the citizens of Ontario that should they unscrew the cap on that bottle, what they're drinking is safe. From what I understand, these bottlers have done a great job and there haven't been any problems. If anything, they're probably very responsible business people, very responsible manufacturers. But it's still important that there be some type of regulation, so that when I undo that cap I know the water is safe to drink. I think what this bill speaks to is the fact there haven't been any problems, but how do we reassure the citizens of Ontario?

I think they would probably agree with this bill as well, when we sit down to talk to them, because they want to be able to be proud of their product. They want to be able to stand up and say, "Yes, if you unscrew that cap on that bottle, you're drinking very safe water." If anything, I believe their sales will increase, because the confidence of their customers is in knowing the government has taken the necessary steps to put in place those safety margins. I think that's crucial.

I know that any time you're in business, you want to reassure your consumers that whatever product you're giving them is safe. There have to be standards you go through. From what I understand, they have standards and they've been doing a great job. But if we're importing bottled water from the United States, is there the same process that Canadian business people go through? Are there the same standards? Are we maybe exposing the people of Ontario to unsafe drinking water that might be imported into the country?

I think we have to look at all the different avenues. From what I understand, this is going to be referred to committee to consult with manufacturers, with consumers and with all parties in the Legislature. I think it's key that we look at that and study it further and make all the right recommendations, so that when we bring this bill forward again, there is protection for all.

This government has helped business and has created so many jobs. I think it's important that we keep doing that. I believe we want to create economic development and jobs for the people of Ontario. By the same token, there has to be protection for the consumer. I think there's a good balance there. I believe we can find a great balance there, so that all of a sudden their product will see increased sales because the consumer will have confidence in that water. I really believe that's key.

There are going to be discussions, pros and cons, on this act, and so there should be. We should be able to weigh what might hurt these manufacturers. That's important. We don't want to cause them additional grief. We want those jobs. We want business to survive in this province. We want consumers to buy their product because that's going to create additional employment for us.

What the member from Mississauga South is proposing here is saying, "What they're doing is wonderful, but let's take that extra step, let's make sure that our consumers, the people of Ontario, have the safest drinking water, regardless if it's out of a tap or in a bottle." I couldn't agree with her more that safe drinking water should be non-negotiable. I think we should all as members stand up and say, "Yes, we will provide safe drinking water, in bottle or tap, to the people of Ontario."

**The Acting Speaker:** Response?

**Mrs Marland:** I thank my colleagues in the House the members for Hastings-Frontenac-Lennox and Addington, Sault Ste Marie, Waterloo-Wellington, Nipissing and Timmins-James Bay. I very much appreciate the fact that the member for St Catharines, Jim Bradley, who is a former Minister of the Environment himself—I may add that I've always said about Jim since I was his environment critic, and I worked very hard at question period asking him questions, that I always found he was one of the best environment ministers we've had in terms of responding to questions and to other people who were representing the interests of people in this province.

I simply would say in closing that the CBC News in May of this year, through an Environment Canada statistic, reported that less than 3% of municipally treated waters are used for drinking, and therefore more and more bottled water is being consumed instead. We have a huge obligation on behalf of the people of this province to at least give the bottled water they drink the same provincially regulated standards as the tap water they also drink.

I think it is very significant that Quebec has already protected their residents. If Quebec can protect their residents with provincial standards for bottled water, then that's the very least we can do for ours in Ontario. I thank all members for their support.

**The Acting Speaker:** This completes the time allocated for debate on ballot item 61. I will place the question to decide this matter at 12 noon.

1100

HIGHWAY TRAFFIC AMENDMENT ACT  
(CELLULAR PHONES), 2002  
LOI DE 2002 MODIFIANT  
LE CODE DE LA ROUTE  
(TÉLÉPHONES CELLULAIRES)

Mr O'Toole moved second reading of the following bill:

Bill 49, An Act to amend the Highway Traffic Act to prohibit the use of phones and other equipment while

driving on a highway / *Projet de loi 49, Loi modifiant le Code de la route pour interdire l'utilisation de téléphones et d'autres équipements pendant la conduite sur une voie publique.*

**The Acting Speaker (Mr Michael A. Brown):** The member for Durham has 10 minutes for his presentation.

**Mr John O'Toole (Durham):** I apologize for being late. We just finished doing a press conference on this important issue, Bill 49, An Act to amend the Highway Traffic Act to prohibit the use of phones and other equipment while driving on a highway.

Each of us has witnessed what I would describe as driver distraction on our roadways. Some would call it multi-tasking. I commute from my riding each day and the drive is anywhere from an hour and a half to two hours, each way. I see everything from many coffees to reading the newspaper, reading a book, putting on make-up, combing hair, drying hair and shaving. It became more and more apparent to me that, as to driver distraction, one of the main contributors is the emerging and escalating use of cellphones while driving. So it's the issue of driver distraction and driver attentiveness.

Whether it's all the issues I mentioned or quarrelling with the children or with someone else in the car, or being distracted, it's just not acceptable.

I've worked with Mark Stone, who's a constable with the Durham Regional Police. He's in attendance this morning. I first introduced the bill in 1999. When I did, I spoke in the House on first reading, and have been watching it very closely ever since. Of course the House was prorogued in 1999 and I reintroduced the bill.

The purpose of the bill is to help reduce the number of accidents on Ontario's roads by banning the use of hand-held cellphones while driving. Bill 49 would also mandate the collection of data when investigating an accident site to see and determine if technology was a cause of the accident or affected the accident. This is similar to the current practice for accident investigations when the question is, was the use of alcohol involved in the accident? Was the failure to wear a seat belt a factor for the accident investigation? It requires the collection of data on accident investigation scenes.

If passed, Bill 49 would provide law enforcement officers with a more effective tool, I would put to you, to help ensure the safety of Ontario's motorists.

Bill 49 will also help to educate and draw drivers' attention to the problem, and make them think twice before taking their hands off the wheel to dial their cellphone, in fact to hold their cellphone.

What I'm recommending here is about the use of hand-held, voice-activated phones. I've spoken with the Canadian automobile manufacturers' association, I've spoken with the Canadian wireless association, and they are looking at making it more convenient and more user-friendly.

I want to put to you that a complete ban, in my view, is not the right move at this time. I could probably make the case that having a cellphone in the automobile is a safety cushion. It's a piece of contact with the outside

world. My young daughter Marnie was coming home from university in the wintertime, and late at night, around 10:30 at night, she phoned. She had a cellphone. She wasn't on a 400-series highway. She was alone and she had a flat tire and had slid a little off the road. Her phone was a lifeline to the outside world.

So an outright ban is impractical. In an emergency situation, if you're going to be late for a meeting, a quick call would say, "I'm going to be late. Please understand." Also there is reporting an impaired driver, reporting an accident scene. There are many applications where a cellphone could be a contributor to making our roads safer and our people feel safer.

If passed, my bill would result in a fine. Today the tool the police have to effectively enforce this issue of driver distraction would be a careless driving charge, which would be a fine of over \$300, probably a court appearance, six demerit points, probably an impact on your insurance bill, and at the end of the day, if there's an accident, a careless driving charge can and probably should be laid.

What I'm giving here is a tool which would allow the police to intervene with someone who is perhaps operating the motor vehicle in an inappropriate manner, to notify them that the use of a cellphone was the cause and to give them a ticket. That ticket would be a reminder. I put to you on the reminder that they would have to possibly go and take a little course to refresh their driver attentiveness.

Using other devices such as fax machines, pagers and other kinds of converging and emerging technology in the automobile is also part of this bill. Cellphones operated in a hands-free mode would be exempt. Emergency personnel would be exempt: police, fire and ambulance. The use of cellphones to report an emergency, an accident, an unlawful act or road conditions would also be exempt.

I can tell you that there have been many cases. Recently I attended the inquest that was held in September in Durham which had to deal with the most prominent case of record recently, where a 31-year-old man and his two-year-old daughter were tragically killed when their vehicle was struck by a train. From the investigation it would appear that the father had just finished holding the cellphone to his daughter's ear to say goodbye to her mother. At the time of the accident he had taken the phone back, but there was about 28 seconds between the sounding of the horn, the gates going down, and when the crash occurred. So driver distraction was demonstrated to be a cause of the accident.

There were two really important recommendations from the inquest—there were five, in fact, but I'll just read two that I thought were appropriate to where my bill would improve the situation. I quote the coroner's jury.

"Legislation should be considered to prohibit the operator of a motor vehicle from using a cellphone while engaging in the operation of a motor vehicle."

Number 2, the jury also recommended, and this is very important, that a task force be established to undertake further research about the risks of driver distraction.

I'm encouraged by speaking with our Minister of Transportation, the Honourable Norm Sterling, as well as our Solicitor General, Bob Runciman, that indeed with the support of the members in the opposition and third party this bill will pass. My preference would be to send it to the standing committee on general government for further public consultation on the broader issue of driver distraction.

I don't want to disregard the research that has been done in the past, but I also want to establish the point that the study by Dr Donald Redelmeier done in 1997—he's a researcher with the University of Toronto—found that a driver using a cellphone while driving was four times more likely to be involved in a collision. I'm saying that many disputed his statistics. This bill requires the collection of statistics and data as we go forward and technology becomes more and more invasive to see if there is indeed a correlation between driver distraction, driver attentiveness and road safety.

In my final remarks, many other jurisdictions, 22 countries in fact, have adopted some prohibitive use of cellphones, most recently the state of New York. I've been in touch with the legislator in New York, and that legislator has told me that my bill pretty well mirrors the bill in New York state, which has prohibited the use of hand-held cellphones, much like my bill. They are now collecting the data. They do see a heightened awareness in the state of New York.

I want to put on the record that Kevin McAlpine, who is the chief of police for Durham region, has also more recently sent me a supportive comment to my bill, as has Craig Bromell from the Toronto Police Association. Frank Murphy, the executive director of the Head Injury Association of Durham Region, has also commented on it. As well, Udo Rauk, who is on the traffic safety committee of the Ontario Association of Chiefs of Police, has said, "Congratulations on your effort to focus on driver distraction and to identify preventative measures for safety and security."

I believe it's clear. The public have spoken. I've had hundreds and hundreds of e-mails, faxes, personal letters and personal testimonies, and about 95%, if not more, say it's the right thing at the right time, it's a good first step. I look forward to the members of the opposition and third party to comment, and indeed the people of Ontario to comment, as the Minister of Transportation and the Solicitor General have led me to believe that we can go forward with this bill and make our roads safer. Thank you for the opportunity to speak this morning.

1110

**Mr Mike Colle (Eglinton-Lawrence):** I certainly applaud the member for bringing this bill forward, because I think it does enhance the debate around road safety, and we need that. The only thing is, I think his solution doesn't really solve what needs to be solved out there. For instance, there's all kinds of conflicting information.

A University of North Carolina study done in the year 2000 showed that cellphone use was only a 1.5% factor

in all distracted driver accidents. I wonder what distracted the drivers in the other 98.5%. I'll tell you what distracted the drivers: drinking coffee, eating doughnuts, talking, fooling around with the car radio, with the sophisticated stereo system. Those are all causes of accidents which are not dealt with and have to be dealt with, because it's all part of distraction. The Automobile Association of America reported in its own study that accidents were more likely to be caused by a driver changing a radio station, adjusting the air conditioning or eating or drinking than by using a cellphone. So there's competing and contradictory evidence in terms of what causes all these accidents.

Even the former Minister of Transportation, Mr Brad Clark, of Mr O'Toole's party, said that he disagrees with banning cellphones because drivers can be fined up to \$325 and lose six demerit points in Ontario for careless driving, and courts can suspend a driver's licence. But as we know, these careless driving fines and cases are very rare in this province. There are not enough. They should be enforcing the careless driving laws.

The Canada Safety Council disagrees with banning cellphones. Council president Emile Thérien, whom I know personally, said there is no empirical evidence linking cellphone use to accidents. He says, "Cellphones are a distraction. But so is coffee, screaming children, adults quarrelling." He says most studies are long on anecdotes but short on facts. He says cellphones are a distraction, but so is the coffee etc. Instead, Thérien says, and I agree, that there should be greater and stricter enforcement of existing careless driving laws, and that would save more lives than a cellphone ban.

As we know, in this province very little is done in terms of educating people about being more careful, not being distracted, by our Ministry of Transportation. They've spent very little time and money and resources educating people about being more careful.

The other interesting thing is, how can you stop people stuck in gridlock on the 401, who are driving five miles an hour for an hour, from answering a phone call from their wife or business associate? How can you tell that salesperson, who's losing hour after hour—and this is not just one day. Day after day there's gridlock all over southern Ontario. People are stuck in traffic. Are you going to tell them, "You can't pick up that phone"? I want to see that enforced. You can't enforce that, because in many ways those same drivers are going to be so angry. They're going to tell you that this is a government that basically has done nothing about gridlock and makes them sit in traffic all day, and then if they want to go to the 407, they have to pay a king's ransom to use it, and now they're going to tell them you can't use a cellphone as they're trying to make their sales calls, trying to get through the GTA and the Golden Horseshoe? You're going to have road rage, because these same drivers that you're going to say can't use a cellphone are going to say, "We as drivers in Ontario pay Queen's Park \$3 billion a year in licence fees and provincial gas tax. You're doing nothing about gridlock, and now you're going to

tell us that you're going to make the roads safer by telling me I can't conduct my business or phone my wife or phone my daughter while I'm stuck in traffic" on the 401 or the 400—you name it. Whether it's Oshawa or Whitby, there is total gridlock. We have taken over from LA as the gridlock capital of North America.

So maybe we should look at doing more public education about being careful in your car. We should be doing more public education about using public transit when we can. This government has ignored those things completely. Now it comes along—I think this member has the right goal and intention, to make our roads safer, and I applaud him for that, but let's look at the root causes of a lot of this careless driving, road rage that exists in this province. It's really abhorrent, considering we're one of the wealthiest jurisdictions in North America, that we can't basically move from A to B, and now we've got a government that's going to come along and tell us, "You can't use that phone."

There are 10 million people who have phones in this country and there have been fewer accidents since the cellphones came into being. There used to be one million cellphone users and now there are 10 million, but the rate of accidents has declined. So how does this make sense, that you've got to equate cellphone use with more accidents?

Sure, they're a problem because people are careless, but they are also careless as they're going to Tim Hortons and they're shoving doughnuts and bagels in their face and drinking coffee and putting on the stereo and doing who knows what in their car. Stick to driving, keep your eyes on the road, get rid of the gridlock, and maybe things would be better.

**Mr Gilles Bisson (Timmins-James Bay):** I'm pleased to be able to participate in this debate this morning. My friend Mr O'Toole brings forward this bill that wants to see the banning of cellphone use in motor vehicles across the province. At the risk of being written up by my friend Mr Brennan, who's up there, I want to tell a little story about one of the conversations I had about this bill. One of our researchers called me the other day and said, "Gilles, I just want to hear you out on what you have to say about this particular bill. I'm preparing the briefing note." Lo and behold, I got the phone call on my cellphone as I was driving my truck to the airport—I thought it was kind of ironic—at which point I did pull over, I must say. I always pull my car over and don't drive when using a cellphone.

I want to take this from a bit of a personal perspective because I agree with the bill.

*Interjection.*

**Mr Bisson:** When I fly my plane, there's no darn way I'm picking up that cellphone. Somebody actually did that on landing one time. I couldn't believe it. Anyway, that's another story.

I just wanted to say from a personal perspective what I think of this, and then from a policy perspective. I admit I was a frequent abuser of utilizing cellphones while driving. I thought, like most people, that you're in-

vincible, you can do no wrong, that "I'm such a great driver and I multi-task. It's not an issue. I can multi-task. I can drive my car, carry on a conversation etc."

I just want to recount one story that really sort of sobered me up real quick in not wanting to do that. I was stopped at a stop sign and was looking at the traffic—gee, my cellphone's going off. Isn't that the funniest thing? Let me get rid of that. It's OK: it's just a buzz. You don't have to worry about it. Anyway, the story is that I'm stopped at the stop sign, and as I'm looking for traffic and deciding if I'm going to proceed across a stop sign, my cellphone rings. I pick up my phone and answer, "Hi. How's it going?" In the period it took to answer that phone and leave, I almost ran over a pedestrian. The person had to slap the hood of my truck to let me know that I was about to run into them.

That really woke me up, because I never saw that person. That person was probably just behind a car rounding the corner, and in the time it took me to pick up my cellphone and open it up, I just lost sight of that person because all my attention was focused not on the physical picking up of the telephone—and this is what I wanted to speak to a little bit earlier—but on trying to concentrate on the conversation. I lost attention to what I was doing, which was driving my vehicle.

As a habitual user of cellphones in the past, I just want to say that I support this bill. It's not just a question of physically hanging on to the phone. It's the fact of carrying on the conversation. What happens is that your attention, even with a speakerphone, basically goes to the conversation you're having with somebody and takes you away from your primary task, which is driving the car. Now what I do is, if my cellphone rings, half of the time I just let it go into the voicemail, but if I feel I have to answer it, I just pull over. I find that's the easiest thing, because it's just so easy to get into an accident. Let alone what I would do to myself, the danger is what I can do to others.

So I support Mr O'Toole's bill. However, I want to say a couple of things about why I think this bill needs to go to committee. Mr O'Toole is putting exemptions into this legislation that I'm not quite clear about, whether it's the right thing to do. We're saying that emergency workers should have the ability to utilize their cellphones. I kind of thought that's why we had radio communication and all that stuff set up in emergency vehicles. I imagine there are instances where they may need to use a cellphone if their radio is not working, but I'm really a little bit muddled on that one. I think you need to take a look at the issue of if it's proper for people to actually pick these things up or to be carrying on those kinds of conversations on cellphones and if there is a potential for people to abuse their ability to use that in emergency vehicles. I think most of the dispatching we do is through the radio anyway, and I wonder why you bring that particular aspect to the bill.

**1120**

The other thing is that regarding this whole idea of saying, "Well, it's OK to have the speakerphones and to

be able to carry on a conversation in your car on a speakerphone,” I don’t do it myself. I refuse to put one of those things in. I’ve tried them before. I put one into my truck for a little test drive. I find they’re just as distracting as the actual cellphone. The darned phone goes off, you’re driving along, you’ve got to press the button on your phone in order to be able to activate the mike, so I’ve got to physically take my eyes from the windshield to get down there to activate the phone. Then all of a sudden you’re having a conversation with somebody, and it’s not like you’ve got a passenger in the car. If I have a passenger in my car and we’re driving and there’s something happening with the traffic flow, normally the passenger stops talking and allows me to do what I have to do to navigate my way through, because they see what I’m trying to do.

I just ask people to think about this for a second. I think people talking in a car and people talking on a cellphone are two different kinds of conversation. If we’re talking to passengers in the car, it’s just, “Hang on a second,” and you do what you have to do as a driver, and the person knows you’re doing that. When I’m having a conversation with somebody on a cellphone and if I happen to be driving and using one of these speakerphones, I’m not at all convinced that it’s any safer than using the actual phone, because the person who is talking to me doesn’t know exactly what I’m doing. You might be driving, you may be on a hands-free system or doing whatever, but it detracts from your attention to be able to do the safe thing, which is to drive.

I want to support this bill. We’re going to vote in favour of it. But I really want this bill to go to committee, and I think the committee has to take a look at this issue and has to bring some of the experts before the committee in order to get a better read on if we should be looking at an all-out ban or if we should be talking about a partial ban such as what Mr O’Toole puts forward.

This is certainly better than nothing, so I support it on that basis, but I think we still need to take a look as legislators at the logic of doing what Mr O’Toole suggests, which is a partial ban. I think we need to take a look at that a little bit more.

That brings me to the other point, which is about how we make legislation and how we develop legislation in this assembly. It has always bugged me, because the government, as opposition members and private members do, when we bring legislative initiatives to the floor, often it’s to react to an issue out there, which is a good thing. Nobody argues that members bringing forward issues and trying to resolve them by way of bills is a bad thing, but often they’re not as well thought through as they need to be, because we don’t utilize the committee process properly. There used to be a time in this Legislature when, if you wanted to pass any kind of a bill, the bill had to have some time in committee. The committee process was a very important one, because it said, “OK, a member or government has an initiative by way of a bill. Here’s what they’re trying to do, and they’ve tried to draft it as best they can according to what

they think the issues are,” but we would refer the bills off to committee. We would actually take the time to listen to what people had to say on the bill, and then we spent some real time in clause-by-clause to amend the bill so that we could strengthen the bill and make sure the bill actually worked.

One of the things I find has been a big disservice to the legislative process here in Ontario—especially over the last number of years, under the Tory regime for sure and I would argue to a certain extent under other regimes before, including our own—is that we’re not utilizing the committee process properly. We know what’s going to happen to this bill. There are two issues. One is that most private members’ bills never see the light of day at the end of the day anyway; they never get to third reading. But the bigger thing is that we are not using the committee process properly.

I’m just saying to all members of this assembly that we really need to look at the issue of how committees are structured in this Legislature and how we make the committee process work so that we actually do our jobs better when it comes to developing legislation that actually works. I implore members; we really need to, at some point, try to work that out. I don’t believe it’s going to happen in this Parliament. It’s not in the interests of majority governments, with all respect to Mr O’Toole, of the cabinet to try to democratize the process. I don’t believe that cabinets like to do that when they’re in a majority position. But there will be a minority government next election, if you look at the polls, in all likelihood. In a minority Parliament, I can tell you, as New Democrats, we’re going to be coming to the Legislature—

*Interjections.*

**Mr Bisson:** The Liberals laugh again about how they’re doing in the polls. Listen to the Liberals. They’re just so interested. They ran in 1990. They were going to be the government again. They got defeated by Bob Rae. Then they ran again in 1995. They were going to defeat Bob Rae the second time around, and the Tories got elected. You guys can’t hold your lead, so don’t talk to me and preach to me about where you are in the polls, because we all know elections are decided within about a 30-day process. Where parties are in the polls has some relevance prior to an election, but the decision is made—you only have to look at Mike Harris in 1995, a third-place party and in third place in the polls ended up becoming the number one party. David Peterson in 1990 was 65% in the polls. We were third and we ended up first. So don’t go there.

All I’m saying is that the only time we’re going to get an opportunity to really deal with the legislative process is by way of a minority Parliament. I’m suggesting that if there’s a majority Parliament next time around, it’s probably not going to get dealt with, because it’s not going to be to the advantage of the governing party to deal with this issue. That’s why I believe a minority Parliament would not be a bad thing next time around, because it will allow us to deal with a number of issues around how this Legislature has to function better.

Anyway, I want to get back to Mr O'Toole's bill quickly. The research that Mr O'Toole did in preparation for his bill talked about some of the stats having to do with the number of accidents that are caused by cellphones and how, in his view, one of the major culprits in causing accidents is cellphones. I would just say, go back and look at the numbers. Do you know the number one thing that causes accidents and mishaps on highways? Kids fighting in the back seat. Go back and take a look at all distractions to a driver. Kids in the back seat is a big one. When it comes to causing accidents, it's one of the culprits.

I say to Mr O'Toole that I support the bill. But I want the bill to go to committee because I think we need to take a look at how this bill could be made even better than it is today, so we really get to the root issue, which is, do we allow the use of cellphones, yes or no? I think that's really what the question is. I don't think it's a question of saying, "We allow speakerphones, but we don't allow a person to pick up the phone." I don't believe the act of picking up the cellphone and talking to somebody is what distracts the driver. I believe it's the conversation that distracts the driver. Doing that by way of a speakerphone or doing that by holding up a cellphone to your ear while driving I think is a bit of a moot point.

We need to make a policy decision. Do we think that cellphones are a problem, aye or nay? If we think cellphones are a problem while driving, then we have to make the decision policy-wise, do we ban them or do we allow them? I really think that's what it comes down to.

I'm saying that this is a good first step. We will support it because we think it at least starts the debate. I want to give Mr O'Toole some credit.

I also note that other members in the federal House have done a similar thing. I know that Mr Blaikie, who is one of the leadership hopefuls in the NDP race, has a bill before Parliament right now. He has also dealt with this and other provinces are trying to do the same. So this is a relatively new policy phenomenon that governments are having to turn their attention to. I think this is maybe a good process by which we do it.

In the couple of minutes I've got left, I want to come back to process. It really is a sad reflection on democracy that this private members' hour we have every Thursday morning is not as good as it could be. It's an excellent forum for members to bring forward initiatives, but there are a couple of issues that I want to note. One is, the number of times that members are allowed to bring bills into the House is basically once per Parliament, and that's hardly enough, in my view. I think you need to have a better process to allow members to bring bills before the House for debate. To do that, I think you have to balance off the need for the government to do its business and the need for the members to do their business as well, when it comes to different policy issues and debates we have to have about issues that are important to Ontarians that members want brought forward.

The second thing is—and I'm going to say again to Mr O'Toole that we're going to stand in this House today

and vote in favour of this legislation—if it gets to committee, boy, that will be something, because it will be one of the few private members' bills that actually does. There are maybe four or five private members' bills per year that make it to an actual committee. When it comes to getting to third reading, if it got there it would be one of the only ones that does, because far too often governments don't allow a private member's bill to happen. A good indication of that was what happened last spring with Marilyn Churley's bill.

Marilyn Churley had her clean drinking water act. The government, under Ernie Eves, had said inside his throne speech that he was going to support Marilyn Churley's bill in regard to clean water, but at one point the politics got such that the government said, "Hey, we're going to change her bill so much that we won't allow her to vote for it at third reading." And then it got caught up in this whole thing where the government didn't want the bill to go forward. So her bill got the deep-six, and here we are now having to deal with a government bill.

I'm just saying that there's a problem with a process that doesn't allow a private member's bill to really make it all the way through to the legislative process it needs to get through to deal with issues. One of the items I think we need to talk about, as members—and I know the Legislative Assembly committee could deal with this if they wanted to, but the government won't allow it, and I certainly have raised it at House leaders' meetings every Thursday, but the government House leader is not going to allow it—is that we really need to enhance the role of private members. We really need to enhance the role of backbench Tory members, or any government member, and opposition members because we're here to represent our constituents. We want to raise issues by way of debate and bills and motions in this House, and we need a greater ability to do that. The second thing is, we need to know that if we do that, it actually gets somewhere.

In closing, I just say to Mr O'Toole, congratulations. I know you've done a lot of work on this bill. Our New Democratic caucus will support this initiative, but we're saying it must get to committee. There are a number of issues we need to deal with and the quicker we do that, the better it will be for other people when it comes to the danger these cellphones may or may not cause.

1130

**Mr Toby Barrett (Haldimand-Norfolk-Brant):** I'm certainly pleased to speak in favour of Bill 49, introduced by my colleague John O'Toole, MPP for Durham. The most profound impact of Bill 49 is the role it will have to help educate drivers in Ontario. We know there is an enforcement component of this legislation.

In my previous work against drinking and driving, I think we all fully realized the value of programs like the RIDE program. It's a program that couples not only enforcement but also education. When you can inculcate a program of education and information, that is the icing on the cake to try and achieve some of the desired goals we have with this particular legislation.

I can also relate as an MPP who travels daily to Toronto. I have offices in Simcoe and Caledonia, and we

have a farm and I'm constantly in the vehicle doing business. I'm fully aware, as we all are, of the trials and tribulations of literally living in one's car. Hand-held cellphones and driving certainly do not mix. Try adding a radio and a pop or a coffee and a box of soda biscuits, breakfast, lunch—many of us have dinner in our vehicles—and it really gives new meaning to that old expression, “driven to distraction.” In fact, it was the difficulty and the distraction of on-the-road calling that drove me to incorporate my phone as a hands-free device. I merely screwed a cradle to the floor of my vehicle and immediately noticed the improvement in the sense that I can now talk on the phone and have both hands on the wheel.

Documentation on the dangers of these kinds of distractions is widespread. We heard this morning what has become a well-known case of a fellow and his two-year-old daughter who were killed at a railway crossing in Pickering. The father apparently had been holding his cellphone up to his daughter's ear at the time of the accident. Four Canadians from Quebec were killed in Maryland when a driver was talking on her cellphone, lost control, went over a guardrail and landed on top of the vehicle the four were in, killing all four people.

Hopefully, a better informed and educated public, combined with a modicum of enforcement, can eliminate tragedies like these.

As I mentioned, support is widespread. Last March, Douglas Beirness, who is with the Traffic Injury Research Foundation, was quoted as stating, “Cellphones are becoming synonymous with distracted driving.” When you talk about driver distraction, people say, “Cellphones.” A poll done by Leger Marketing in September 2001 indicated that four out of five Canadians believe it should be illegal to talk on cellphones while driving unless a hands-free device is used.

Ontario is not the first jurisdiction to consider a ban on the use of hand-held cellphones while driving. Twenty-two countries have restricted the use of these phones, including Australia, Japan, Israel, Brazil, Portugal and Singapore. Legislation almost identical to Bill 49 came into effect in New York state in March of this year. It's obviously too early to have data on the effectiveness of this legislation; however, the outlook is very positive.

Private members' legislation has been put forward in Alberta and Nova Scotia. Legislation has been introduced in Newfoundland, and the provincial government hopes to have it passed into law this coming fall. I'd like to quote Walter Noel, Minister of Government Services and Lands for the province of Newfoundland and Labrador, who had this to say about this type of legislation: “Hand-held cellphone use while driving is a dangerous practice which can be effectively prohibited to help prevent accidents, save lives, reduce injuries and control insurance rates.”

Both support and documented need for this legislation is widespread, and I for one encourage my fellow members in this Legislature to support Bill 49. Let's make the roads safer for all of us.

**Mr George Smitherman (Toronto Centre-Rosedale):**

I'll say at the outset that I'm going to be voting against this piece of legislation, because although there's a widespread public view and some statistical evidence that cellphones are a challenge with respect to road safety, no conclusive evidence has been presented that cellphones are the number one challenge we have with respect to road safety. I think we have a responsibility as legislators to involve ourselves in activities that have the effect not just of addressing populist held beliefs, but actually meaningfully getting at the source of the problem.

I found it interesting to hear a couple of members speak this morning. Mr O'Toole said in his remarks that a quick call to tell someone you're going to be late for a meeting constituted an emergency and therefore did not run up against the law in this case. I wondered whether exemption cards would be offered to Ontarians who, when a police officer pulled them over and wrote them up, could say, “I'm applying my O'Toole exemption. I've just called to let somebody know I was going to be late for a meeting. That constitutes an emergency and therefore I didn't break any rule.” I hate to make too fine a point of it, but I think that highlights the extent to which this law, as proposed, is wholly unworkable.

Then we have the member from the north, from Timmins-James Bay—the far, far north—speak and say, “I support this legislation because it gets us going in the right direction, but it doesn't go far enough,” and he looks forward to an opportunity at committee to amend this legislation, presumably, to be an outright ban on cellphones, which is far away, as I can understand it, from the intent of this legislation.

If this does get to committee and I have an opportunity to speak, I intend to move an amendment. It will be the veal parmigiana sandwich amendment. I will make this amendment because in my experience behind the wheel, which is reasonably pronounced—as the son of a trucker, I get out and about Ontario from time to time. I saw some guy eating a veal parmigiana sandwich with peppers and all, and that experience leads me to believe there are more serious impacts on road safety and distraction behind the wheel than cellphones. I think it helps to underscore the challenge with respect to legislation that is designed to address people's fears, but in practical terms is very difficult to define appropriately and to enforce.

I want to make another point, as a Torontonians, as someone who spends most of my time within 50 kilometres of this place. We're suffering through a kind of gridlock where the danger is that we will get institutionalized gridlock. This government likes to talk about what it has done, but it's a total abdication of any responsibility with respect to creating a transit and transportation system in the GTA that functions properly for people. It has meant that people spend a whole lot of rather unproductive time behind the wheel.

The Ontario Trucking Association estimates that the cost of gridlock in the GTA is \$2 billion for trucks that are having difficulty getting their commodity to market. I

think we can start to add an additional toll if we restrict the capacity of people, a lot of them Mr O'Toole's constituents and other residents of the 905, who spend way too much of their time behind the wheel in an unproductive fashion because the roads do not move any longer.

1140

Mr Bisson said this is certainly better than nothing. I'm not so sure. I'm not so sure that a well-intentioned piece of legislation that has a very, very difficult time being enforced is in fact good legislation, a good use of our time and a good use of our efforts.

We heard from the previous speaker that 22 other jurisdictions have taken legislation with some sort of ban. Well, let's take a wait-and-see approach, and let's see what those bans produce in terms of actual, proven, statistical evidence that bans and limitations are effective. I think we have a long way to go to be able to deal with that in a meaningful way.

So I would repeat what I said at the beginning, that I'll be voting against this legislation.

**Mr Norm Miller (Parry Sound-Muskoka):** It's my pleasure to rise today to support Mr O'Toole, the hard-working member for Durham, and his Bill 49, An Act to amend the Highway Traffic Act to prohibit the use of phones and other equipment while driving on a highway.

Certainly Mr O'Toole has been working hard on this issue. He has had it before the House on another occasion, and he was busy this morning talking to the press about it. I believe part of what happens on private members' morning is raising awareness on an issue. I think that's what is happening this morning, and hopefully this bill will get passed and will go to committee. At committee, as the member for Durham has stated, we would then get into public consultations where there would be lots of time allowed for comment and discussion on the use of cellphones and also on other distractions that affect safety on our highways. Really, that's what this bill is all about: improving safety on our highways.

I do believe it's time to look at restrictions to do with the use of cellphones on the highways of Ontario. If it saves the life of one innocent person who might get run down at a stoplight while someone is distracted punching numbers into a cellphone, or prevents injury to a cyclist on a city street—a friend of ours from the riding was just involved in a serious cycling accident here in Toronto; I don't know whether cellphones had anything to do with it. But if we can do anything to prevent innocent people from being injured, I think we should be looking at it. That's what this bill is going to be doing. It's going to be bringing this important discussion into the committee and letting consultation occur so that we can figure out what makes the most sense.

I think what is being proposed is a rational first step, and that is that cellphones be allowed in a hands-free mode. The member for Timmins-James Bay was recounting an incident to do with being in stop-and-go traffic, and what if you get a phone call then? I think the

new technologies coming along allow you to answer the phone without having to punch any numbers into the phone. Actually, I personally have had the experience where I've been rammed in stop-and-go traffic, so all someone has to do is look down at their cellphone, try to punch some numbers in, and in that moment of distraction if the traffic stops in front of them, they end up running into the car in front of them. I think the hands-free aspect allows you to answer the phone without having to take two hands off the wheel.

We do need to be aware and we need to raise awareness among drivers of all distractions that affect their driving. When we're driving, we should be thinking about driving and we should have two hands on the wheel; we shouldn't be fiddling with the radio or eating or perhaps even drinking coffee. We need to be very conscious of the fact that when you're driving, you should be thinking about driving and being safe on the roads.

I spend an awful lot of time on the road and I have used a cellphone significantly, so I've had personal experience, learning the hard way from trying to punch numbers in and finding out when you look back up that you've switched lanes. I'm very aware that you need to be safe on the road. I'm aware that when you spend a lot of time on the road you do, at times, need to use a cellphone. Certainly last week I was back and forth to the beautiful riding of Parry Sound-Muskoka three times. Each trip is roughly five hours, so that was 15 hours last week I spent on the road getting back to important events happening in the beautiful riding of Parry Sound-Muskoka. So I think it makes sense for us to look at the hands-free use of cellphones.

Mr O'Toole is trying to get more information so that we can make rational decisions. But there certainly have been lots of studies done to this point which show that there are increased accidents that go along with the use of cellphones, and the purpose of Bill 49 is to help reduce the number of accidents on Ontario roads by banning the use of hand-held cellphones while driving to eliminate one of the most dangerous driver distractions and keep drivers' attention on the road.

There was a paper in the *New England Journal of Medicine* in 1997 that stated that cellphone users are four times more likely to be in a collision than non-users. This is roughly the same accident rate as drivers who are legally impaired. So that's an interesting comparison: the same as drinking and driving.

A February 2002 University of Montreal's Transportation Safety Laboratory study concluded that cellphone users have a 38% greater chance of having an accident than non-users. These are pretty startling statistics.

In 2001 the Harvard Center for Risk Analysis estimated at least 600 traffic deaths a year in the United States result from cellphone use. The center also reports that the risk of being killed by a driver talking on a cellphone is one in 1.5 million. That doesn't seem like the greatest odds, but you compare that to a one in 17.6 million chance of being killed by a drunk driver. So the odds of

being killed by a cellphone user are actually higher than the odds of being killed by a drunk driver.

The Canada Safety Council statistics indicate that 85% of all collisions are a result of driver error, which includes driver distraction. As I mentioned, that's not just cellphone use. We need to all be aware of other distractions in the car.

The Transport Research Laboratory in the United Kingdom found that drivers who use a cellphone are about 30% more impaired than drivers whose blood alcohol level is slightly above the legal limit. So once again, comparing it with drinking and driving, as a society, we're very aware that we shouldn't be drinking and driving and that that increases the risk of driving into innocent people—pedestrians, motorists, cyclists—so we need to raise awareness about the use of the cellphone.

A University of Utah study demonstrated that drivers involved in distracting activities—using a phone or adjusting the radio—missed twice as many traffic signals and took 10% longer to react than other drivers. I think that's a perfect illustration. You look down to answer the phone or pick it up and you go right through a red light. That's where innocent pedestrians or cyclists get seriously injured.

So I think this bill is certainly very timely. That's probably why Mr O'Toole just about missed his time here this morning, because he was busy with a lot of press who are interested in this important bill.

Certainly in Ontario we have some of the safest roads in North America; as a matter of fact, we have the safest roads in Canada. I think that's because we've been spending so much money on the roads in Ontario, putting a lot of emphasis on improving the road infrastructure. I know particularly in my riding of Parry Sound-Muskoka, there's been record investment in Highway 11, Highway 69. In fact, last week I was up to open another 14 kilometres of Highway 11 that's just been four-laned from Melissa to Emsdale. We're continuing to work very quickly toward four-laning Highway 69. You see the amount of work and money being spent on making the highways safer, particularly in northern Ontario. Of course, I'm PA to the Minister of Northern Development and Mines.

#### 1150

We continue to spend record amounts of money in northern Ontario. I think it's roughly \$250 million a year. We've been working non-stop on Highway 69. You just have to come to my riding and see. I sometimes wonder what Mr Bartolucci is talking about, because we've been working non-stop, full speed, doing great work on Highway 69 in the beautiful riding of Parry Sound-Muskoka, making continued improvements to the safety of the highway. There's been a lot of investment in highways.

This is another important way of making our highways safer in the province of Ontario. I think it's important to raise public awareness and important that this go to committee and we get comment from interested groups and look at the latest studies and come up with legislation

that's going to be good for improving safety on the highways and streets for the people of Ontario.

I look forward to when this goes to the general government committee.

**Mr Dominic Agostino (Hamilton East):** I rise to speak for a few minutes on this issue. First of all, I certainly understand the intent of the member for Durham in bringing this forward. I know it's something he has been on top of for a while. I certainly don't question the motivation behind it, but I certainly question the validity or the purpose of this type of legislation being in place. Traffic accident fatalities are a dangerous and serious problem that we deal with in this province every day. But I think that to simply say, "Well, if we get rid of hand-held cellphones, we'll solve the problem," is a very simplistic, band-aid solution to something that's really much more complicated.

My colleague across the floor pointed out a whole bunch of studies that say accidents are caused by people on phones and so on. I've seen a number of studies that show that cellphones are a very small percentage of actual distractions that cause accidents. When you look at this, you say, "OK, we'll ban cellphones." That's great; that takes care of one little part of this. What are we doing about drive-throughs? Think about the distraction of eating. You go through McDonald's or Wendy's and pick up a hamburger or a drink and put it in your car. The expectation is—

*Interjection.*

**Mr Agostino:** I say to my colleague the minister, Mr Flaherty, that I do enjoy Tim Hortons coffee, and I'm sorry for not mentioning that.

The reality is, you pick up this hamburger, you pick up this drink and you're in the car. The expectation is that you're going to be eating this while you're driving. So you've got a hamburger in your hand, the thing starts dripping all over you, and you've got one hand on the wheel at this point. Now you're trying to make sure that whatever is dripping on you from the hamburger is not going all over your clothes, and you've got potentially a much greater danger and situation than you would have chatting on a cellphone.

This is a serious issue, and I take it as that. But there are other distractions. We've all seen people reading newspapers, looking at maps in front of them, putting on makeup and shaving while they're driving. Those are all serious issues. What I think we need to do is simply increase the penalties for distractions that would tend to cause accidents. There is a law in place already that deals with that. I think there have to be stiffer penalties for that, and there has to be greater enforcement, greater vigilance and greater public education in dealing with that. Cellphone use is a very small percentage of the type of distractions we talk about that cause accidents.

If you look at the number of cellphones on the market today in Canada—I think since 1994 we've gone from about one million to well over 10 million today. The number of traffic accidents has actually decreased in this

country by about 10%. You can't make a correlation between more use of cellphones and more accidents.

I say to my colleague that what I think we need to do is make a greater effort through driver training, through public education, through the schools, through the Ministry of Education, to ensure that people understand the dangers of driving while being distracted, while not paying attention.

You have someone right next to you and you're talking to that individual, or that individual is sitting in the back seat. To me, again, if you're not paying attention and concentrating, that is a greater distraction than talking on a cellphone. Are we now going to say we're going to ban drive-throughs, we're going to ban people from having coffee in the car? Are we going to ban passengers from the car because they might distract you?

Let's put this into perspective. It's a serious problem. Drivers not concentrating is a serious problem. But I think it's a very simplistic, hot-button topic of the day to suggest that if we simply ban hand-held cellphones, we're going to eliminate a big chunk of problems in this province. More enforcement, greater penalties, more police effort and more education is the answer.

**Mr Tony Martin (Sault Ste Marie):** I just want to be on the record to say that I'm betwixt and between on this bill. I don't know what is the actual biggest distraction out there where driving and safety is concerned.

I agree with the member from Hamilton that we need a wider discussion on this. So I'm going to be seconding the amendment, the veal parmesan sandwich amendment, put forward by the member from Toronto Centre-Rosedale, hoping that this will go to committee so we can talk about that.

**The Acting Speaker:** That concludes the time for debate. Response?

**Mr O'Toole:** In the brief time I have left, I would like to thank the Liberal and NDP opposition members who commented this morning. I really believe that the debate we've had this morning is important in trying to bring some conclusion.

I think the member from Eglinton-Lawrence stated pretty much the same thing as the member from Toronto Centre-Rosedale: that he saw the importance of the issue, but he thought there were other more important distractions. The member from Hamilton East said pretty much the same thing; he doesn't think it goes far enough. I think it is a good first step.

I was very impressed with the NDP member from Timmins-James Bay. He did go to some extent and also brought it into his own experience; I think that's worth sharing.

For the members present this morning, I want to take a moment and thank those people I've worked with to make this bill as strong as it is and encourage them to keep up the fight to help to move this debate forward. That would include Constable Mark Stone, who's in the gallery here this morning—he was the investigating officer in the case of the Richard Schewe and his daughter Mikaela's inquest that was just recently held in

Durham—and also Staff Sergeant Tom Whiteway, who is here this morning from the Durham Regional Police. Durham Regional Police, having the inquest, did bring it to focus. We have a supportive quote from Police Chief Kevin McAlpine.

I've certainly had a lot of support from my staff: Peter Kearns, who has done a tremendous amount of work—I want to thank you, Peter—as well as Martha Black, a legislative intern, who has been drawn into making this issue as important, well developed and researched as it is.

I've also spoken with chiefs of police, the OPP, the association's Bruce Millar and Brian Adkins, and also Maurice Pillion, the deputy commissioner for the OPP. They generally believe that it's a good first step.

**The Acting Speaker:** This completes the time allocated for debating ballot item number 62.

#### ONTARIO WATER RESOURCES AMENDMENT ACT, 2002

#### LOI DE 2002 MODIFIANT LA LOI SUR LES RESSOURCES EN EAU DE L'ONTARIO

**The Acting Speaker (Mr Michael A. Brown):** We will now deal with ballot item number 61.

Mrs Marland has moved second reading of Bill 183, An Act to amend the Ontario Water Resources Act.

Is it the pleasure of the House that the motion carry?  
Carried.

**Mrs Margaret Marland (Mississauga South):** I would like to request that the bill be referred to the standing committee on justice and social policy.

**The Acting Speaker:** Mrs Marland has asked that the bill be referred to the standing committee on justice and social policy. Agreed? Agreed.

#### HIGHWAY TRAFFIC AMENDMENT ACT (CELLULAR PHONES), 2002

#### LOI DE 2002 MODIFIANT LE CODE DE LA ROUTE (TÉLÉPHONES CELLULAIRES)

**The Acting Speaker (Mr Michael A. Brown):** Now we will deal with ballot item number 62.

Mr O'Toole has moved second reading of Bill 49, An Act to amend the Highway Traffic Act to prohibit the use of phones and other equipment while driving on a highway.

Is it the pleasure of the House that the motion carry?

All in favour will say "aye."

All opposed will say "nay."

In my opinion, the ayes have it.

The motion is carried.

**Mr John O'Toole (Durham):** I thank the members of the House who supported the bill. It's my intention to refer it to the standing committee on general government.

**The Acting Speaker:** Mr O'Toole has asked that the bill be referred to the standing committee on general government. Agreed? Agreed.

All matters before the Legislature this morning having been dealt with, we will adjourn until 1:30 of the clock.

*The House recessed from 1200 to 1330.*

**Mr Dwight Duncan (Windsor-St Clair):** On a point of order, Mr Speaker: Welcome back.

**The Speaker (Hon Gary Carr):** Thank you, I think.

## MEMBERS' STATEMENTS

### HIGHWAY 69

**Mr Rick Bartolucci (Sudbury):** Let me bring the House up to date on the government's record since the tragic death on August 7 of Kelly Henderson and her twin sons, Jordin and Corbin. While the Premier of this province has ignored the pleas of a grieving father and grandfather; the government has ignored the suggestions of a grieving brother and uncle when it comes to increased signage past Killarney; has ignored the requests for a meeting with the Crash 69 committee; had ignored my requests for additional signage along the Highway 69 corridor between Sudbury and Parry Sound; has ignored the call from 26,000 residents of my community who want the four-laning of Highway 69 from Sudbury to Parry Sound to begin immediately; has ignored the resolution that has been passed by many northern municipalities, chambers of commerce, labour organizations, service clubs and education boards with regard to the four-laning of this highway—in fact, in reality the Premier and his government have been callous in their ignorance of the problems that are associated with Highway 69 between Sudbury and Parry Sound.

Today, I want to tell the government and I want to reinforce the facts that, one, the Crash 69 committee is not going away; my community's demand that you begin four-laning immediately is not going away; and your unforgiving lack of compassion toward this family is an indication of what you feel about residents in north-eastern Ontario.

### YORK REGION CRIME STOPPERS

**Mrs Julia Munro (York North):** York region Crime Stoppers program has been so successful in its first year of operation that it won four first-place awards at an international Crime Stoppers conference.

At the 23rd Crime Stoppers International Training Conference in Ottawa, the York region program received the following awards: the television award for one of its Crime of the Week shows; first place for the recovery of drugs; first place for the recovery of stolen goods; and the most improved for stolen goods recovered.

In the category of stolen goods recovered, the York region program netted \$1.1 million worth of recovered goods in 2001, compared to \$119,000 the previous year.

Prior to July 2001, York region was part of the Toronto and region Crime Stoppers organization. Calls to the TIP line went directly to Toronto. Currently the call-in number remains the same, but York region calls are immediately rerouted to the York Regional Police.

The great success of the program can be attributed to increased advertising and the televising of Crime of the Week segments during such shows as Cops and America's Most Wanted.

Congratulations to Detective Constable Kim Killby and the York Regional Police for achieving such a great and successful program.

### GATEHOUSE

**Mrs Leona Dombrowsky (Hastings-Frontenac-Lennox and Addington):** Yesterday I had the opportunity to visit a very special place called the Gatehouse, located on Lakeshore Boulevard in Etobicoke.

The Gatehouse is a privately funded and operated facility that provides a safe haven for children who are victims of child abuse. The Gatehouse provides a safe place for children to disclose abuse experiences and a mentor support system for adult survivors of historical child abuse. Families, police officers and children's service workers are able to bring children to the Gatehouse for evidential interviews. This provides a comfortable environment for children, who should not be interviewed in locations that make them feel that they've done something wrong, like a police station or even in the principal's office.

The wonderful workers at Gatehouse focus on the children and they have worked very hard to provide a service that is needed throughout Ontario to assist children and families who deal with the horror of child abuse. To date, this facility has helped over 1,300 people whose lives have been affected by child abuse, and sadly, their numbers continue to grow.

The Gatehouse is a best-practice site for supporting victims of child abuse. I would encourage this government to use it as a model for many more that are sadly and sorely needed across the province.

## LEGISLATIVE PAGES

**Mr John O'Toole (Durham):** I'm pleased to rise in the House today to pay tribute to the legislative page program, and also to mention a family in my riding who have had four children, each of whom has served as legislative pages. It is our policy not to use the last name of pages. However, I would like to point out that Philip, who is currently serving in this House, has been preceded by his two brothers and sister. Philip's older brother, Seth, was here about six years ago, followed by his sister, Ava, and his younger brother, Jared. They are all from my riding of Durham, and have indeed all served with distinction in this Legislature—like myself, I hope.

It is my privilege to meet and work with young people like Philip, Seth, Ava and Jared. I might say I've had 10

pages since I was first elected in 1995. Naturally, I am especially proud of all Durham riding students who have been selected. However, I think it is noteworthy that four members of one family have been chosen over the past six years. It speaks loudly to the family's commitment to education and participation.

I'd like to point out to this House that other pages have had the opportunity to be present for major events and decisions that most Ontarians only see, hear or read about in the media. They leave Queen's Park with a clearer understanding and appreciation of the political process and our parliamentary traditions, some of which you'd like to forget.

I'd also like to mention that this program is open to all grade 7 and 8 students who maintain a level 4 scholastic achievement and who are actively involved in a variety of extracurricular activities, both in school and the community. While MPPs have no jurisdiction in selecting pages, I am sure MPP constituency offices would be pleased to supply—

**The Speaker (Hon Gary Carr):** Sorry. It's well over your time; I need to cut you off.

#### DANI HARDER

**Mr David Caplan (Don Valley East):** I rise in sadness in tribute to a constituent of mine, Dani Harder, who passed away last Friday at the age of 28. Although confined to a wheelchair by her severe cerebral palsy and restricted by an inability to speak without the use of her computer, Dani led a most remarkable life and inspired those around her.

Dani taught at Frontier College. She loved the theatre and even acted in a play with Don Harron. Despite her disabilities, she attended university and even participated in last year's Toronto International Marathon. Even more inspiring was her determination to live the life that she wanted and deserved: independently in our community.

Until the day she died, Dani and her family refused attempt after attempt to discharge her to a long-term-care facility or to an inappropriate community placement. It appalls me that of all of the roadblocks in her life, the biggest one came from the Harris-Eves government. Having no policy to deal with people of Dani's age and needs, the Ministry of Health and Long-Term Care resisted all attempts to give her what she wanted, all in the name of dollars.

The minister should take note: this case isn't closed. Dani's indomitable spirit will live on, and the fight for appropriate and properly funded housing options will continue. Dani's struggle against this government highlights the need for public policy that has real respect for the wishes of the people it touches. Dani's strength will continue to motivate me and others who were touched by her. Dani, her parents, Karen and Roger, and her brothers, Mathew and Lucas, deserve that from us. I know that we're going to continue this fight in tribute to this remarkable, inspirational young woman.

#### EDUCATIONAL ASSISTANTS

**Mr David Christopherson (Hamilton West):** This morning, almost 500 educational assistants were forced from the classroom by this government. You can't hide this time behind duly elected trustees, because you fired them. The only people at the bargaining table is this government through your appointed supervisor. Therefore, you have direct responsibility for the almost 1,000 children with special needs who aren't in the classroom this morning because their educational assistants aren't there.

Lest you think it's just us criticizing you, let me tell you what's going on in our community. Robert Peters, who's chair of our board's special education advisory committee, said this: "You've just taken Timothy's ability to read right away from him. Educational assistants play a crucial and vital role." His son Timothy is blind.

**1340**

Judy Colantino has two children with special needs. One is a 17-year-old daughter named Katie, and she's a quadriplegic. And she has a son, and he has Down's syndrome. You know what she says? "I feel very strongly about supporting them. They are watching out for the most vulnerable people in the system." It's time this government took responsibility for your share of taking care of vulnerable people in our community. You've got to do something. This is not acceptable.

#### PERSONS DAY

**Mrs Margaret Marland (Mississauga South):** Today we are honouring a milestone in the history of Canadian women. Today is Persons Day. It was only 73 years ago, on October 18, 1929, that the British Privy Council decided women were persons under Canadian law.

We owe that landmark ruling to five outstanding women, women who took their fight all the way to the Privy Council in England, the highest court in Canada back then. Those Famous Five, as they were called, won that fight: Emily Murphy, Louise McKinney, Irene Parlby, Henrietta Muir Edwards and Nellie McClung. These names changed the lives of women of their generation and of all future generations. Thanks to the legacy of the Famous Five, we can point to a stunning record of women's contributions to this province.

Persons Day is a focal day in October, which is Women's History Month. Every year, this month is designated to celebrate the contributions of women past and present who have shaped Canada in so many ways. In business, in the community, in the arts, in politics and in sports, women have established new pathways, and they continue to pierce the glass ceiling.

Mr Speaker, I welcome this opportunity to honour Ontario's many remarkable women.

#### GOVERNMENT'S AGENDA

**Mr Dwight Duncan (Windsor-St Clair):** It's with some sorrow that I report to the House on what's been

happening in here—or not happening—over the first few weeks of this session.

In the Peterson minority government, less than 1% of bills were passed with time allocation; in the Peterson majority, 2%, and in the Rae government, 11%. In the first Harris government, 30% were thus passed. In the second Harris government, from 1999-2002, we're up to 55.2%.

But do you know who holds the record as of today? Ernie Eves. We're up to 75% time allocation. And do you know what's amazing? They are time-allocating bills that all three of the political parties support. They can't even get these minuscule bills passed that the third party supports, the official opposition supports, and presumably they support.

It's not like we have a lot of items on our agenda. They've introduced nothing. Where's the safe drinking water legislation? Where are the guidelines for cabinet ministers' expenditures? Where is an agenda that shows a government in charge?

That agenda rests with Dalton McGuinty. That's where the real leadership is coming from in this House today. That's what is going to save this province from a government that's tired, old, stale and undemocratic. It's time for a change. Dalton McGuinty and the Ontario Liberal Party are that change.

#### VISITORS

**Mr Ted Chudleigh (Halton):** On a point of order, Mr Speaker: I'd like to introduce the grade 8 class from Centennial Public School in Georgetown, Ontario. Megan McCrae, one of our pages here these past few weeks, is normally a member of this class, and this class came down today and surprised Megan during the parade on the grand staircase. Megan was very surprised.

I'd like to welcome them to this building and thank their teacher, Madam White, for bringing them down.

**Mr Gerry Phillips (Scarborough-Agincourt):** On a brief point of order, Mr Speaker: The area I represent is proud to have an outstanding young page, Kyle Gulab. His mother and father are here with us, if I might introduce them. Rosanne and Phillip Gulab, welcome.

#### PROSPERITY 2002

**Mr R. Gary Stewart (Peterborough):** We can introduce everybody else and then there's no problem.

Recently I attended a significant event in my riding of Peterborough: Prosperity 2002, the Business to Business Marketplace exhibition. This exhibition was organized and hosted by the Greater Peterborough Chamber of Commerce. The Marketplace is designed to offer area businesses the opportunity to reduce the costs of goods and services they purchase by buying locally. At the same time, these businesses had the opportunity of showcasing and marketing products and services under one roof.

There were over 80 business exhibitors that participated in Prosperity 2002. This was a great kick-off to Small Business Month, which recognizes that small business is the backbone of the Ontario economy.

Over the last year there has been a significant increase in the number of new businesses that have located in my riding of Peterborough. These businesses have created new job opportunities as well as renewed confidence in the well-being of our community.

I would like to commend the general manager of the Greater Peterborough Chamber of Commerce, Mr Doug Armstrong, as well as all his team, for the excellent job they did in organizing this showcase event, and we must not forget all the businesses that participated in this unique opportunity to demonstrate their individual products and services.

**Mr Dwight Duncan (Windsor-St Clair):** On a point of order: Mr Speaker, I seek your direction and assistance with a matter. Earlier today we were informed that the Minister of Training, Colleges and Universities was unable to be in the Legislature today for question period. We have since learned that her absence today is due to the fact she is doing media interviews in her office here while question period is on. It makes it difficult for us to pose questions. We believe the double cohort issue is extremely important and wonder if there is any redress in the standing orders, to you, to help compel ministers to attend question period rather than do media interviews in their office?

**The Speaker (Hon Gary Carr):** Unfortunately, some people would wish there were but there is not. The Speaker has no control over who is here and who is not.

#### LEGISLATIVE PAGES

**The Speaker (Hon Gary Carr):** Just before we begin, on behalf of the members of the Legislature and myself, I would like to thank our pages for their help over the past few weeks. It has been a pleasure to get to know this great group of pages, but unfortunately it is their last day. I would like to wish each and every one of them success in their future endeavours. I'm sure all members would like to join us in thanking all our great pages. To the parents who are here and those who are watching, you can be very proud of your sons and daughters. They are a fine group of young people.

#### REPORTS BY COMMITTEES

##### STANDING COMMITTEE ON GENERAL GOVERNMENT

**Mr Ted Chudleigh (Halton):** I beg leave to present a report by the standing committee on general government and move its adoption.

**Clerk at the Table (Ms Lisa Freedman):** Your committee begs to report the following bill as amended:

Bill 148, An Act to provide for declarations of death in certain circumstances and to amend the Emergency Plans Act / Projet de loi 148, Loi prévoyant la déclaration de décès dans certaines circonstances et modifiant la Loi sur les mesures d'urgence.

**The Speaker (Hon Gary Carr):** Shall the report be received and adopted? Agreed.

The bill is therefore ordered for third reading.

1350

## ORAL QUESTIONS

### POST-SECONDARY EDUCATION

**Mrs Marie Bountrogianni (Hamilton Mountain):** My question is for the Deputy Premier. I have in my hands a copy of the confidential study done for the Ministry of Education on the double cohort. You've been sitting on this report since August and now we know why. It says very clearly that you and the Minister of Training, Colleges and Universities have failed our children. We now know that you have purposely low-balled your estimates of the number of kids graduating this year. Minister Cunningham said only 60% would go on to university. Now we know that number is more like 75% or even higher.

Deputy Premier, parents are worried their kids won't get into school. Our children are terrified that your mismanagement and incompetence will ruin their lives. You've had this report since August. You have known about the problem but publicly denied there is a problem. Why did you and Minister Cunningham try to keep this information from Ontario's parents and children?

**Hon Elizabeth Witmer (Deputy Premier, Minister of Education):** I would be most pleased to respond to the member opposite. I think one thing we need to do is set the record straight. Despite the allegations that have been made, I have not yet seen the report. It's also important to know that this is a report our government commissioned. I can tell you that we have not received a final version of the report. We look forward to receiving it. I have also asked the ministry to put on the Web site the 230-plus pages of the text as soon as possible. I understand there are appendices also, and once they have been received they will also be put on the Web site.

**Mrs Bountrogianni:** Deputy Premier, this is the executive summary. You received the report in August. It's very clear. It says you aren't funding enough spaces for our kids. We are short 5,000 to 7,000 spaces for our children next year. This is a report, by the way, that you commissioned. These are students who in any other year would have been accepted to university, but because of your government's incompetence and mismanagement won't get in.

This isn't news to you. We have been warning you about this problem for years. Now we learn your own experts have been warning you, but instead of acting, you and Minister Cunningham tried to hide the evidence.

Playing games of hide-and-seek while our children's future is at risk is reckless and unacceptable. These children have been punched around by your government for four years. What is your explanation for why you and Minister Cunningham have failed to plan for this crisis?

**Hon Mrs Witmer:** I'm really quite surprised and quite shocked at the accusations that have been made by the member opposite. If the member opposite has a copy of the final report, I would certainly appreciate receiving it. I would just emphasize that I have not yet seen the report, but I have asked the ministry staff.

If we take a look at the double cohort, my colleague at the Ministry of Education and Training has said time and time again that we have made provisions and we have made a commitment to ensure that every willing and qualified student in Ontario is going to be able to attend a college or a university. We have spent over \$2.2 billion to expand our colleges and universities. We have created new space for over 79,000 students. I can assure you there is space for all the students.

**Mrs Bountrogianni:** Part of this report shows that students don't trust what you say. I say to you that both you and Minister Dianne Cunningham should be ashamed of yourselves. This is a problem you both created and failed to fix. You've had years to plan for this crisis and you have failed miserably. Parents and students are terrified. We have evidence that you have failed to plan and evidence that you tried to hide it from the Ontario public. We saw earlier this week that Minister Cunningham doesn't think the public has a right to know what government is doing, but on this side of the House, we do think the public has a right to know.

Deputy Premier, this is the single largest issue the minister responsible has had to deal with and she has failed miserably. The two of you have jeopardized the future of thousands of Ontario kids, to the point where some are desperate and depressed. Every step of the way you have failed these kids. Your mistakes have only been eclipsed by Minister Cunningham's incompetence and her attempts to cover up that incompetence. She's in over her head. Tell me why she—

**The Speaker (Hon Gary Carr):** The question has been asked. Your time is up.

**Hon Mrs Witmer:** These allegations are very surprising. They're very shocking.

*Interjections.*

**The Speaker:** Would the member take her seat. The member for Kingston and the Islands, come to order. Sorry, Deputy Premier.

**Hon Mrs Witmer:** They're very shocking. This report by Alan King was a report that our government commissioned in order to determine how well our students were doing. I can assure the members opposite, I can assure the people in Ontario, that our government has undertaken to invest the money to ensure that we have the programs and we have the services so that all the students can be accommodated.

In fact, if you'd talked to the presidents of the universities in the province of Ontario—I have heard them

say themselves that they are ready to accommodate the double cohort.

#### KYOTO PROTOCOL

**Mr James J. Bradley (St Catharines):** I have a question for the Deputy Premier that concerns where the government is getting its marching orders, where government MPPs are getting their marching orders on the Kyoto accord. I know the Deputy Premier would be very concerned about this as well, as a former environment minister. I would be directing this to the environment minister if it were possible today, or to the Premier, but I'll have to direct it to the Deputy Premier.

This morning we received from National Public Relations—that's Guy Giorno's group that he runs now. He's the one who had the reception for the people against the Kyoto accord. I got this specifically from them this morning. It's a letter suggesting what MPPs might say in any op-ed news pieces or in letters to constituents and so on.

At 12:26 pm, it said, "Unfortunately, materials from the Canadian Coalition for Responsible Environmental Solutions were sent to your office in error in a previous e-mail. I do apologize for any inconvenience."

Is it true, then, that they were simply giving this information to Conservative MPPs to spout exactly what they are saying about the Kyoto accord?

**Hon Elizabeth Witmer (Deputy Premier, Minister of Education):** I have no knowledge or information about what has been said here, but I can tell the member opposite that I think our Premier has made it quite clear that we do support taking very positive, concrete action on climate change. We're very committed to reducing greenhouse gas emissions. We believe that our government has a very impressive record of tackling air quality. We have implemented Drive Clean; we've introduced the Smog Patrol; we have a clean air plan; we've placed strict caps on power plant emissions. We were the ones that announced that Lakeview would cease burning coal in 2005. We are committed to exempt biodiesel from the 14.3-cents-per-litre fuel tax, and we are encouraging the government fleet to look at alternative fuels.

So we support the reduction in greenhouse gas emissions, and we're going to make sure we continue to be the leaders in Canada.

**Mr Bradley:** The anti-environment coalition that was here on Tuesday at a reception includes the following groups: the Canadian Association of Oilwell Drilling Contractors, the Canadian Association of Petroleum Landmen, the Canadian Association of Petroleum Producers and the Canadian Plastics Industry Association. Several of these companies are definitely an industry group and certainly have an impressive record on so many occasions of opposing any major environmental endeavour in years gone by.

Now they have sent to Liberal members, mistakenly, a letter where we're supposed to say, "The Ernie Eves government is greatly concerned about those problems...."

Premier Eves and the other provincial leaders have been asking for a detailed plan, to no avail."

What I'm worried about is that you're getting your marching orders from an anti-environment coalition headed up by Guy Giorno, a friend of the Minister of Energy. Can you assure us that that is not the case?

**Hon Mrs Witmer:** I can certainly assure the member that that is not the case. Our Premier has made it very clear that we are committed to the reduction of greenhouse gas emissions. We want to take positive action on climate change. We are looking forward to hearing the federal government's position on how they plan to achieve the goals of the Kyoto agreement, and we're also anxious to know what the economic impact is going to be.

1400

**Mr Bradley:** When Guy Giorno announced he was leaving Queen's Park as the chief political operative of the Premier, I thought that going with him would be his bizarre ideas about the environment. I thought you were an environment minister who had some hope, and I listened to what you had to say during the leadership campaign.

Are you not now disappointed that we get a letter in the Liberal caucus—obviously it shouldn't have come to us—suggesting what people should be writing in op-ed pieces to the newspapers, in their householders and in letters to constituents, and that this is coming from Guy Giorno's group, National Public Relations representing the coalition of anti-environment people who always show up when there's a major environmental initiative? Are you not concerned about that, and is it not true, is it not obvious now that that is who is calling the shots for members of the Conservative caucus?

**Hon Mrs Witmer:** I guess I was left off the mailing list, but let me reiterate what I said before. Our Premier and certainly our minister have made it abundantly clear that this province has always had a very good track record. We want to continue to ensure that we reduce greenhouse gas emissions, and we're going to do that.

#### POST-SECONDARY EDUCATION

**Mr Rosario Marchese (Trinity-Spadina):** A question to the Deputy Premier. Ontario's educational system is in shambles, whether it be strikes at elementary schools in Hamilton or the double cohort crisis that is affecting every university in this province.

You and the minister of post-secondary education constantly say, "We are ready for the double cohort." Dr Alan King says, in a report you commissioned, "Announcements being made by universities of plans for spaces to be made available in 2003 show that those plans clearly fall short of growth projections." Seven thousand students are not going to make it to universities.

You constantly tell us one thing, that you're ready. This report contradicts your public announcements. Don't tell me that the 10 or 12 staff you've got and the 10 or 12 staff that Minister Cunningham has are not suffi-

ent or haven't had the time to study these reports. Explain the contradictions. Deal with the facts that Dr Alan King has presented to us and your own announcement that says you are ready.

**Hon Elizabeth Witmer (Deputy Premier, Minister of Education):** I'm going to refer the question to the Minister of Training.

**Hon Dianne Cunningham (Minister of Training, Colleges and Universities, minister responsible for women's issues):** I think everyone knows there will be a place for every qualified and motivated student. That was the message last night at the 60th anniversary of Carleton University, where Dr Richard Van Loon, the president, said to the alumni audience and those who have young people who will be going into the double cohort not to worry, there will be a space for them. The presidents are saying it; the high schools are saying it.

*Interjections.*

**Hon Mrs Cunningham:** I feel like I'm answering more than one question, but that's fine.

We are very aware of different scenarios. This report is a scenario that says about 75% of students who would like to go to university will graduate on time, and that makes 6,000 more. It's not difficult for me to read the media, like everybody else. The numbers Dr King is using are the same numbers our ministry uses in making our own—

**The Speaker (Hon Gary Carr):** I'm afraid the minister's time is up. Thanks, Minister. Supplementary?

**Mr Marchese:** Deputy Premier, the problem is not limited to universities—

*Interjection.*

**Mr Marchese:** Deputy Premier, I'm talking to you, by the way. Your new high school curriculum is failing students. Dr Alan King, the same person I made reference to just a moment ago, says in the study he's done on the quality of education: "A serious problem has been created."

I am telling you that students taking vocational courses are doing worse in mathematics, worse in the sciences and are on the verge of dropping out in unprecedented numbers. In the words of your expert, "These findings present a bleak picture for the progress of students taking mainly applied courses."

Deputy Premier, the lives of students are at stake. What are you going to do to help those young people?

**Hon Mrs Witmer:** Just keep in mind that we did ask for this report. We are very concerned, always, about the success that our students have in Ontario, so we asked Dr King. We commissioned this report. We wanted to get the opinion as to how well our students were doing in order that we could provide the support that would be necessary.

Keep in mind that about 20% of our students are in applied courses; be keeping in mind as well that there have always been students who unfortunately do drop out. Obviously, with this information that we're going to have, we're going to be able to put in place appropriate

remediation programs to help these students who need our help, as we have already done.

**The Speaker:** Final supplementary.

**Mr David Christopherson (Hamilton West):** Minister, you just finished saying, and I jotted it down, that you care about the success of students in this province.

Does that not include children with special needs? Right now there are almost a thousand of those children in Hamilton who aren't in the classroom because their educational assistants have been forced from the classroom by your appointed supervisor. I asked you a couple of days ago what you were going to do to avert this strike. Obviously, you've done nothing.

**The Speaker:** The member knows that the supplementaries have to be related. This isn't related at all to the first question. If we could continue on and try to make it relate to the original question—you can't ask three questions in one. The supplementaries, and I'm fairly lenient, and you can do it if you have a little bit of style: you can tie them together.

*Interjections.*

**The Speaker:** Just a minute. Thank you very much. I'll let the member continue but it has to be along the same lines, otherwise we're going to have to move on to the next question.

**Mr Christopherson:** I understand your point, Speaker. Thank you. If I step out again, stop me, because I'm trying to stay within.

The minister said in this place that she cared about the success of students, so the minister has broadened this to include this government caring about the system. I want to know what the minister is going to do about those children in Hamilton as part of her commitment to children in the education system.

**The Speaker:** No, it's not related at all. You can't ask a question about the cohort and then go in about the strike, I'm sorry. I give you some leeway to do it, but what happens is that when I do give you leeway, you get carried away and it continues and it continues, and I can't allow that.

We're now going to move on to the new question, which is the NDP as well. From now on, just before you continue on, the questions have to be related to the original question. You can tie it together if you are properly able to do it, but you can't ask three questions in one. Either that, or we change the standing orders to allow it. Presently they do not.

The member for Trinity-Spadina.

**Mr Marchese:** On a point of order, if I can, Mr Chair, to give you the framework: In my first question, Ontario's education system is in jeopardy—

**The Speaker:** No, no. If I don't understand it—you can't explain it to me. It has to tie. I'm very lenient, and the member will know I'm very, very lenient in doing that, but there are certain lines. The problem I have in being lenient is that when I allow it to go once, it become the standard procedure. The leader of the third party does it, and on occasion the member for Toronto-Danforth has gone off and asked a completely different question, and

I'm going to have to put my foot down on this and not allow it.

We're now going to go to the next question. I would ask you in the future: the standing orders are very clear that they need to be tied. If you stand up and you have to explain it to me, then they don't tie in very well, because I do give you quite a bit of leeway.

New question.

#### AUTISM TREATMENT

**Ms Shelley Martel (Nickel Belt):** I have a question for the Deputy Premier. There are thousands of Ontario children who suffer from autism. You know that IBI is a proven treatment for this neurological illness, but your government continues to deny hundreds of children this necessary medical treatment.

The BC Court of Appeal has recently ruled that withholding IBI treatment violates an autistic child's human rights. The court has ordered that the government fund IBI treatment for all children who need it and the court has also made it clear that the order will be enforced.

Ontario families are preparing to take your government to court to try and get the IBI treatment they need for their children. Deputy Premier, will you save these families a long and expensive court battle and fully fund IBI treatment for all autistic children in Ontario who need it?

1410

**Hon Elizabeth Witmer (Deputy Premier, Minister of Education):** Mr Speaker, I'm going to refer that to the Minister of Community, Family and Children's Services.

**Hon Brenda Elliott (Minister of Community, Family and Children's Services):** I thank the colleague across the way for the question. We care very much about the needs of the children in Ontario and have worked very hard to try to give them the support they need, particularly in the field of autism, and that is why we are the first government in Ontario ever to fund an intensive intervention program for children with autism. Our program is designed for children between the ages of two and five, and it was designed particularly that way, considering that autism research clearly indicates that early intervention for children is the most effective.

When we introduced this program in 1999, we committed \$5 million to this very innovative program. I want to say to you that now, only a few years later, that has increased eightfold, to \$39 million.

**Ms Martel:** Deputy Premier, the question was, will you fully fund IBI treatment, as the government in BC is now being forced to do? Let me put a name to some of the children in need: Tyler French was on a waiting list for treatment for two and a half years. He never received funding, and now that he is six, he never will. Eric Segal's mother, Sharon, is here with us today. She is terrified about what is going to happen to her son with respect to the limited funding he gets when he is cut off five months from now. Katie Andrew-Turner's parents have just started to see an improvement in their daughter's condition. They've just been told that her

treatment will be cut off in January, one day before her sixth birthday.

Deputy Premier, don't force these children and these families into court to get the treatment they need. Will you do the right thing? Will you fully fund IBI for autistic children in Ontario who need it?

**Hon Mrs Elliott:** Again I would say that just a few years ago in Ontario none of these kinds of programs were available, and that is why we have worked very hard to introduce, and to increase eightfold in just a few years, intensive behaviour therapy.

We are working hard to increase our capacity and our ability to provide this service. It requires highly trained therapists, and that's one of our challenges. It's extremely difficult to find enough individuals who are trained to provide this service, but in fact that is part of what our \$39 million is doing: trying to recruit and train more staff who are able to provide this very challenging service, because we know how very beneficial it is to children delivered at the right time. Can we do more? Yes, we can. Will we do more? We are working to do just that.

#### EDUCATIONAL ASSISTANTS

**Mr Dominic Agostino (Hamilton East):** My question is to the Minister of Education. This morning, hundreds of young people in Hamilton, kids with special needs, were forced to stay home because of the situation with the educational assistants being on strike. Young people like Katie, 17, who is a quadriplegic; her brother, 12, who has Down's syndrome; Timothy, who is blind and needs an EA to transcribe his work; and hundreds of others like these folks are at home today, not in school.

Your handpicked, appointed supervisor, who acts on your behalf, has been negotiating to try to get an agreement. The problem is very simply that you have set a standard and you've set a platform that it is unreasonable to reach any type of fair settlement without hurting these kids.

Minister, you're responsible now. You have fired the role of the trustees. You have now appointed yourself and Ernie Eves as chairs of the board. You're responsible for these kids being home. Will you stand up today and guarantee us that you'll ensure that enough money is sent to the Hamilton board to settle this dispute and get these kids back into their classrooms?

**Hon Mrs Witmer:** I certainly share the concern of the member opposite for these children, but I think we need to point out, in all fairness, that the supervisor inherited this current labour dispute. It actually dates back to August 31, 2001. Parents of special education children were contacted last week by the supervisor to be apprised of the situation. Parents of special-needs students who required intensive support were also contacted by their local principals, and the advice was given that obviously they needed to consider the situation.

I understand that the dialogue is continuing between the parties. I am very confident that with good will on both sides, a fair settlement can be reached.

**Mr Agostino:** Minister, I just find it amazing that you've washed your hands of any responsibility. You got rid of the school board. You appointed the supervisor. You are the negotiator now. You are the elected official that these parents in Hamilton are looking to for leadership, direction and to solve this problem. And you can't put it off on someone else. You know what your hand-picked supervisor has offered for the first year of the contract? Zero per cent. Most people see that as being unreasonable.

Minister, I believe that you and your government intentionally wanted the strike to use it as an opportunity to save money on the backs of these young kids who need the help. You have a responsibility here. You can't walk away from this. Your supervisor has admitted in the paper this morning that it's a money issue. There's not enough money to solve this problem, Minister, and these kids are paying a heavy price because of your arrogance. You are in charge. You took on that responsibility when you fired the board.

I'm going to ask you again: parents are looking to you as the only elected official who can fix this. Will you today guarantee—

**The Speaker (Hon Gary Carr):** The member's time is up.

**Hon Mrs Witmer:** I pointed out in my first comment that unfortunately this is an inherited labour dispute that goes back to the time of the other board. It goes back to August 31, 2001; however, I have every confidence that the parties involved will work together, consider the interests of the children and reach a fair settlement.

#### ONTARIO ECONOMY

**Mr Garfield Dunlop (Simcoe North):** My question today is for the Minister of Finance, and it relates to the recent news reports of jobs being created, which is an indication of a strong economy here in our province. There are, however, many news reports out there of economic uncertainty, falling stock markets and an economic slowdown in the United States. Statistics Canada recently released its job numbers for the month of September.

Minister, can you please tell us how we are doing here in Ontario with respect to job gains in light of some of the economic news around the rest of the world?

**Hon Janet Ecker (Minister of Finance):** I thank the member for Simcoe North. He quite rightly has pointed out that Stats Canada has released its September job report, and it is another good-news story for Ontario employees, Ontario's working families. It's reported that we've added over 32,000 net new jobs to the economy during September, and that's basically 1,000 jobs a day being produced by the hard work of our business sector and our employees out there. This is hot on the heels of a gain of over 43,000 jobs in August. We have seen net job gains in 11 of the past 12 months.

So Ontario is doing well on the job front. We know that one of the reasons they are doing that, one of the

factors that has helped do that is by this government paying attention to the economic fundamentals of lower taxes, competitive taxes, less red tape, making key investments in infrastructure. We're going to stay on that track because we know it is the right track for producing even more jobs in Ontario.

**Mr Dunlop:** Thank you very much, Minister, for that response. It's incredible to think that with the negative news we hear that there's actually 1,000 jobs a day being created here in Ontario.

Minister, I'd also be interested in knowing how Ontario's job creation numbers compare to the rest of Canada. The September job numbers also showed that Ontario's unemployment rate is lower than Canada's national unemployment rate: 7.3% here in Ontario compared to a higher jobless rate for the rest of Canada of 7.7%.

Since 1995, the Ontario example has shown that our economic policies by our government help create jobs. With the most recent increases in Ontario jobs in September, are we just riding on the coattails of the other provinces or is Ontario perhaps doing something right that we continue to experience these unbelievable employment gains here?

**Hon Mrs Ecker:** Frankly, one of the good-news stories about this is that Ontario has actually been outperforming our competing jurisdictions; for example, over three quarters of the net new jobs created in Canada were created right here, generated right here in Ontario. Private sector forecasters are anticipating that we will be the top-performing economy over this period, outpacing the economic performance of all of the G7 nations. That's because this government, when we were first elected in 1995, laid out the economic fundamentals to support growth, to support prosperity, to give our citizens \$11 billion in tax relief.

We understand the Liberal Party doesn't understand that. They want to increase taxes on the key job generators in our province. They want to put more red tape in the way of people who can create jobs. We on this side of the House understand what creates growth and prosperity. We're going to continue—

**The Speaker (Hon Gary Carr):** I'm afraid the minister's time is up.

1420

#### EDUCATION

**Mr Gerard Kennedy (Parkdale-High Park):** I have a question for the Minister of Education. I want to talk to you about the double indictment you received today in the report that was released by Dr King from Queen's University. Not only are you failing the kids who aspire to go to college and university, you are failing them before they even get out of high school. Absolutely crystal clear, something you should have known as education minister, is that two thirds of these kids are falling behind. Minister, they are being left behind. They're not passing their courses, they're not getting particularly

ready for college in the future. They're not doing that because you and your predecessors have turned a blind eye, because you didn't do what Dalton McGuinty and I asked you to do in June, which is help these curriculum casualties that you have helped to create. You have the curriculum but you have not committed the resources or the assistance to actually be successful.

Now that you're being told yet again—there is still six and a half months left in the school year. Will you act to see that these kids get the remedial support and the extra help they need so they can succeed in their courses and go on to college? Or will you do what you've done up till now, which is abandon them?

**Hon Elizabeth Witmer (Deputy Premier, Minister of Education):** I find it unbelievable that these people continue to attack the public school system in the province of Ontario. We have a system in this province that we need to be proud of. It has tremendous strengths, and we have been working with the people in this province in order to make it even better. We have a report here that is going to provide us with information that will enable us to continue to support those students who need extra help and remediation support. I'm extremely pleased to say that we're already providing to the 20% of Ontario students who are in the applied programs a tremendous amount of extra help, and we will do more. We've set aside \$25 million annually for students in grades 7 to 10 to get extra help in reading, writing and math, \$70 million—

**The Speaker (Hon Gary Carr):** The minister's time is up.

**Mr Kennedy:** Minister, how dare you? How dare you hide your incompetence behind the school system that has been struggling, that has been telling you for the four years—you've had four years since you implemented this new curriculum to know that there were kids being hurt. One hundred thousand kids are in that applied curriculum strand right now, and you're doing nothing for them. You knew last year that 55% of them failed basic applied math. You knew that then, and there's no help for those kids that failed grade 9 last year, not one dime from you.

What we need in this province is clear: some responsibility taken, some acceptance of responsibility. This is a system-wide problem. Your own report—I'm sorry you haven't had time to read it since August, but the parents and the students in this province can't wait.

Today, I want you to pledge to do what we've asked for, which is to make an investment in the curriculum casualties in this province, to do what Dalton McGuinty said should have been done in June—help these kids get their credits, help the kids that are, by this further proof, not doing well in your education Ontario—and commit to do that right here today.

**Hon Mrs Witmer:** It's unbelievable that the member opposite doesn't understand how hard the teachers in this province are working to help the students not just in the academic program but in the applied programs. I recently had the opportunity to visit two schools. If you take a look at how hard they're working to help those students

achieve the literacy and the math skills that they need to succeed in life, that they need to succeed to get a job, that they need to succeed to get into an apprenticeship and that they need to succeed to get into college and universities—we have made tremendous investments in order to support these students, and the information in—

*Interjections.*

**The Speaker:** Sorry, Minister. The member for Parkdale-High Park, come to order, please. You have 10 seconds. Sorry to interrupt, Deputy Premier.

**Hon Mrs Witmer:** The information in this report is going to be able to help us do even more for these students. I saw some of these students today. These students are working hard, the teachers are working hard. Let's work together to support them.

#### SERVICES FOR THE DEVELOPMENTALLY DISABLED

**Mr Ted Chudleigh (Halton):** My question is for the Minister of Community, Family and Children's Services. Minister, it is my understanding that a provincial announcement was made last week when you were at the London Association for Community Living. I know the Halton Association for Community Living runs an organization called Horizon Packaging. This organization stuffs envelopes, packs up boxes, does all kinds of that kind of work for the community. All of the newsletters I send out to the community are stuffed by this organization. If anyone in the western part of the GTA wants their envelopes stuffed and done properly and economically, I would highly recommend they use Horizon Packaging located in Milton.

Minister, this is an important announcement you made last week. I wonder if you could share the context of it with my constituents and I.

**Hon Brenda Elliott (Minister of Community, Family and Children's Services):** I thank my colleague for the question. This was a great announcement. I had the pleasure to travel to London and make a \$64-million announcement on behalf of the Ernie Eves government. This was keeping our promise to the community serving the developmentally disabled. The \$64 million is going to buy a great deal of services in the province of Ontario: \$48.6 million will enhance community supports, in particular community supports such as group homes, independent living, special services at home—which is a highly sought-after program—and out-of-home respite; we're providing \$21.1 million to organizations themselves, so they can revitalize, get staff, train staff and keep staff, which is always a challenge in this field; \$3 million is going to a new program called Foundations, which is an innovative day program serving young adults who are leaving high school and finding their way into their work world.

We're also providing \$15.4 million in capital to create new spaces. These are new homes. Our goal, of course, is to make sure that those with developmental disabilities can live happily and as—

**The Speaker (Hon Gary Carr):** I thank the minister. Her time is up.

**Mr Chudleigh:** That was a great announcement, and this is a very important area; it's one that we're very active in in Halton. We're very pleased to see money going into this sector. This is indeed an important group of people in our society.

We probably need more information on what this sector can do and what they are doing. Those are some fairly significant numbers that you're talking about. I wonder if you could put into perspective for this House those kinds of programs that we're investing in and how many people are being served through these programs in Ontario.

**Hon Mrs Elliott:** To my colleague from Halton, I thank him for the question. I know he's interested in this field and is very proud of the work being done in his own riding.

This will provide direct services. As I said, \$64 million is a continuing part of a promise we made over a year ago indicating that we would spend \$197 million by the year 2006-07 in this very field to serve the developmentally disabled.

Specifically, last year, for instance, 1,435 more people received special services at home; day programming services were provided to an additional 220 people; 385 more people got respite out of home; 700 young adults making the transition from school to adult life were served; new places were created, including new homes for 125 individuals and 64 new places through \$5 million in capital funds.

More than 260 of the lowest-paying agencies in Ontario received funds to supplement salaries and wages, benefits—

**The Speaker:** I thank the minister. New question?

#### LONG-TERM CARE

**Ms Shelley Martel (Nickel Belt):** I have a question to the Minister of Health. Minister, you refuse to recognize that your cancellation of the minimum standard for bathing has a negative impact on residents in long-term-care facilities. I have a copy of a letter sent to your colleague Mr Newman from a woman in St Thomas whose husband is in a nursing home. Maybe you'll listen to her. She says:

"I was astounded to read that prior to August 1 the Nursing Homes Act mandated a minimum of a daily bath for bed-ridden or incontinent residents. My husband is incontinent but only receives one bath a week which is insufficient, unsanitary, disgusting, and obviously a violation of the old Nursing Homes Act." She says the new regulation doesn't even ensure her husband is going to get one bath a week. So his care is certainly not improving. Please tell this woman what you will do to guarantee her husband gets the bath a day he needs.

**Hon Tony Clement (Minister of Health and Long-Term Care):** As the honourable member knows, we reviewed the bathing regulations, and this government

announced the changes that were made, which we think are a minimum. We put standards of practice into place where no standards of practice existed before, and the Ernie Eves government added an additional \$100 million for the funding of nursing and personal care in our long-term-care facilities. We not only acted in terms of minimum standards of practice, which we think are relevant and should be in regulations, but we added money so that the system is there for the residents in long-term-care facilities.

1430

**Ms Martel:** Minister, the question was, what are you going to do to guarantee her husband gets a bath a day? Right now he's getting a bath a week.

Let me tell you what else she said in her letter to Minister Newman: "If you think that, obviously, if someone needs a bath every day, they're going to get it, then you are sadly misinformed about the state of care in these facilities." She adds that the new standards will result in even fewer baths for residents, because they allow operators to interpret the regulations any way they choose, and for all of this you've increased monthly fees significantly so that people aren't getting the care they actually need and aren't going to get any more of that care they need.

Why don't you admit today that your decision was wrong? Bring in a regulation that sets clear standards and get your staff into nursing homes in Ontario to ensure residents get the baths they need when they need them. Will you do that?

**Hon Mr Clement:** I have to say to this House that the amended regulation ensures that, as patients, residents receive the care they need when they need it. In fact, there has to be a plan of care filed, and it has to be adhered to based on the individual needs of the resident. That was not the case before. We made it the case through the changes in our regulation.

If the honourable member wishes to quote reaction to it, I can quote what Karen Sullivan, executive director of the Ontario Long Term Care Association, said with respect to these new rules. She said the new rules are significantly better, so in fact that is a reaction, because they know that there are standards of practice in place now, that there is a plan of care in place now, and that was not the case before. We did it because we want to make sure the residents in long-term-care facilities in Ontario have the best care possible. That's what this government is all about.

#### APPOINTMENTS PROCESS

**Mr George Smitherman (Toronto Centre-Rosedale):** My question is for the Minister of Finance. Madam Minister, my question concerns your government's habit of conducting important public business in private. This time it's the red tape bill that moves public appointments from OIC to "nobody can see." Amendments in Bill 179 to section 2 of the Commodity Futures Act and section 4 of the Securities Act seek to remove the public oversight

of appointments to the Commodity Futures Advisory Board and the Financial Disclosure Advisory Board.

These boards are mandated to play important roles related to the Ontario economy, and at a time when you speak of the need to restore investor confidence, how could you, in good conscience, hide from public purview appointments to a body that provides advice concerning the financial disclosure requirements of Ontario securities law?

**Hon Janet Ecker (Minister of Finance):** Changes this government is proposing to put forward to protect investors, to make sure we have strong competitive markets, to make sure we don't have fraud or misrepresentation occurring in our markets: these are the goals of the legislative proposals this government is bringing forward—transparency, accountability, making sure investors have the information they need, making sure taxpayers have the information they need, so that they can make intelligent decisions and we can have the continued growth and prosperity we've had to date in this province.

**Mr Smitherman:** It's always good to see that the \$10-million minister, with her vast experience related to OICs and their nature of becoming public documents, could use the word "transparency" in response to a question that deals with the fact that appointments that are currently order-in-council appointments, under Bill 179—suggestions and amendments made coming from your ministry—those appointments will no longer be subject to the oversight of this Legislature through the committee that reviews these things.

I say to the minister, hoping now that she's found the time to find her note in the book, with respect, how can you in good conscience remove current appointments through the order-in-council process to an out-of-sight, out-of-mind body down on Bay Street? How does that work toward restoring investor confidence, and how is that transparent?

**Hon Mrs Ecker:** The appointment process in this government involves orders in council, it involves minister recommendations; that is not an unusual thing. The accountability for those organizations, the accountability of this government, the openness, the transparency, the making sure investors and taxpayers have the information they need—that is in no jeopardy whatsoever on this side of the House.

#### IMMIGRATION POLICY

**Mr Steve Gilchrist (Scarborough East):** My question is for the Minister of Citizenship. It's my understanding you recently represented Ontario at the first formal federal, provincial and territorial immigration ministers' meeting earlier this week. Given that cultural diversity is certainly one of our province's greatest strengths, and that immigration is essential to the economic, social and cultural well-being of Ontario, I'd like to know, after that meeting, what's the position of Ontario in ensuring that federal immigration policies continue to benefit our province?

**Hon Carl DeFaria (Minister of Citizenship, minister responsible for seniors):** I thank the member for the question. I was pleased to represent Ontario at this very important meeting on Tuesday and Wednesday, an historic meeting because it was the first time in over a century that the ministers responsible for immigration had met to discuss immigration issues.

Immigration is important to Ontario as newcomers enrich our province's economic, social and cultural life. Ontario has a proud tradition of welcoming immigrants and will continue to do so. Ontario is a major stakeholder in the federal immigration program, as 60% of all newcomers to Canada choose to settle right here in Ontario. Minister Coderre recognized that fact and often referred to me as his 60% shareholder. I don't know whether that's a good thing or not.

At the meeting, I and other ministers pressed the federal government to ensure improvements in the overseas selection of skilled immigrants and also—

**The Speaker (Hon Gary Carr):** The minister's time is up. Supplementary?

**Mr Gilchrist:** Thank you, Minister, for that response. You mentioned in that comment that immigration was essential to our economic development. However, it's certainly a fact that the government of Canada is responsible for immigration. The federal immigration minister, Mr Coderre, again said yesterday that Ottawa wants to settle immigrants outside the major population centres that have traditionally attracted them—Toronto, Montreal and Ottawa. I'm curious to know, Minister, what your position is on the federal minister's plans to settle immigrants in small and medium-sized communities across Canada.

**Hon Mr DeFaria:** Again I thank my friend for the question. As I was saying, one of the issues that we discussed was the federal government's assumption of provincial and municipal costs related to social assistance and legal aid for refugee claimants and of social assistance costs for immigrants whose family sponsorship arrangements have broken down.

There are many communities in Ontario, both rural, small and medium-sized communities, that could benefit from immigration. Our government will work with the federal government and other provinces on developing a new approach to attract immigrants to small and medium-sized communities in need of skilled workers. It is important, however, that the appropriate supports are in place to attract and retain immigrants. I'll be meeting with the federal minister, Denis Coderre, in the next few weeks to discuss developing a pilot project right here in Ontario.

1440

#### HYDRO RATES

**Mr Steve Peters (Elgin-Middlesex-London):** My question is for the Minister of Energy. Hydro One, your government enterprise corporation, has been engaged in a royal rip-off involving estimated usage. In rural Ontario,

meters are read quarterly and the usage is estimated in the interim. So, for example, a customer of Hydro One is sent two monthly bills with estimated usage. Then the third bill charges for the actual or catch-up usage.

Minister, you know what Hydro One is doing? They're chucking the additional consumption into the highest-price-per-kilowatt-hour period. Without monthly meter readings, there is no way of knowing when and what amount of additional hydro was used. Hydro One is zinging the consumer at peak consumption price.

A constituent of mine has calculated that because this is not averaged he has been over-billed by over \$100. You admitted in estimates that you couldn't even read the gobbledegook that was on a hydro bill. What are you doing to protect consumers in rural Ontario from being charged higher rates than they should be?

**Hon John R. Baird (Minister of Energy, minister responsible for francophone affairs):** The member opposite raises a valid point. Certainly it's not charged on peak hours. What it is charged on is the average for that period of time. Customers in that catchment area in rural Ontario would have three options: one, there's a process now in place where they can telephone in their own meter reading on a monthly basis; two, they can get an integral meter; or, three, they can make a decision as a customer to have a fixed-rate contract.

When we do have to do meter readings, based on the rate of return, it costs everyone, including the member and his constituents. There are three specific options that are open to customers and if he's got suggestions on how we could do it further, I'd be very pleased to take them to Hydro One. We want to ensure that rural customers of Hydro One and rural Ontario continue to be strongly represented by policies that make rural life sustainable in the province.

**Mr Peters:** Minister, as you well know, Hydro One has over 1.2 million retail electricity customers. These are homes, they're farms, they're industries and they're businesses. My constituent is by no means a large user of hydro, but at \$100 a customer this is potentially a more than \$100-million cash grab for Hydro One. People are already reeling from their most recent hydro bills. Those on fixed incomes and farmers struggling to make a living can barely cope with their energy bills. Rural Ontario has been struggling and now these people are being billed for hydro usage at exorbitant prices when they have absolutely no way of knowing at what point hydro was actually consumed.

The entire electricity market is in chaos, Minister, and you need to put the brakes on what's happening. You've raised some points just now, but I don't think these issues have been clearly communicated to hydro consumers in rural Ontario.

Minister, please stand up and stop this cash grab from Ontario by Hydro One, because \$100 million that is going into their pockets should be staying in the pockets of consumers in rural Ontario.

**Hon Mr Baird:** It certainly has been communicated. I know one of his own caucus colleagues who's here in the

Legislature today wrote me on this issue and I responded in short order on that issue. There are those three options. I'll ensure that they're effectively communicated to people in rural Ontario who are customers of Hydro One.

I would indicate to the member opposite it's not based on the peak price but rather the average price. But I think the point he raises is quite valid. That's why there are three options for customers that are in the best interests of all shareholders, who are of course the people of Ontario.

## HEALTH CARE

**Mr Bart Maves (Niagara Falls):** My question is to the Minister of Health. Without a shadow of a doubt, this government is the leading Canadian administration in realizing innovative methods of health care delivery so that its citizens continue to receive the best possible health care.

Not enough people are aware that since 1995 this government has increased spending in health care from \$17.6 billion to \$25.5 billion; also, that because of the Eves government's unwavering commitment to diagnostics there are 43 MRI machines currently in operation in Ontario, with many more on the way. This, I might add, brings the total of new MRI machines introduced by this government to 51, more than four times the amount the Liberals and NDP combined introduced during their 10-year reign of error over this province.

Minister, another great innovation of this government is the Telehealth system. How is that system working today?

**Hon Tony Clement (Minister of Health and Long-Term Care):** Thank you very much for the question. By the way, in reference to unwavering commitment, I'd be remiss if I didn't mention that my colleague from Niagara Falls demonstrates that unwavering commitment every day in representing his constituents here at Queen's Park.

Let me talk about Telehealth Ontario. It is available 24 hours a day, seven days a week, in 110 languages, simply by calling 1-888-767-0000. Registered nurses are available to assist callers in choosing appropriate health care options.

Telehealth Ontario has been a resounding success since it was introduced in February 2001. Over one million people have used this service. Of these callers, 35% have used Telehealth more than once. This is proof positive that satisfaction with the program is very high. Due to Telehealth's success, the Ernie Eves government has hired more registered nurses to answer Ontarians' questions about their physical well-being. This is one of many innovative tools this government is using to provide all Ontarians with universally accessible and publicly funded health care services.

**Mr Maves:** Thank you, Minister. Many of my constituents have been among those million users of the Telehealth system, and they all speak highly of it. However, I must also say at this time that while the Eves

government is responding to the public's call for health care spending, the federal Liberals are continuing to fail to pay their fair share.

The Chrétien-Martin government contributes only 14 cents on the dollar for health care spending, an all-time low. This is down from the paltry 18 cents on the dollar the federal Liberals contributed in 1995. Since this year's federal surplus is an estimated \$9 billion, this pathetic amount is quite shameful. Conversely, the Eves government is investing 47 cents of every single program dollar on health care.

Minister of Health, have hospitals in Ontario shared in the huge increase in expenditures that our government has made in health care?

**Hon Tony Clement:** I heard most of the question. There was a little bit of falling on swords on the opposition benches when it came to the federal Liberal contribution to our health care system.

I want to tell you that our government takes great pride in our innovative health care strategy. I'm always grateful for the attention we can pay to our accomplishments. Over the last five years our government has increased hospital funding by 38%, and this year the Ernie Eves government will spend \$9.4 billion, on behalf of the taxpayers of Ontario, on hospitals. This is \$645 million more than we spent last year. Since 1995, this government has spent over \$2.65 billion to expand, modernize and build and rebuild new hospitals.

This year's throne speech was another example of the Ernie Eves government's innovative approach to health care. Our government committed to a new funding arrangement for hospitals that will allow them to better plan for the future: multi-year funding. We will work actively with stakeholders to develop a model for this multi-year funding, another example of the Ernie Eves commitment to ensure that all Ontarians continue to have access to the best universally accessible health care.

#### SITE OF EARLY PARLIAMENT

**Mr Michael Prue (Beaches-East York):** My question is to the Deputy Premier. The site of Ontario's first Parliament Buildings is about to disappear under a car dealership at the corner of Parliament and King. One of the greatest archaeological sites in this province is about to be paved over. It represents the history, I don't have to tell you, of this province: the start of responsible government; the changing of the capital from Newark, which today is Niagara-on-the-Lake, to Toronto; and all of the history of the War of 1812. It's all there. You have a chance to be heroes over there. Will you declare your intent to purchase this site and save it from becoming a car dealership?

**Hon Elizabeth Witmer (Deputy Premier, Minister of Education):** I'm going to refer that to the Chair of Management Board and Minister of Culture.

**Hon David H. Tsubouchi (Chair of the Management Board of Cabinet, Minister of Culture):** I believe, and the government does believe, that this is a

particularly important site: the first Parliament. Currently we are reviewing some options in terms of the province's role.

**Mr Prue:** I was hoping for a better answer. I was hoping for an absolute yes.

I think to all of us, heritage is absolutely important, even to the government members. This is the heritage of this province that we're going to pass on to our children and our children's children. The federal government has indicated an interest in helping to fund the archaeology and the digging up of this site. The community is absolutely interested. There's a community meeting here in Toronto tonight to discuss ways of developing this site and protecting it, but you must lead. On December 1 we're going to lose any opportunity we have to take over this site and we must act now or risk losing our heritage. Will you buy the site and preserve the heritage of our city, of our province and of our country?

**Hon Mr Tsubouchi:** It's a little odd to hear the member over there extolling the benefits of the federal government coming in and spending money. I don't know what the extent of their commitment is. Unfortunately, we haven't been invited to many of the informational sessions by the city of Toronto.

As the member well knows, the city of Toronto has the lead on this. It is in their area. However, having said that, the government recognizes the importance of this very historical landmark site. I will say again to the member that currently we are considering a number of options in which the province can work with the city in this matter.

1450

## PETITIONS

### EDUCATION FUNDING

**Mr Gerard Kennedy (Parkdale-High Park):** "To the Legislative Assembly of Ontario:

"Whereas we, the undersigned residents and taxpayers of the province of Ontario, are gravely concerned about the present state of financial support for publicly funded schools in the province of Ontario,

"We, the undersigned, petition the Legislative Assembly of Ontario as follows:

"(1) We respectfully request that the public review of the current provincial funding formula for public education in Ontario be conducted with the participation of all stakeholders in the public education system; and

(2) "We further respectfully request that until the review is completed, boards be allocated funds equal to the amount spent in 2001-02, plus funding for inflation and enrolment increases."

This was collected in an incredibly short period of time, started by the Bedford Park Junior Public School: 1,925 signatures. I am happy to add mine to this list.

## BUSINESS OF THE HOUSE

**Hon John R. Baird (Minister of Energy, minister responsible for francophone affairs):** Pursuant to standing order 55, I have the statement of the business of the House for next week.

Monday afternoon we will resume debate on Bill 181. On Monday evening we will continue debate on Bill 179.

On Tuesday afternoon we will debate a motion on the interim supply bill. On Tuesday evening we will debate Bill 187.

Wednesday afternoon will be a Liberal opposition day. Wednesday evening we will debate Bill 179.

Thursday morning during private members' business we will discuss ballot item number 63, standing in the name of Mr Cleary, and ballot item number 64, standing in the name of Mr Christopherson. Thursday afternoon we will continue debate on Bill 187. Thursday evening's business is to be determined.

## LONG-TERM CARE

**Mr George Smitherman (Toronto Centre-Rosedale):** I have a petition to the Legislative Assembly of Ontario.

"Whereas the Eves government has increased the fees paid for by seniors and the most vulnerable living in long-term-care facilities by 15%; and

"Whereas this fee increase will cost seniors and our most vulnerable more than \$200 a month; and

"Whereas this increase is 11.1% above the rent increase guidelines for tenants in the province of Ontario; and

"Whereas the increase in the government's own contribution to raise the level of long-term-care services this year is less than \$2 per resident per day; and

"Whereas according to the government's own funded study, Ontario ranks last among comparable jurisdictions in the amount of time provided to a resident for nursing and personal care; and

"Whereas the long-term-care funding partnership has been based on government accepting the responsibility to fund the care and services that residents need; and

"Whereas government needs to increase long-term-care operating funding by \$750 million over the next three years to raise the level of service for Ontario's long-term-care residents to those in Saskatchewan in 1999; and

"Whereas this province has been built by seniors who should be able to live out their lives with dignity, respect and in comfort in this province;

"We, the undersigned, petition the Legislative Assembly of Ontario as follows:

"Demand that Ernie Eves reduce his 15% fee increase on seniors and the most vulnerable living in long-term-care facilities and increase provincial government support for nursing and personal care to adequate levels."

## VOLUNTEER FIREFIGHTERS

**Mr Toby Barrett (Haldimand-Norfolk-Brant):** I also wish to table a petition. It is titled "Support the Right of Full-Time Firefighters to Volunteer." It is signed by area people from Waterford, Turkey Point, Cayuga, Simcoe and Dunnville and addressed to the Legislative Assembly of Ontario.

"Whereas double-hatter firefighters have historically provided a vital service to small and rural communities across Ontario by volunteering services to their local fire departments in addition to their professional firefighter duties; and

"Whereas by volunteering, these full-time firefighters provide highly valued expertise, skills and training for fellow volunteers; and

"Whereas the vital input, support and work of our full-time firefighters are now being placed in jeopardy by reported union pressure, including charges and threats of charges aimed at putting an end to this vital volunteer service; and

"Whereas MPP Toby Barrett, the Association of Municipalities of Ontario and the Firefighters' Association of Ontario have made clear their support for this legislation;

"We, the undersigned, respectfully petition the Parliament of Ontario as follows:

"That the government of Ontario support Waterloo-Wellington MPP Ted Arnott's Bill 30, a private member's bill titled the Volunteer Firefighters Employment Protection Act, and enshrine in law the right of full-time firefighters to volunteer."

I support this petition. Hearings are being conducted. I affix my signature to this petition.

## HIGHWAY 69

**Mr Rick Bartolucci (Sudbury):** I see our page from the greater city of Sudbury, Philippe, is coming to get this petition. I would like you to know that his grandparents and mother are in the gallery today. We wish them a good trip back to Sudbury and hope that their trek back on Highway 69 is a safe one.

This petition is to the Legislative Assembly of Ontario:

"Whereas modern highways are economic lifelines for the north; and

"Whereas the stretch of Highway 69 from Sudbury south to Parry Sound is a treacherous road with a trail of death and destruction; and

"Whereas the carnage on Highway 69 has been staggering; and

"Whereas in the last three years, 46 people have lost their lives on that stretch of highway between Sudbury and Parry Sound; and

"Whereas so far this year," 10 people have been tragically killed between Sudbury and Parry Sound; and

“Whereas the Harris-Eves government has shown gross irresponsibility in not four-laning the stretch of Highway 69 between Sudbury and Parry Sound; and

“Whereas immediate action is needed to prevent more needless loss of life; and

“Whereas it is the responsibility of any government to provide safe roads for its citizens, and the Harris-Eves government has failed to do so;

“Be it resolved that we, the undersigned, petition the Legislative Assembly of Ontario to urge the Harris-Eves government to begin construction immediately and four-lane Highway 69 between Sudbury and Parry Sound so that the carnage on Death Road North will cease.”

Of course, I affix my signature to this petition and give it to Philippe to bring to the table.

#### LONG-TERM CARE

**Mr Alvin Curling (Scarborough-Rouge River):** I have a petition to the Legislative Assembly of Ontario.

“Whereas the Eves government has increased the fees paid for by seniors and the most vulnerable living in long-term-care facilities by 15% or \$7.02 per diem effective August 1, 2002; and

“Whereas this fee increase will cost seniors and our most vulnerable more than \$200 a month; and

“Whereas this increase is 11.1% above the rent increase guidelines for tenants in the province of Ontario; and

“Whereas the increase in the government’s own contribution to raise the level of long-term-care services this year is less than \$2 per resident per day; and

“Whereas according to the government’s own funded study, Ontario ranks last amongst comparable jurisdictions in the amount of time provided to a resident for nursing and personal care; and

“Whereas the long-term-care funding partnership has been based on government accepting the responsibility to fund the care and services that residents need; and

“Whereas government needs to increase long-term-care operating funding by \$750 million over the next three years to raise the level of service for Ontario’s long-term-care residents to those in Saskatchewan in 1999; and

“Whereas this province has been built by seniors who should be able to live out their lives with dignity, respect and in comfort in this province;

“We, the undersigned, petition the Legislative Assembly of Ontario as follows:

“Demand that Premier Eves reduce his 15% fee increase on seniors and the most vulnerable living in long-term-care facilities and increase provincial government support for nursing and personal care to adequate levels.”

I’m in full support of this. Of course, Kyle will bring it forward to the desk after I have signed this. Thank you very much, Kyle.

#### SCHOOL CLOSURES

**Mr Toby Barrett (Haldimand-Norfolk-Brant):** I have additional petitions entitled “Moratorium on High School Closures,” signed by many people in my area, from towns like Delhi and the communities of Scotland, La Salette and Teeterville.

“To the Legislative Assembly of Ontario:

“Whereas one high school has closed and several others are threatened by the Grand Erie District School Board; and

“Whereas the Education Equality Task Force led by Dr Mordechai Rozanski is reviewing the current funding formula for education in Ontario; and

“Whereas the Grand Erie District School Board is expected to issue additional high school closures; and

“Whereas parent groups and community volunteers feel the GEDSB has not set aside adequate time to review and explore all other viable options to keep area high schools open;

“We, the undersigned, request that the Grand Erie District School Board and the Ministry of Education declare a moratorium on secondary school closures until such time as recommendations from the Education Equality Task Force will have been implemented.”

I affix my signature to this petition.

1500

#### HIGHWAY 69

**Mr Rick Bartolucci (Sudbury):** I have some more petitions regarding Highway 69. These were gathered by Dan Ball from our community. It’s a petition to the Legislative Assembly of Ontario, and it says:

“Whereas modern highways are economic lifelines for the north; and

“Whereas the stretch of Highway 69 from Sudbury south to Parry Sound is a treacherous road with a trail of death and destruction; and

“Whereas the carnage on Highway 69 has been staggering; and

“Whereas in the last three years, 46 people have been killed on that stretch of highway between Sudbury and Parry Sound; and

“Whereas 10 people have died tragically so far this year between Sudbury and Parry Sound;

“Whereas the Harris-Eves government has shown gross irresponsibility in not four-laning the stretch of Highway 69 between Sudbury and Parry Sound;

“Whereas immediate action is needed to prevent more needless loss of life; and

“Whereas it is the responsibility of any government to provide safe roads for its citizens, and the Harris-Eves government has failed to do so; and

“Whereas it is the responsibility of the government to provide safe roads for its citizens, and the Harris-Eves government has failed to do so;

“Therefore, be it resolved that we, the undersigned, petition the Legislative Assembly of Ontario to urge the

Harris-Eves government to begin construction immediately and four-lane Highway 69 between Sudbury and Parry Sound so that the carnage on Death Road North will cease.”

I, of course, affix my signature and give it to Edward to bring to the table.

### SCHOOL CLOSURES

**Mr Toby Barrett (Haldimand-Norfolk-Brant):** In addition to the petition that I've drawn up on school closures, I have an additional petition from a group in the Delhi area.

“Whereas the education funding formula applied uniformly across the province of Ontario has forced many consolidated boards of education to move to close schools, especially in rural areas; and

“Whereas the formula is now being reviewed by Dr Mordechai Rozanski, with a report to the provincial government anticipated by November 2002;

“Now the undersigned petition Dr Rozanski, the boards of education and the province of Ontario as follows:

“(1) include in any future funding formula recognition of the importance of rural schools to their communities;

“(2) give communities the opportunity to directly support (by taxation, if necessary) their schools to ensure their continued existence; and

“(3) mandate an immediate moratorium on the consideration of the school closures until the new funding formula is in place.”

There's a great deal of concern, and hence many, many signatures from communities like Delhi, Vanessa and Windham Centre. I see names from Norwich, Courtland and, of course, many, many names from Delhi.

### LONG-TERM CARE

**Mr Alvin Curling (Scarborough-Rouge River):** I have a petition here, and I'm sure that Curtis Ng from Scarborough-Rouge River, whose last day here is today, will be happy to bring it to the desk when I'm finished reading this. The petition reads:

“To the Legislative Assembly of Ontario:

“Whereas the Eves government has increased the fees paid for by seniors and the most vulnerable living in long-term-care facilities by 15% or \$7.02 per diem effective August 1, 2002; and

“Whereas this fee increase will cost seniors and our most vulnerable more than \$200 a month; and

“Whereas this increase is 11.1% above the rent increase guidelines for tenants in the province of Ontario; and

“Whereas the increase in the government's own contribution to raise the level of long-term-care services this year is less than \$2 per resident per day; and

“Whereas according to the government's own funded study, Ontario ranks last amongst comparable juris-

dictions in the amount of time provided to a resident for nursing and personal care; and

“Whereas the long-term-care funding partnership has been based on government accepting the responsibility to fund the care and services that residents need; and

“Whereas the government needs to increase long-term-care operating funding by \$750 million over the next three years to raise the level of service for Ontario's long-term-care residents to those in Saskatchewan in 1999; and

“Whereas this province has been built by seniors who should be able to live out their lives with dignity, respect and in comfort in this province;

“We, the undersigned, petition the Legislative Assembly of Ontario as follows:

“Demand that Premier Eves reduce his 15% fee increase on seniors and the most vulnerable living in long-term-care facilities and increase provincial government support for nursing and personal care to adequate levels.”

I affix my signature, and I'll give it to Curtis to give it to the desk.

**Mr Toby Barrett (Haldimand-Norfolk-Brant):** I have a petition.

“To the Legislative Assembly of Ontario:

“Whereas the Eves government has increased the fees paid for by seniors and the most vulnerable living in long-term-care facilities by 15% or \$7.02 per diem effective August 1, 2002; and

“Whereas this fee increase will cost seniors and our most vulnerable more than \$200 a month; and

“Whereas this increase is 11.1% above the rent increase guidelines for tenants in the province of Ontario; and

“Whereas the increase in the government's own contribution to raise the level of long-term-care services this year is less than \$2 per resident per day; and

“Whereas according to the government's own funded study, Ontario ranks last amongst comparable jurisdictions in the amount of time provided to a resident for nursing and personal care; and

“Whereas the long-term-care funding partnership has been based on government accepting the responsibility to fund the care and services that residents need; and

“Whereas government needs to increase long-term-care operating funding by \$750 million over the next three years to raise the level of service for Ontario's long-term-care residents to those in Saskatchewan in 1999; and

“Whereas this province has been built by seniors who should be able to live out their lives with dignity, respect and in comfort in this province.

“We, the undersigned, petition the Legislative Assembly of Ontario as follows:

“Demand that Premier Eves reduce his 15% fee increase on seniors and the most vulnerable living in long-term-care facilities and increase provincial government support for nursing and personal care to adequate levels.”

## HIGHWAY 69

**Mr Rick Bartolucci (Sudbury):** I continue to submit some of the 26,000-name petitions regarding Highway 69. This is to the Legislative Assembly of Ontario:

“Whereas modern highways are economic lifelines for the north; and

“Whereas the stretch of Highway 69 from Sudbury south to Parry Sound is a treacherous road with a trail of death and destruction; and

“Whereas the carnage on Highway 69 has been staggering; and

“Whereas the Harris-Eves government has shown gross irresponsibility in not four-laning the stretch of Highway 69 between Sudbury and Parry Sound; and

“Whereas immediate action is needed to prevent more needless loss of life; and

“Whereas it is the responsibility of a government to provide safe roads for its citizens, and the Eves government has failed to do so;

“Therefore, be it resolved that we, the undersigned, petition the Legislative Assembly of Ontario to urge the Eves government to begin construction immediately and four-lane Highway 69 between Sudbury and Parry Sound so that the carnage on Death Road North will cease.”

Of course, I affix my signature, give it to Carley, and ask her to bring it to the table.

## ORDERS OF THE DAY

LEGAL AID SERVICES  
AMENDMENT ACT, 2002LOI DE 2002 MODIFIANT LA LOI  
SUR LES SERVICES  
D'AIDE JURIDIQUE

Resuming the debate adjourned on October 15, 2002, on the motion for second reading of Bill 181, An Act to amend the Legal Aid Services Act, 1998 / Projet de loi 181, Loi modifiant la Loi de 1998 sur les services d'aide juridique.

**The Deputy Speaker (Mr David Christopherson):** It's my understanding that the floor is now open for further debate, and I will recognize the member for Simcoe North.

**Mr Garfield Dunlop (Simcoe North):** It's a pleasure to rise this afternoon to say a few words on second reading of the Legal Aid Services Amendment Act, 2002. I, first of all, want to congratulate my friend and colleague Minister David Young for introducing this piece of legislation. I know that throughout Ontario over the last few years, fees for legal aid lawyers have been under some attack and scrutiny, and I think this is an opportunity to look forward to the future and possibly correct some of those problems that might have arisen.

The Legal Aid Services Amendment Act, 2002, is an important and necessary piece of legislation that will

improve access to justice in our province; access to justice is one of the foundations of a free and democratic society.

As you know, getting legal counsel has become more difficult depending on where you live in Ontario. Legal aid lawyers in several communities have been engaged in a series of somewhat disruptive tactics that seem to be motivated by economic interests and not by the interests of their clients.

Ontario legal aid lawyers are among the highest paid in the country. On August 1 of this year the rate paid to legal aid panel lawyers was increased by 5% to a maximum of \$87.93 per hour and the duty counsel rate was increased 23% to \$70.35 per hour. Legal aid lawyers who travel 200 kilometres or more to designated northern areas of this province will benefit from a 10% hourly premium and will be guaranteed \$800 per day. This package will cost almost \$21 million over three years to our province. This is the first increase in the legal aid tariff rate in over 15 years.

This package was the first step in the government's ongoing review of Ontario's legal aid system. The government is committed to working with Legal Aid Ontario and lawyers' groups to explore long-term solutions to issues affecting legal aid.

As the Attorney General said at the time, “Attracting and retaining lawyers who perform legal aid work is critical to ensuring that Ontario's poorest citizens have access to the high-quality legal representation that they deserve.”

We believe that increasing the hourly rate paid to legal aid lawyers is an important step. Despite this, some legal aid lawyers have continued with work boycotts and other disruptive tactics. They are pointing to the disparity between the legal aid tariff and market rates for their services as justification for these actions.

There is no excuse for disrupting the justice system by attempting to shut down the courts. In any event, the rationale advanced is not cogent in its own terms.

**1510**

The legal aid system was never intended to be a lawyer's sole means of income. The legal aid system has always been, and will continue to be, a public service for those in need.

The current legal aid system in the province is set up in such a way that the private bar has a near monopoly. The disruptions compromise the integrity of the legal process and the due administration of justice. Worse, these disruptions were part of a well-planned campaign by groups claiming to represent legal aid lawyers.

I'd like to quote from a letter sent by the president of the Criminal Lawyers' Association to members of this association. It reads, “We understand that some members rely on legal aid certificates. As part of our efforts to maintain pressure and display our dissatisfaction with the lack of reform, we suggest the following options to indiscriminately accepting legal aid certificates.

“(1) Critically canvassing with clients whether or not a cash retainer is a realistic option.

“(2) Discussing with clients the possibility of a payment schedule.

“(3) If it is apparent that the client cannot in any manner afford counsel, bringing Fisher application where appropriate materials for such an application will be posted on the CLA Web site beginning in September.”

And in brackets: “If you bring the Fisher application, you have to understand that if you are unsuccessful, you must be prepared to walk away from the case.

“(4) Considering whether or not you should be taking legal aid certificates at all.

“Having seen the success of our work in August, we are now focusing our collective energies on the GTA revolving court boycotts beginning March 1. This strategy is expected to result in court backlogs, media attention and continuing pressure on the Ministry of the Attorney General while allowing counsel to continue to represent clients and meet expenses.

“To ensure the effectiveness of the revolving strike,

“(1) Check your court boycott calendar before you set a trial date.

“(2) Talk it up. Mention the court boycotts to every colleague you meet.

“(3) If your colleagues don't know about it, give them your calendar and call the CLA office. They will send you another one.

“(4) Remind colleagues about the rotating strike if you see them setting a date on a prohibited week.

“The purpose of the strike is to shut down the courts on the weeks indicated in the calendar. It is vital that the strike days apply to all matters, legal aid or private.”

That's the end of that quote.

As the Attorney General has said, legal aid lawyers who are participating in ongoing work stoppages of this kind are not serving the interests of justice. They are not protecting the rights of those in need.

The legal aid system does not simply exist for the benefit of lawyers; it exists to protect the rights of those in need.

Allow me to remind the opposition members who have thus far stood shoulder to shoulder with lawyers who believe that shutting down our courts is a responsible course of action that those in need are frequently the most vulnerable people in our province, such as women and children involved in painful family court cases.

This is completely unacceptable. To ensure that the interests of justice continue to be served, our government is proposing to amend the Legal Aid Services Act. As you already heard, the purpose of this bill is to achieve a balance in the way legal aid services are provided in this province. The legislation would, if passed, place various tools or options at the disposal of Legal Aid Ontario. These options would include hiring more staff lawyers, expanding the role of duty counsel and contracting out work to private lawyers and law firms.

Legal Aid Ontario, the provincial agency responsible for administering legal aid services, established a pilot project two years ago in which family law staff offices were opened in Thunder Bay, Ottawa and Toronto. The

evaluation of the pilot has determined that the mixed system is a success.

In Canada, legal aid is provided through separate legal aid plans in each of the provinces. Though each provincial and territorial government has developed its own legal aid scheme, three general models have been adopted: (1) the staff system; (2) the adjudicator system; and (3) the mixed system.

Several provinces rely almost completely either on staff lawyers or on a mixture of staff and private counsel.

I'd like to use this time to remind the members of the opposition who claim that this bill will lead to an Americanization of Ontario's justice system what other provinces are doing so that they can see where Ontario is going and how our direction compares to other legal aid plans in other parts of our country.

New Brunswick, Ontario and Alberta are the only provinces that have primarily *judicare* or private bar systems, although there are circumstances where there are staff lawyers available.

Other provinces make use of what is called a staff system. Under a staff system, a legal aid plan directly employs lawyers to provide legal aid services. Newfoundland and Labrador, Prince Edward Island, Nova Scotia and Saskatchewan have adopted this approach. In staff systems, the private bar may still be used when circumstances warrant—for example, if there are conflicts of interest or staff lawyers that are unavailable.

A mixed system combines the *judicare* and staff systems and utilizes both private and staff lawyers in the provision of legal services. The legal aid plans in Quebec, Manitoba, the Northwest Territories, Nunavut and Yukon operate mixed systems of legal aid. In most of these jurisdictions, the client has the right to choose counsel, either staff or private, from a panel of lawyers providing legal aid services. Quebec has made use of this type of system for many decades.

The mixed models have proven track records of providing high-quality legal services to clients, and this is the type of system that Legal Aid Ontario would deliver if Bill 181 were passed. So much for the Americanization of legal aid. I'd now like to describe the mixed legal aid system used with great success by Manitoba and Quebec in greater detail.

The Legal Aid Service Society of Manitoba was established in 1972 and is responsible for the administration of legal aid services in that province. Similar to Ontario, it is an entity governed by an independent board of directors whose members are appointed by the provincial government. In mixed service models such as Manitoba's, the legal aid program provides formal representation in the areas of criminal, family and poverty laws. The program also represents groups in cases of public interest.

When a client applies for legal aid in Manitoba, they can request a specific private bar lawyer. The plan will usually send the certificate to that lawyer if the lawyer is available and willing to accept the certificate. If the applicant does not specify a lawyer, the plan will usually

assign a staff lawyer. Legal Aid Manitoba provides legal aid advice to individuals who appear in court but do not have a lawyer acting for them. This service is available in criminal, youth and some child welfare courts. Legal aid offers duty counsel services in approximately 50 communities in Manitoba. Staff lawyers provide 90% of these services. Staff lawyers, private lawyers mandated by Legal Aid Manitoba or paralegals provide legal advice to individuals who are arrested outside of regular business hours. This service is usually provided over the phone and is available from 4:30 pm to 8 am.

The first legal aid services emerged in Quebec in the early 1950s as an initiative of the bar section of Quebec City. During the following years, the Quebec government and the bar of the province of Quebec signed agreements relating to the provision of legal aid services. In 1972, the Quebec Legislature passed the Legal Aid Act, which in turn established the legal services commission. The commission has the authority to establish legal aid centres and currently has 11 regional and two local centres overseeing the delivery of services in 128 legal aid offices. Each regional and local centre is governed by its own board of directors, whose members are nominated by the commission. The commission operates a mixed *judicare* staff model. The clients can be represented by the private lawyer of their choice if they are available; otherwise, they are represented by staff lawyers.

**1520**

Legal aid has provided for a range of civil and criminal cases, including criminal charges involving an indictable offence, family cases, youth protection, young offenders and income security matters. Staff lawyers provide duty counsel representation at all criminal, administrative and family court locations across the province of Quebec. Only summary legal assistance is provided through duty counsel representation.

Why are the member for St Paul's and his cohorts afraid to debate this proposed legislation on an apples-to-apples basis, by looking at the systems used in separatist Quebec and socialist Manitoba instead of constantly and inaccurately comparing the system contemplated by the proposed legislation with the American experience?

If the Legal Aid Services Amendment Act is passed, Legal Aid Ontario would be taking advantage of the strengths offered by both staff and fee-for-service lawyers to provide legal aid services. As has been mentioned previously, the current legal aid system grants private bar lawyers a monopoly over the provision of legal aid services in the areas of criminal and family law.

The proposed legislation will help Legal Aid Ontario in ensuring the stability and sustainability of the system. This is a very important point. The legal aid system must protect the rights of those in need. It must also be able to prevent disruption of the judicial system. The proposed legislation would allow us to meet our obligations and responsibilities to ensure everyone's right to legal representation is protected.

Legal Aid Ontario would be given the tools to achieve a balance in the way that services are delivered, including

hiring more staff lawyers, expanding the role of duty counsel, contracting out work and reducing the nearly total reliance on the private bar.

As I noted at length earlier, the mixed model that uses staff lawyers is operating elsewhere in Canada and works well to ensure high-quality and cost-effective services. The private bar would continue to perform a significant part of service delivery in the areas of family and criminal law matters. Our proposed legislation would simply expand the methods of service delivery and broaden options available to clients.

We believe that a mixed system is the best way to achieve a balanced and sustainable legal aid system. It's the best way to ensure everyone in Ontario has access to justice. I urge all members to support this bill.

I want to thank Minister David Young, the Attorney General, for bring forth this piece of legislation. It's a great starting point for debate, and I understand we have many hours of debate ahead of us here. Again, I urge all members to support this bill. Thank you for the opportunity to say a few words here this afternoon.

**The Deputy Speaker:** It is now time for questions and comments.

**Mr Alvin Curling (Scarborough-Rouge River):** I listened to the member for Simcoe North very carefully. It was difficult to listen carefully, because I didn't hear anything new there. As a matter of fact, I didn't hear anything.

I'd like you in your rebuttal, when you get back to do your two minutes, to convince me that you have a solution where the poor would have some access to justice, because all you have said hasn't told me anything about the poor, those who can't afford a lawyer, having good access to justice, because today it's awful. We know that the poor get a longer sentence in the courts because of poor representation, and in what you've said here, you haven't said a word about how you're going to resolve that.

It is bigger than just trying to pay lawyers a little bit more. I think the problem is deeper than that, much deeper than that, not like having a quarrel with a couple of lawyers saying they want more fees and therefore that will solve the problem: "As a matter of fact, I won't give it to them; I'll go and contract more lawyers outside so that we can resolve this problem." That's not the problem. Those who need it haven't got the financial resources to do so.

In your statement I didn't hear a word about how you will do that kind of stuff. We know about the inadequacy of how you have funded policing. I haven't heard a word about that in your speech and about your commitment to access, so that the poor have access to good justice.

In your two minutes I would like you to address that, because that is what the people out there want to learn. Forget about your fight with the lawyers; stand up for justice for all, fair justice, because sometimes people don't feel they have adequate justice. I hope you address those concerns.

**Mr Gilles Bisson (Timmins-James Bay):** I listened to the comments made by the member opposite, and it seems to me that we're missing the crux of what this debate is all about, or what it should be about. This government wants to change the system to create what some would term a public defender system that's more closely in line with the American system, in which you appear to court, you're assigned a public defender and you get representation in court. I guess that's the government's way of responding to the crisis they've created by not adequately funding our legal aid clinics and Legal Aid Ontario overall across the province.

I have had the opportunity to meet with the legal aid people in our community. They're telling me that about 30% to 35% of people who now appear before the courts in my riding are going unrepresented because Legal Aid Ontario does not have the funds to issue the tickets so that these people can go out and get a lawyer to represent them when they go to court. And a whole raft of issues are not even eligible when it comes to the ability to get a ticket to get a lawyer to represent you. So that's meaning to say, all kinds of people are going without representation.

I was speaking to one gentleman yesterday—and I'll only use his first name, Bob—who lives out at Delnite. He's beside himself. He can't afford a lawyer. He has already spent a bunch of money trying to get one to represent him, and he has to go before the court to deal with the matter. He's not able to get legal aid, because the rules prevent him from getting a ticket. Without that ticket he can't get to court with a lawyer. When he goes to the legal clinic that we're now just starting up, the legal clinic doesn't take a number of issues if they are issues that could be dealt with by private lawyers.

I'm saying the government created this crisis. If people are without representation in the courts, it's not by creating a public defender system that we're going to fix the problem, in my view. What we need to do is to make sure that we fund the system so that people can afford to get lawyers to represent them when they, unfortunately, have to go to court. The government, in my view, has taken the completely opposite view on this thing.

**The Deputy Speaker:** Further questions and comments?

**Mr Norm Miller (Parry Sound-Muskoka):** Thank you, to the member from Simcoe North, for adding his comments today to do with Bill 181, the Legal Aid Services Amendment Act, 2002, which has been put forward by our very able Attorney General. It has been put forward to deal with a problem, and this is the solution to the problem.

Basically we have some of the most vulnerable in our society who aren't able to get legal services, who have to try to find their way through the maze of the courts without the benefit of expert lawyers. The Attorney General has come up with a solution to deal with that problem, to provide legal services to those most vulnerable in our society who need legal representation. I think what he has come up with is a very balanced solution.

I listened with interest to the member from Timmins-James Bay talking about an Americanization of the system. Well, he should be looking at Manitoba, which I believe has an NDP government. They have a very similar system to the one that's being implemented to fix this problem of a lack of representation. They have a system whereby they have certificates, with private bar lawyers using certificates. As well, there are other staff lawyers who are looking after cases as well.

I'd like to bring the attention of the House to the member from St Paul's, who's made comments on this issue. He had about the fastest flip-flop going for the opposition party when on September 30 he was asked by a reporter, "What would you do, spend more money on legal aid to fix it?" The member from St Paul's: "No, you know, the experience in the United Kingdom and other jurisdictions has been, yes, to reform the legal aid system and to look at different ways of providing it." Then just two minutes later, "Do you think there should be a raise?" The member for St Paul's: "Obviously the tariff has got to be increased." The fastest flip-flop going.

**The Deputy Speaker:** You might just want to keep in mind, whip of the opposition, I do allow a little latitude for everybody to sort of wrap up their sentence—

**Mr Dominic Agostino (Hamilton East):** You're a very fair man.

**The Deputy Speaker:** But your point is well taken. There's still one response left, and it looks like you're going to get it.

**Mr Agostino:** Thank you, Speaker, and I'll try to keep it under two minutes. I'll speak for a few more minutes on this in rotation.

When we look at this bill, it's typical of this government's approach to any problem that they have: instead of trying to deal with it on the principle of good public policy, of what is in the best interests of Ontarians, it's how can we score cheap political points. This has nothing to do with reforming legal aid; it has all to do with a battle with the lawyers. It all has to do with the fact that you have short-changed lawyers who provide legal aid in this province for a number of years. They're coming to you asking for a fair and reasonable agreement on what they should be paid, and what do you do? You take out the club and you threaten them. You say, "You don't like what you're getting? We'll take care of this problem; we'll just get rid of you. We won't have legal aid any more. We're just going to have the American-style public defender system."

**1530**

It's just a cheap, sleazy negotiating tactic. The lawyers see through this. The lawyers who provide legal aid see through this, the legal community sees through this, the judges in this province see through this. But the Attorney General and his cabinet think they're being cute, warm and fuzzy saying, "Isn't this wonderful? We're reforming legal aid in Ontario by bringing in this amendment." Instead of sitting down and negotiating with lawyers what is a fair and reasonable agreement, raises that they have not had, in cases, since 1987, that occurred before

the last round—even politicians get raises in a closer timeline than lawyers who provide legal aid in this province.

I'll go into it in a little more detail in the few minutes that I do have, but I wish this government would get serious about the matter, would stop playing cheap politics in what is really an important matter and trying to bully lawyers into backing down, and get on with real reform of legal aid in Ontario, and give some real help to some really needy people who need lawyers.

**The Deputy Speaker:** For the record, you did nail that right on the money.

For up to a two-minute response, the member for Simcoe North.

**Mr Dunlop:** I'd like to thank the members from Scarborough-Rouge River, Timmins-James Bay, Hamilton East and my colleague from Parry Sound-Muskoka for their comments.

When I heard the member for Parry Sound-Muskoka talk, it reminded me of Mr Bartolucci's bill on the four-laning of Highway 69 to Sudbury. I don't know if he has paid attention to the number of contracts that have actually taken place on both Highway 11 and 69 over the last, I guess, eight or nine years, where there's literally been hundreds of millions of dollars spent on that highway. I don't think if we announce tomorrow, if we had all the blueprints ready, that there'd be enough construction companies in our province to finish it at the rate that we'd have to.

It's interesting to hear the flip-flops again. I don't know what they want. I guess you want lawyers earning \$300,000 a year, if I take what Mr Agostino is saying—legal aid lawyers—because that's where he's going with this. He says they need more money. I thought the 5% increase on August 1, raising legal aid lawyers to \$88 an hour, was a really good first step, since they haven't had a raise in 15 years. I don't think there's anything wrong with \$88 an hour, or \$70.35 for their duty counsel rates.

I understand that they really don't have a position on this, or they would explain it. Maybe we'll listen carefully to what their position actually is, what they would do.

I've appreciated the opportunity to stand this afternoon and say a few words, and I look forward to the debate and the position by the Liberal Party across the way.

**The Deputy Speaker:** The floor is open for further debate. The—

**Mr Agostino:** Thank you, Speaker. I'd like to share my time—

**The Deputy Speaker:** Let me recognize you first. The member for Hamilton East.

**Mr Agostino:** Thank you, Speaker. I'm surprised he doesn't recognize me. I think I've known the Speaker for about 20 years, and he stands up and says that he doesn't recognize me—it's shocking. That was a cheap attempt at humour on a Thursday afternoon; it's not working.

I share my time with my colleague from Scarborough-Rouge River. When the government said they were going

to introduce a bill to deal with legal aid, on this side of the House we were hoping against hope that finally they were going to tackle some of the real deficiencies that are occurring in our justice system. We're moving toward a justice system in Ontario with this bill that will allow one level of justice where people can afford it, and a second level of justice for those who can't.

The reality is, this government has been in a labour dispute with private lawyers who perform the vast majority of legal aid service in Ontario. These lawyers, who haven't had a raise since 1987, argue that the amount that has been offered, 5% after 15 years, certainly is not sufficient. So instead of this government trying to find ways of working with the legal community—and most lawyers in this province take their responsibility in working in the legal aid field very seriously. They believe it is part of the job that they have to do. Most lawyers in this province take legal aid work below the rate that they would charge if they were doing private client work for the same services they're providing to the clients. Most of these lawyers do it as part of, they believe, their responsibility as lawyers, as part of the judicial system in Ontario, to ensure that there is access to justice for low-income Ontarians.

That should be the priority of this government. It is certainly the priority of the Dalton McGuinty government. We believe that access to justice should not be based on how much money you have and how much money you can pay your lawyer. We're concerned that this bill, which is attempting to reform legal aid, in a sense is going to create a two-tier system of law in Ontario, and that, again, you're going to end up with a lot more poor people ending up in jail and a lot more rich folks who can afford the fees to hire the legal stars and the dream teams.

It's a concern because this is somewhat mirroring the American judicial system of legal aid, and we have seen what a disaster that has been. If anybody has any doubts about how the American judicial system works through their public defender system, they should only take a look at some of the jails in the United States, particularly in some of the southern states, where a disproportionate amount of poor people, black people, Hispanics, people who are often in low-income situations, end up in jail compared to the crimes that are committed in the general population. A great part of this has to do with, not that there are more criminals on a percentage basis in those communities, but generally the ability to be able to afford proper legal help.

You can take it to the extreme. You look at death row in the United States. You look at some of the cases. You look at death row in Florida, Texas and some of the states that take pleasure in seeing how many people a week the state can kill, and you look at the disproportionate amount of poor, black people who are on death row—they might have been spared that death sentence had they had the type of legal help those other folks who have a little more money, who can afford legal help, get.

That's the extreme of that system, and I'm not suggesting that's where we're going here, in that sense.

But we are, with most of the other crimes that are committed, in this two-tier system that you're presenting, moving in that direction. That's dangerous; that's scary. That really takes away the fundamentals of our justice system, where you're saying to folks, "The sentence you get or whether there's a conviction or not may not necessarily depend on whether you're guilty of the crime you've committed but the type of legal help you can afford."

Under our system today, most lawyers in this province perform some type of legal aid work. That means that if you're charged with an offence and you can't afford a lawyer and you go the legal aid route, chances are that you're probably going to get a pretty decent lawyer who has had some experience, who has had a history of cases, who knows what he or she is doing.

When you move to a public defender system, what you're going to end up with, because of the fact that you're not going to pay enough money, because it really becomes a McDonald's drive-through of a justice system, you're going to simply have folks there who have come out of school who will be good lawyers with time, but who don't have the expertise sometimes, the training, the skills, in the areas that are necessary. They are to become experts in every area of law, every aspect of criminal law, every aspect of law where people have access to legal aid. These public defenders must become experts in that area, and that is not going to happen.

This government, frankly, is playing politics with this issue. You're going to end up in situations where you're going to force plea bargains everywhere, because that's the fastest way to get through this thing. You're going to have lawyers who are poorly prepared, poorly staffed, poorly paid, and with huge caseloads. So the quickest way to move those caseloads along is to simply get a plea bargain. It's a lot quicker to get a plea bargain than to go through a trial. That may be in the best interests of the government of Ontario, to save money, but certainly it is not in the best interests of individuals in this province. Whether you're rich or poor, everyone should have equal access to the justice system. If you're guilty and you're sentenced, and there's a proper process and you have a lawyer who represents you well, then that's the price you pay for the crime you've committed. That's our justice system. But if you end up being found guilty when you are not, if you end up with a stiffer sentence because of a plea bargain than you would have had because you don't have access to the legal system the way someone else does who's paying 300 bucks or 400 bucks or 500 bucks an hour for a lawyer, then that's fundamentally flawed. That's much more like the American system that I know you would like to see.

**1540**

I know this government takes pleasure in copying everything that happens in the United States. Whether it's their welfare reform or their tax policy program, they can't find enough Republican platforms to jump on to run on in the next campaign. They can't find enough Republican consultants to tell them where to go next.

They take great fondness in acting more like Governors than Premiers, more like state assemblies than provincial Legislatures here in Ontario.

We believe that what needs to be done is that this government should back off on this threat, on this bullying tactic to try to intimidate lawyers. What you have said to the legal community in Ontario is, "We don't think you're worthy of a fair rate of pay for the work you're doing," often lower than the wage or pay they would be getting, an hourly rate they would be getting for representing clients in private practice. "We don't think you're worthy. We don't value the work you do. We don't value your expertise. We don't value your commitment to service." That's really what it is, mainly, to perform legal aid. "We're not going to negotiate with you any further. We're giving you 5% after 15 years of no raises, no pay increases, and if you don't like it, guess what? We're going to take the whole program away. We're going to bring in public defenders to do your job."

It is simply holding a club over their head, holding a shotgun to their head and saying, "My way or the highway." That is not how you deal with a reputable profession. That is not how you deal with individuals who are well respected in their communities, who are well respected in legal circles. They get insulted and treated in such a petulant, childish way by the government of Ontario.

You're going to get rid of experienced lawyers with a long history of successes, good defenders, and replace them with your so-called public defender, which would be, in my view, not at the same level, not of the same type of competence we see today.

You look at this bill and it's really very limited on details. There's no mention of how much money, how many lawyers, how to determine it, what type of caseloads these lawyers would have. We're going to have to trust you with this. We're going to have to trust the Mike Harris-Ernie Eves government, with their great track record in regulations behind closed doors, in setting these standards and putting these conditions in place.

This is not workable. This is a disaster in the making. This is an attack on poor people in Ontario who need legal help. Whether one is guilty or not guilty of a crime is up to the courts to determine. What we as elected officials have a responsibility to do is to make sure that every single Ontarian has access to a fair legal justice system. What you're doing here, by stripping away and destroying the legal aid system in Ontario and bringing in public defenders, is creating a two-tier system of justice, as you're moving toward two-tier health care.

This is going to hurt some of the most vulnerable people in our society. Most importantly, this is going to lead to some great miscarriages of justice, to some innocent people going to jail, to some innocent people spending longer jail sentences, and to a justice system that only serves wealthy Ontarians.

**Mr Curling:** The comments by my colleague from Hamilton should be read by the government. They'll see that he made some very pertinent points.

I read this bill. What really is the cause? What is happening here? It comes down to this: the number of lawyers willing to accept legal aid certificates or duty counsel assignment is dropping while demand for legal aid certificates is rising.

You know what that does? To come right to the point, those who are most in need for justice to be done, to be administered—the poor—will not have justice. For any government, it is their responsibility to protect those most vulnerable in our society, those who are disillusioned or discouraged or who are somehow, sometimes through no fault of their own, poor. What is happening here? No justice is being given.

I don't want to get into a fight with a government that is getting into a fight with the lawyers over how much they should or should not be paid. That is basically insignificant at the moment. What is the cause of all this? Take a quick look at Ontario. It's a very diverse community in ethnic ways and in geographic ways. As to the cost of that, when we are administering justice, we must take those things into consideration. While some of the funding may have increased in certain areas—for judges and CAS lawyers and even some increased funding for policing—somehow there is an imbalance. The fact is that as soon as the police go out to do their job, or the CAS lawyers and workers do their job, you find out that representation and defence are not being done properly in the courts because we don't have the lawyers who have the time to spend to defend those individuals who may have been caught up in the law.

What has happened? Some compromise has been made. Sometimes that compromise, as we talk about plea bargaining, works out where some people decide to take a short jail term who may be innocent, because they cannot afford the costs that are involved.

What this government should do with this legislation is address those underpinning factors that are causing all this. We know, as I mentioned in my comment earlier today, that the fact is the poor get longer sentences when they come before the judge because of poor lawyers. Judges have indicated that. Many times they have sent lawyers to go back and prepare themselves properly, not because they are bad lawyers, but because they don't have the resources or the money. The lawyers will then take the opportunity to go where people can pay them, so the poor suffer drastically.

I want the government to start looking at those factors, not the fact that you are going to fight off a lawyer against the government, or go out and contract other lawyers because you don't want to get into a dogfight with the other lawyers, and go out and contract other lawyers and say, "I don't want to deal with those." Who has been suffering? Who will suffer under all this? The people who are seeking justice. As you may know, justice delayed is justice denied. It is almost like justice is denied now. All justice will be denied for these individuals because of lack of funds, lack of the money this government would save, but more so because of the lack of sensitivity of this government, not understanding that the diverse community we have will take more time.

It is almost like in the classroom. Teachers today are different from teachers 20 or 30 years ago in Ontario. Diversity takes time to understand. Some people are breaking the law, sometimes unconsciously. Lawyers must be able to get in and understand their clients. It takes time. What you are quibbling about here is to say, "We want to pay you just that amount," the small amount that lawyers are saying they can't survive on. It comes down to a fight over money between lawyers and government. The individuals who need justice to be done are being denied. That is very unfortunate.

Each day, every minister stands in here—I hear over on that side—and talks about the rich, diverse, multi-cultural society we have in the province. Those are just platitudes and words. Underneath all that you must be able to fund that, you must be able to recognize that and support that. It's not about your going off to an evening of dances and songs and having some exotic food from other areas.

Look at the mothers and fathers and those who don't have access to their profession because they were trained outside the area. That is where you must put your money. That's what you have to do. Put your money into the fact that if lawyers are going to defend individuals in court, they must understand their client. To understand their client takes time. It takes research. It takes good administration. If you do not fund it properly, those lawyers will then have to then decide between whether to do it as a charitable organization or as a charitable contribution to the cause, or seek elsewhere where they can be properly paid. So I am saying to this government, the first responsibility any government should have in managing a country or a province is to make sure that the most vulnerable in our society are protected. It's an abdication of the responsibility of a government when they ignore certain things and the judge has to step in, or somebody has to step in, and do their work.

#### 1550

I recall, funnily enough, when food banks were started. It was an alarming thing in here—it couldn't happen in Ontario. Very, very poor people are having to access food banks. But what we found out was that working people went to the food bank. A man called me the other day and he said, "I have to decide between my rent and food for the children." He's a single parent with four kids. He said, "I can't do that, Mr Curling, because while I was doing that it caught up with me. I'm two months behind now, because I was feeding my children. Now I have to decide whether I pay my rent or starve my children."

You see, if you abdicate your responsibility and put your head in the sand in here, what you're going to find out is that if we don't give people proper protection of the law, the chicken does come home to roost sooner or later. You'll find that the jails are filled, and then you've got to pay more. Then you come in with your right-wing attitude, saying, "Tougher laws will solve this, tougher penalties will solve that." Tougher penalties and tougher laws don't solve that. It's an understanding of the citizens of the province you govern.

I think this government has lost it all. They are basically much more concerned with understanding those on Bay Street, saying, "I understand those on Bay Street. They're paying too much tax, and I have a solution for that." Then they hand out to the rich what they save on the poor. They're waiting. They're not getting it. You're abdicating your responsibility, and so other areas are filling that gap.

I would say to this government, don't go out and tout the fact that this is a diverse, rich, multicultural community and not put your money where your mouth is. This system needs money so that those who are poor, those who are in need, those who need understanding, those who need proper representation legally in the court system can have proper lawyers so our jails are not filled with people who shouldn't be there. When you wonder why they're there—what happens is they vegetate and then come out with lost respectability of their family, lost respectability of their community, and they sometimes resort to other crimes because of their rejection in society, created by a government that would not stand up and defend and give people proper justice and their day in court.

That is so sad, because so many families are destroyed—sometimes countries are destroyed—because we pride ourselves about our jails, about our court system that is firm: "Three strikes and you're out." It's easy for those to strike out if they don't know how to bat, if they don't have a place in which to play properly. In the arena set here by this government we're going to have the poor and we're going to have those who are disillusioned and confused because of lack of support by this government. So it has nothing to do with lawyers and the government and who wants more money. It has to do with your understanding the citizens of this province and giving them their day in court so justice is served.

**The Deputy Speaker:** Members now have an opportunity for questions and comments.

**Ms Marilyn Churley (Toronto-Danforth):** I listened carefully to the comments by the members for Hamilton East and Scarborough-Rouge River. I have to say that one of the fundamental cornerstones of democracy is that people have equal access to justice. When we're having this discussion, that's what we should bear in mind at all times, and I'm glad that both members talked primarily about that. Right now, low-income people are not getting that under the existing system; we know that. And what does the government do but bring in a bill that's actually going to make it worse for them.

What the government is proposing to do with this bill is yet another very serious attack on democracy in this province. Even with the small increases—and I'll be talking about this a little later because it's a big concern of mine. Even with the small increases in the tariff for family law, the 5%, the maintaining of the artificial caps in terms of the maximum hours of billing that lawyers are allowed under the tariff to actually conduct, it is hard to find any lawyer who can actually afford to take on these family law cases, particularly matrimonial cases, where

women and children in some cases do not feel safe. It is so critical to get before the justice system quickly, and get the case taken care of. We see that in our constituency offices. We get calls about that, and there's a double whammy here. With the lack of enough money for the tariff and the fact that the hours are capped, women and kids in this province are not getting the justice that they need and deserve.

**Hon Doug Galt (Minister without Portfolio):** It was interesting listening to the comments and the presentation. I think it's interesting if we look back historically and see some of the things that have been happening. We look at the Liberal government: zero increase in assistance in legal aid. We look back at the NDP government from 1990-95: zero per cent increase for legal aid. We look at the PC government: 5% for regular lawyers, some 23% for duty counsel.

Quite an interesting difference in what's been going on. If you look over the years, Ontario now sits at \$88 per hour. If you look across the rest of Canada you see areas like Alberta at \$74; BC at \$72; Newfoundland, PEI and New Brunswick at \$60; and Nova Scotia at \$55 per hour. I think that puts the province of Ontario in an exceptionally good position, by comparison anyway.

I understand that legal aid is sort of shared with the feds. In 1987, 35% of what goes out came from the feds, by 1995 it had dropped to 20%, and today it's way down to 12%. Compare it to the province and what they're putting into these certificates: in 1987, it was 45%, rising to 65% in 1995, and now to 70% in 2001, last year. I think we have to look at these figures to have some appreciation of what's going on. Granted, where some of the other support has been coming from has been moving around: 20% in 1987, 15% in 1995 and last year some 18%. Just food for thought.

**Mr Monte Kwinter (York Centre):** I'm delighted to add a couple of comments. The concern that I have is that, as my colleague said, justice delayed is justice denied. One of the problems that we have, even with the legal aid system that we have now, is that many of the poor people, the people who have no access to any kind of resources, are having difficulty, even under this system, getting a law firm to take on their cases. The reason is very simple. There is too great a discrepancy between what these lawyers are earning in, if you want to call it, the regular practice and that which is provided by legal aid.

My colleague across the floor just talked and compared the various provinces. You can't use that as a basis because in Ontario, it's just a fact of life, the cost of living is much higher. The lawyers that are here are earning more money and there's got to be some sort of accommodation so that they will be prepared to take on these legal aid certificates. Many law firms, most law firms, do pro bono work; they do it for nothing. What they really want to do is minimize their exposure so they can remain viable and look after those people. They feel a responsibility. I give them the benefit of the doubt that they do feel a responsibility to provide this legal support

for those who can't afford it. I'm reminded, and for those who have ever watched 100 Centre Street, it's a dramatization and it's fiction, but it really focuses on the system in the United States where you have public defenders. What happens is that when you have these public defenders who are in a court, there is a certain familiarity that develops between the prosecutors, or in our case the crown, and the public defenders. What happens is that the litigant is really in a position where there's a conflict. Both sides are being paid by the same group, both sides have an interest in minimizing the cost to the government and as a result there's a lot of plea bargaining. We've heard about this and we've heard that this has happened, and that's the concern I have.

1600

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

**Hon Frank Klees (Minister of Tourism and Recreation):** I'm pleased to comment on this important piece of legislation before us. I don't think anyone here, in this place, denies that we have a problem in the province of Ontario with people getting access, particularly people who cannot afford to retain legal advice, that there's a problem with access.

We see this as members I think probably daily, the frustrations that are experienced. Something has to be done. I don't think members opposite are suggesting that everything is perfect in the current system. The legislation that the Attorney General is proposing I believe has in it a solution that will ensure that people who need legal services and cannot afford to retain the lawyer of their choice, perhaps because of their financial circumstances, will have offices available where they can be served properly with appropriate legal advice.

Frankly, I'm concerned that we continue to suggest that simply to put more money into the existing system that we have is the answer. I think we have learned over years in government that simply isn't the case, because you can never put enough money into the system. At every step, at every turn there will always be the demand for additional remuneration. I think the system that is being proposed by the Attorney General now brings some reason to this, puts a structure to it. The objective, as we all know, is to ensure that where there is now a gap in service, there will be in fact a seamless continuum of service to the people who are most in need in our province. I trust that members will support this legislation.

**The Deputy Speaker:** Either of the two original speakers may respond.

**Mr Agostino:** I want to thank my colleagues from Danforth, Northumberland, York Centre and Oak Ridges for their comments.

There is only one lawyer in the House this afternoon, and that's my friend the Minister of Health.

**Ms Churley:** Toronto-Danforth.

**Mr Agostino:** Toronto-Danforth; I apologize.

I was hoping the only lawyer here this afternoon in the House, my good friend the Minister of Health, would have stood up to defend his colleagues, the integrity and

professionalism of his colleagues, in the legal profession that this government is attacking with this bill. I'm so disappointed. I'm hoping that the minister will get up some time this afternoon and speak up on behalf of his friends in the legal profession.

I think my colleague from York Centre made an excellent point when he said that under your system, under the American system, you have this sort of buddy system that develops between in-house public defenders and prosecutors or crown attorneys. It takes away from the adversarial system that our system is built on so that you are less likely to have cozy, convenient side deals and plea bargaining being put on to the detriment of individuals who need the help.

I have not heard any arguments from my colleagues across the floor as to why they believe this public defender system would work better than our legal aid system today. Evidence shows that our system works much better, that our system is more effective. Look at the horror stories. I can't help but look at the horror stories in the United States of America, where you've got in-house, McDonald's drive-through types of approaches to the legal aid system—"Let's get them in and out as soon as possible," and oops, 20 years later, "We made a mistake." It happens here, but it is much more rare than in the United States. With this type of system that you are going to bring in, you are going to guarantee that. You are going to guarantee more mistakes. You are going to guarantee less justice, less access to justice. You are going to guarantee that, unfortunately, people who should be out on the street end up being jailed because these public defenders don't have the time and expertise to properly defend these individuals. Thank you, Speaker.

**The Deputy Speaker:** You're welcome. You are also welcome to the extra couple of seconds I gave you to finish that sentence. I knew if I waited long enough, I'd get my moment. The floor is open for further debate.

**Mr Miller:** It is my pleasure to join in the debate this afternoon on Bill 181, the Legal Aid Services Amendment Act, 2002, which has been put forward by our Attorney General, our very able Attorney General, I might add.

A free and democratic society depends on everyone having access to justice. Specifically the Charter of Rights and Freedoms states that everyone has the right, if they are arrested, to retain and instruct counsel without delay. Justice is best served when there are supports in place for people in the justice system. Unfortunately, members of the opposition seem to disagree.

In a previous debate on this bill, the member for St Paul's stated, "It is certainly incumbent on the Attorney General of Ontario to be aware of—and I'm sure he is; I know he is—the important rights that are at stake on this particular issue." He is right to a certain extent. Important rights are at stake in this debate. The right to counsel is a pretty important right. The Attorney General and this government seek to protect it with Bill 181.

The Ontario government takes its responsibility to provide the proper administration of justice very seri-

ously. That is why we have introduced the Legal Aid Services Amendment Act, 2002. If passed, the bill would provide Legal Aid Ontario, the agency that administers legal aid, with the increased flexibility to ensure that legal representation is available to low-income and vulnerable people.

First, this legislation would ensure that Legal Aid Ontario is in a position to hire significantly more salaried lawyers to provide legal aid services. Second, it would ensure that Legal Aid Ontario is in a position to hire qualified lawyers and law firms on a contract basis to do legal aid work in a given community. Finally, it would ensure that Legal Aid Ontario is in a position to expand the role and responsibilities of existing duty counsel. The Attorney General has identified a problem, and we are providing a solution to that problem.

Let's consider what is contemplated by this bill and what is not. Under this legislation, Ontario would not be moving to a system based entirely on staff lawyers, or the so-called public defender system we've heard the opposition talking about. I'm sorry to disappoint the members of the opposition who have spoken at excruciating length about this being the case, but it is simply not accurate. Even a cursory reading of the proposed legislation makes this clear.

Rather, this legislation contemplates a system where there is a balance in the way legal aid services are delivered. There would be a mix of the current *judicare* system used in Ontario and a system of staff lawyers. The mixed system of delivering legal aid services is not new. It has been tried elsewhere. In other provinces, such as Manitoba and Quebec, it has proven to be successful. I would like to note for the record that Ontario is one of the very few provinces in Canada that does not already make heavy use of staff lawyers.

If the members of the opposition will listen to CBC Radio on occasion—and I know some of them do, as I do—they would have heard the executive director of Legal Aid Manitoba, Gerry McNeilly, explain how a mixed delivery model has worked very well in that province. He said, "In Manitoba since the inception of legal aid in 1972, we have had the mixed delivery system. I think it's ingrained here. I think the private bar is pleased with it. They provide about 60% of the legal aid work via certificates. Staff provides about 40%."

Mr McNeilly also said a mixed delivery system allows for choice of counsel. He said, "That's the good thing about this system, and it's choice of counsel. So if you have a choice of a private bar lawyer because you have heard about him or her, or similarly you've heard about a staff lawyer that provides legal services in the particular area that you need, then you determine if you would like to choose a private bar lawyer or a staff lawyer."

I don't know how the opposition can argue with choice.

**1610**

I would ask the members opposite, particularly the New Democrats, why they oppose a bill that would allow Legal Aid Ontario to implement a system that has

worked well in a province governed by their ideological and partisan soulmates. Are they saying that the system used to provide legal aid in Manitoba doesn't work? Are they saying that the Manitoba system is Americanized, and if they are, on what basis do they believe this? The reason they can't respond is because their claims are absolute nonsense. Quite frankly, I find it incredibly ironic that a caucus that trumps the quality of services provided by the public sector is so vigorously defending a private sector monopoly that has been denying the vulnerable people they claim to represent access to justice.

Let's consider the Quebec system for a moment. Quebec has roughly a 50-50 split between the private bar and staff lawyers for criminal cases. Both Quebec and Manitoba have used mixed systems for the past 30 years. As a result, legal representation is available to people in need in those provinces, and services are being provided in a cost-effective manner. "Cost-effective" does not equate with inferior quality of legal services. Comparative studies have shown there are no inherent cost differences between private-based systems and mixed systems, nor is there a difference in the quality of services provided or in client satisfaction.

Professors Fred Zemans and Patrick Monahan of Osgoode Hall Law School co-wrote a report in 1997 recommending that Ontario look seriously at the Manitoba model. Professor Zemans spoke to CBC last week and said, "All the studies show that in fact client satisfaction, rates of guilty pleas, rates of incarceration do not significantly change under a mixed delivery scheme."

He also said, "It's also important to point out that in Ontario we've had a mixed delivery system in civil legal aid going back to the early 70s. The Ontario clinic system is considered internationally to be one of the very top models for delivering legal systems to poor people and we now have seen in recent years the increase in the use of community-based clinics with community boards for clients in Ontario spreading. So I think that what we need to see in Ontario is more experimentation, more willingness to try out different models in the criminal side of the delivery of legal services."

The member for St Paul's, like many of his colleagues, is a big fan of Ian Scott. I would like to remind him that Patrick Monahan was Ian Scott's and David Peterson's policy adviser. Perhaps he should read this report before making further comment on Bill 181.

I'd like to reference another study of note. Professor Alan Young, also of Osgoode Hall Law School, wrote a report entitled *Legal Aid and Criminal Justice in Ontario*, in which he states that virtually every study has concluded that a mixed model of legal aid delivery is the path to take. The experience in other provinces such as Manitoba also shows that mixed legal aid systems have few problems in hiring salaried lawyers.

The advantages for legal aid lawyers are obvious. They have steady incomes, no overhead costs and they don't have to manage an office or attract new business. Here in Ontario, Legal Aid Ontario began a pilot project

two years ago in which family law staff offices were open in Thunder Bay, Ottawa and Toronto. The pilot was recently evaluated and has been determined to be a success.

If this bill is passed, the responsibility for administering the legal aid system would still remain with Legal Aid Ontario, which is an independent agency. There would not be, as has been claimed by certain opposition members, an issue about independence.

For the record, taxpayer dollars pay the salaries of the crown attorneys who exercise prosecutorial discretion every day. The opposition has never said that this is inappropriate.

Taxpayer dollars fund our court system and pay the salaries of our superb independent judges and justices of the peace, who make very important sentencing decisions every day. The opposition has never, ever claimed, to my knowledge, that this impairs judicial independence.

Legal Aid Ontario currently uses taxpayer dollars to pay legal aid lawyers. Again the opposition has never claimed that there are independence issues with this arrangement. Why would it be different under the system contemplated by this legislation? The source of funding for legal aid lawyers—private, staff and duty counsel—would also remain the same; namely, the taxpayers through Legal Aid Ontario. Clearly, this is yet another Liberal red herring.

Neither is there any reason to expect that a two-tier legal system would develop. That has simply not been the case in other provinces where a mixed system is in place. Moreover, study after study has concluded that private lawyers and staff legal aid lawyers can both provide high-quality legal aid. Nor would this legislation, if passed, take away an individual's right to choose a lawyer. The bill is designed to have just the opposite effect. It would restore legal aid services in communities affected by boycotts. It would provide Legal Aid Ontario with the flexibility to ensure that legal aid services would be available to everyone in need in a timely manner.

As many are aware, our current system has been facing major disruptions in some areas of the province. The current legal aid system has effectively given the private bar a monopoly. Some legal aid lawyers have viewed this monopoly as a bargaining chip. Some have withdrawn their services in the hope of getting more pay. As a result, getting legal counsel has become more difficult, if not impossible, depending on where you live in Ontario. In fact, what began as a dispute with the government over hourly rates has escalated into a much larger dispute that could damage the administration of justice.

There is an unacceptably large number of legal aid lawyers who are motivated by personal interests, not always by the interests of their clients. They are using several disruptive tactics to make their point. These tactics include shutting down the courts, refusing to take new clients and pressuring low-income clients to pay on a cash-retainer basis. These tactics are unacceptable. It has been said before, but it bears repeating: legal aid

lawyers who are participating in ongoing work stoppages are not serving the interests of justice. They are not protecting the rights of those in need.

The legal aid system does not exist simply for the benefit of lawyers. It exists to protect the rights of those in need. And let's remember that those in need are frequently the most vulnerable people in our province, such as women and children involved in painful family court cases. The current dispute is, in fact, making vulnerable people even more vulnerable because they cannot get legal counsel. The opposition is interested in talking about tiers. Why aren't they willing to talk about the tears shed by women and children who are often fleeing abusive relationships but can't find a lawyer to help them for \$88 an hour?

**Mr George Smitherman (Toronto Centre-Rosedale):** On a point of order, Mr Speaker: Is a quorum present?

**The Deputy Speaker:** Please take your seat. A request for a check on quorum, table, please?

**Clerk at the Table (Ms Lisa Freedman):** Quorum is not present, Speaker.

*The Deputy Speaker ordered the bells rung.*

**Clerk at the Table:** Quorum is now present.

**The Deputy Speaker:** Quorum now being present, the member for Parry Sound-Muskoka may continue.

**1620**

**Mr Miller:** In some communities, groups of criminal lawyers have refused to represent individuals accused of serious, violent crimes. This has placed judges in the impossible position of having to choose between granting the rising wage demands of defence lawyers or allowing those accused of criminal offences to walk free.

This is unacceptable and is counter to the interests of justice and to the interests of public safety. If prosecutions cannot go forward, public safety may be put at risk. Victims may be re-victimized. People may have to navigate the justice system without the benefit of sound legal advice. These tactics do nothing except damage public confidence in the justice system.

As has been noted previously, this dispute began over the pay rates for legal aid lawyers. Ontario legal aid lawyers are among the highest paid in the country. They were well paid for their services even before the recent increase in the legal aid tariff. If the members will recall, our government raised the rate for certificate lawyers by 5% on August 1 this year and we raised the duty counsel rate by 23%. Our government is committed to strengthening our legal aid system. Indeed, we are committed to strengthening our legal system, period. We have hired more crown attorneys and appointed more justices of the peace and more judges. We've also expanded the rights of victims and passed new laws to protect the public.

The Legal Aid Services Amendment Act is another step toward achieving our goal of a stronger, more efficient justice system. If this bill is passed, Legal Aid Ontario would have increased flexibility to establish a balance in the way legal aid services are provided in this province. Make no mistake about our intentions. We cannot, and will not, allow economically motivated

tactics to interfere with public safety and the prosecution of accused individuals. Everyone in Ontario must continue to have access to justice.

It's time for legal aid lawyers to end their disruptive tactics. It's time for them to fulfill their professional duties. It's time for the justice system to get back to work. Our government is committed to protecting the administration of justice. We are equally committed to protecting the right of people to have legal counsel when they need it. I urge the members to support this bill.

**The Deputy Speaker:** Members now have up to two minutes for questions and comments.

**Mr Kwinter:** I just want to make a couple of comments on those made by the member for Parry Sound-Muskoka. He talked about this joint system, where you have what you might call defence attorneys from both the legal and the private sectors. He stated that the defendant could choose one or the other depending on his particular requirements. In an ideal situation, I agree that might work. The problem is that even under the system today—and many of you, I'm sure, have had the same situation where constituents come in and say, "I have a legal aid certificate but I can't get anybody to take it." Now, of course, there's no alternative; they have no way of getting defence at trial because nobody will go there to represent them.

I don't see how this system is going to alleviate the problem, because what we have, and it's a fact of life, is an economic situation where lawyers who are in the private sector have to decide whether they take legal aid certificates or service their clients who are paying whatever the tariff is that that law firm has. Again, as I say, I think most lawyers and most law firms want to make a contribution to the legal process, and they do that through either pro bono or accepting legal aid certificates.

This bill does not address that problem. You talk about Professor Fred Zemans and his report. Again, in an ideal situation, that works. But this is not an ideal situation, particularly in large metropolitan areas where there are many, many law firms with lots of activity and it is very difficult to get competent legal representation. Lawyers coming out of law school who haven't got a practice are chasing legal aid certificates because that's their basis for getting some sort of income, but—

**The Deputy Speaker:** Thank you. Further questions, comments?

**Ms Churley:** I'm disturbed when members like the member for Parry Sound-Muskoka get up and read a prepared statement, I believe—hopefully, I would like to think—without taking into account some of the provocative—and that's a mild way of putting it—statements in that speech. To get up here and slam lawyers who do legal work on many, many occasions—and I see it in my riding—and if he looked into his riding he would see many of those lawyers who end up working for nothing because the fee is so low. With cost increases and the lack of increase—yes, the lack of increase for 15 years or so—some of these lawyers are working for free.

This member gets up and accuses the opposition of being concerned about—how did he put it, what was the

quote?—a two-tiered system, but what we really should care about are the tears that women and their kids are weeping because they can't get legal aid.

I hope the member will take that back and apologize, because let me say to him that those legal aid workers went on strike in desperation because they're already seeing women and children trying to flee domestic violence situations who cannot get a lawyer now. Some of those women come into my office now in tears because they can't find an adequate lawyer under the existing tariff and the caps to do the job for them. That is why those lawyers went on strike, I would say to the member.

Then the Attorney General went before a press conference and continued to do the same thing—vilify those lawyers who on the whole, many of whom, are working for free or next to free for low-income people in this province.

**Hon Mr Galt:** First I'd compliment the member from Parry Sound-Muskoka for an excellent presentation, in spite of some of the comments we've recently heard. I thought he had an excellent presentation—quite understandable and put forward very well.

Mr Speaker, I wanted to share with you and with the member from Parry Sound-Muskoka a comment from Gerry McNeilly, executive director, Legal Aid Manitoba, where it's working very, very well. "This system we believe in Manitoba allows for freedom of choice of counsel, provides swift, greater flexibility, and we believe it's very cost-effective without sacrificing quality of service. In Manitoba, since the inception of legal aid in 1972, we've had the mixed delivery system. I think it's ingrained here. I think the private bar is pleased with it. They provide about 60% of legal aid work via certificates. I think it works very effectively here. We've established workload levels, expectation of staff lawyers, something that's reasonable, that's relatively akin to levels we expect the private bar to handle, and we monitor those work levels."

**1630**

Legal aid here in Ontario, as I understand it, is about protecting the rights of those in need. It's not about excessive benefits. The people who are less fortunate and need legal aid are really being held hostage for a 50% increase. It's my understanding they're looking for something like \$125 per hour.

This bill is really expanding the opportunity for legal aid to not only give out the certificates but also to hire on a contract basis a lawyer to carry out these responsibilities if in fact there are communities where the lawyers, for one reason or another, don't want to take on the role with those certificates.

I am certainly able to support this bill and I look forward to its speedy passage.

**Mr Mike Colle (Eglinton-Lawrence):** I just want to comment on the member for Parry Sound. I guess he's got his script from the boys in the backroom, but I'm not going to speak from a script. I prefer to speak about people I've seen in a courtroom not too far from here at old city hall. I ask anybody out there to visit old city hall

in the course of a day and see the tragedies that are going on underneath our very noses here in the city of Toronto. There are literally hundreds of people on low incomes who are, for many reasons, in the courts. It is something you don't want to see anybody go through. It is something that certainly scares the living daylights out of anybody who is in there. It looks almost like something you would see in the Third World.

I've talked to Justice Harris, who has been in there for 25 years. He was the one who was trying to get a portable heart defibrillator in the building because he said the stress in there is so high every day he's afraid that clerks and police officers and witnesses are going to pass away.

Anyway, I think what we want to do as lawmakers is ensure that people who are in these horrible circumstances, small business people or people with limited income or who are down on their luck, who can't afford to get legal representation—like the well-to-do and our big corporations can—have good lawyers representing them. This is the bottom line for me.

I know the government is in some kind of confrontation again over lawyers who provide this service, but let's just remember that we're serving the people of Ontario and not ourselves.

**The Deputy Speaker:** The member for Parry Sound-Muskoka has up to two minutes to respond.

**Mr Miller:** I'd like to thank the members for Toronto-Danforth and York Centre, the chief government whip from Northumberland, and the member for Eglinton-Lawrence for their comments.

This legislation really is about solving a problem of people not being able to get legal advice, lawyers, especially those most vulnerable in our society. We had a situation where the certificate rate had not been increased for many years. It wasn't increased in the NDP government years; it wasn't increased in the Liberal government years. Just recently it was increased I believe 5% by our government and 23% for duty counsel, so that currently the rate for certificates is \$88 per hour. But people in need were still not able to get lawyers to represent them, so this bill is about solving that problem.

I think our Attorney General has really come up with a good solution. Those willing to work for that paltry \$88 an hour, or \$183,000 a year, can take on those certificates or, as well, you can be represented by a staff lawyer. It would be a blend of those two situations. I think the Attorney General has come up with an excellent solution to a problem where some people are not able to get lawyers to look after their needs. He's come up with a good solution and I think this is going to solve a problem that we have in providing legal services for those in greatest need in our province.

I'm pleased to see it coming forward and I'm sure it's going to solve the problem and I ask all members to support this bill.

**The Deputy Speaker:** The floor is now open for further debate. However, before I recognize the next speaker, I do want to remind the House that we have now passed the seven-hour mark and therefore all speeches will now be limited to 10 minutes. Further debate.

**Mr Colle:** Again, this is quite an unusual situation to be in. I find as a member of this Legislature that I'm almost being used as a pawn by the Attorney General, because it seems, from the press conference he had and the news reports, that he in essence is in a labour negotiation/confrontation with legal aid lawyers. As a result of that, he's unable to come up with some agreement in terms of what legal aid lawyers should be paid, and the bill that's before us seems to be an attempt by the Attorney General to get his way in terms of what they should be paid and not paid as legal aid representatives.

In other words, this bill is almost being used as a bargaining tool to, whatever you want to call it, intimidate or get the lawyers to acquiesce to the Attorney General's financial agenda, because I don't think the Attorney General wants to come to an agreement on what they should be paid. I understand these lawyers have not had a rate increase since 1987. The Attorney General says, "We'll give you a little bit," but essentially it's a dispute over what this work is worth.

I don't think this is the place to be debating what the value of legal aid is. I think we can debate the principles, but I'd hate to see us being used as pawns here, as I said, with this bill brought forth, which I guess would be withdrawn if the lawyers cave in. That's what it seems to be about. They're being threatened with an American system—they call it the public defender system—that many people have reservations about. So that's the context of this.

Again, it's quite unusual for us as legislators to be thrown into this situation when we know it's a dispute between the Attorney General and his bureaucrats and the legal aid lawyers. All I do know is that, as I've said previously, our job in this Legislature is to ensure that services and the judicial system are open and equal to all Ontarians and that they have that access. That is one of the basic tenets of our judicial system which separates us from a lot of other countries that don't have the gift of the British judicial system passed down to us through our parliamentary traditions, through our close connection to England. We have that tradition of trying to be fair to people in the judicial system no matter what their income level, what their crime is. People have a right to be represented by good lawyers in a court.

The legal aid system sometimes comes into disrepute because a lot of people who are represented deserve their sentencing and deserve to be put away, but there's always, as we've said, the innocent, who sometimes are not given good representation. But you can rest assured that people and corporations with the money to pay will have that good representation. So we have to ensure that whatever system we vote for or whatever legislation we endorse in this House has got to be one that is transparent, that is fair and equitable and isn't one that gives a marginal type of representation to the have-nots in society.

**1640**

If you look at our prisons, you'll see that 75% of the people in our prisons went to prison when they were out of work, homeless or poor. They're black, they're native

Canadians, aboriginal Canadians. That's a sad indictment of society. That's why we have to ensure that the poor, the underprivileged and minorities, visible or not, should not be discriminated against because they don't have the income.

I think it's even more critical for us in Ontario, which is the gateway for newcomers from all parts of the world, to ensure them that we, according to British tradition, have a judicial system that is fair and doesn't punish them because of income. That's why it's paramount to try to come to some agreement where you give legal aid lawyers a fair and just wage.

Over the years, I've met a number of them who practise in our courts. Believe me, it is not very attractive. They tell me about the Don Jail. I don't know if the member from Parry Sound has ever visited the Don Jail. Maybe he should go there—or to old city hall—and see the misery and desperation of that place, not only of the inmates but also of the guards and the staff. It is a hellhole. These are hellholes that exist, and you don't want to see anybody go through that.

That's why I think it's critically important that we don't have innocent people put behind bars because they don't have good representation. That's why we need to invest in a legal aid system that's fair and equitable for people of low income or who have language barriers, so they have this kind of representation. You don't want to put anybody through that hell called the Don Jail, or places like it, unless they're proven guilty.

In the riding of Eglinton-Lawrence, in years gone by, when we were fighting in Toronto—as the Speaker will recall, because he had some of the same problems in his area—we literally were in hand-to-hand combat with crack dealers and dope dealers on a daily basis. You couldn't walk the streets for the pushers, pimps and crackheads. When governments didn't really care, it took community groups to basically defend the community and drive out the crack dealers, pimps and prostitutes who were on all our streets. It wasn't so much the government that did that; it was the community groups that did it.

One of the things that used to annoy those of us who were involved in this community battle to get our streets back from the crack dealers—and the police would be just as frustrated as we were. The police would always say, "Yes, we're arresting the crackhead on the street." But the big dealers, the guys—usually guys—who had these smuggling rings and walked around in fancy suits and had Cadillacs and Mercedes and huge homes in the well-to-do areas or off in the Cayman Islands, never went to jail. It was always the poor dummy on the street, the loser on the street who was pimping or selling crack who went to jail.

They never caught the big guys, because the big guys always could pay for the best lawyer money could buy. As soon as you came near a big guy, boy, that lawyer would be there in his pinstriped suit with so much money to blow. The police would be totally outmatched by these heavy-duty corporate criminal lawyers, as I call them,

who would be called because these people could pay for them. Yet the down-and-out in the street could never get any representation.

I think the critical thing here is that we have to ensure there are fair and good lawyers available to the poor and that we give them a fair trial, give them a hearing, and therefore at least continue, as I've said, a very valued tradition that took hundreds of years to establish, going back to Magna Carta in the 13th century, which we keep very dear.

We can't look upon this just as some kind of labour dispute between the Attorney General, who is trying to intimidate, or whatever he's trying to do, these lawyers who are asking for fair and equitable wages, and to acquiesce to what the Attorney General feels they should be paid. We've got a lot more at stake here than this dollar-and-cents battle with the Attorney General. We've got a system that has to be above reproach, open, available and that has to receive the confidence of the public, that they know we aren't just favouring the well-to-do in our judicial system. Let's stop the posturing, the games being played by this government, as they usually do, and remember what we're here for.

**The Deputy Speaker:** The members now have up to two minutes for questions and comments.

**Ms Churley:** I think the points made by the member for Eglinton-Lawrence are well taken and that all members in the Legislature should be paying close attention. I liked his reasoned response, because there are a lot of insults flying back and forth. The government is trying to defend its position even though it's a position that I'm not sure they know is actually going to work out, given the information we have about it to date.

It's a very complex issue. When you start playing around with the balance that we've created here in Ontario to make sure that low-income people get, generally, fair access to justice, we all have to take that very, very seriously. When government members make accusations that this is all about greedy lawyers who just want to stuff more money in their pockets and not about trying to find a way to get enough money so they can go defending these people—that's what the member for Eglinton-Lawrence is talking about.

Of course, that leads to public hearings. That's something our colleague Peter Kormos, our critic in the criminal justice area, has been demanding and has been denied. He's a lawyer himself and he knows, when he gets up far more than I do and many of the other members in this Legislature, what he's talking about. Yet, his concerns and comments are sneered at, laughed at and not taken into account, but he knows the system and he knows what the government is calling for here. The proposal before us is not going to work as it's written. And he is demanding, and we indeed are demanding, public hearings. At the end of the day, should the government, and it appears as though they're hell-bent on doing that, move forward with this very flawed piece of legislation, ram it through without public hearings—we need feedback from lawyers and from the public to make sure we do the right thing.

**Mr Bart Maves (Niagara Falls):** I think, fundamentally, right now in the province of Ontario we've got a situation where poor people in several communities, in Brockville, Colborne, Ottawa and some other communities around Ontario, don't have access to lawyers because the lawyers in that society who typically accept legal aid certificates were not content with their recent increases in pay, which are now at about \$88 an hour. Extrapolate that: they're allowed to make up to \$196,000, I believe the number is, in billings for legal aid throughout a year. The push is for a wage rate of \$140 an hour. If you extrapolate that, you get upwards of \$300,000 a year. The government is in a position where some of the people in those communities aren't getting, can't get right now, counsel. So the government has decided to move forward and implement a mixed delivery system of public defenders which exists in eight other provinces in Canada, NDP, Liberal, Conservative government provinces, and in many of those provinces the system works very well. To be, as the Liberals are, on the side of the lawyers who want to have that wage increased from \$88 an hour to \$140 an hour, and to abandon those people who right now can't get legal help, I think is shameful.

1650

**Mr Smitherman:** I listened with great interest, and for a brief period with a great vantage point, to the comments by my colleague the member from Eglinton-Lawrence. I think he demonstrated, for any who were listening here in this House and at home on a Thursday afternoon, that he gets it, that he understands, as a member from Toronto, what it's like to try and ensure adequate representation for the broad, vast, diverse communities that we serve.

The last member from government indicates how badly he misses the point, because to him any level of service, not the quality of it but any level of it, any availability of it, is enough. He doesn't think that our justice system ought to be designed in such a way—the answer that has not yet come from the government is, what happens when the public defender role becomes the lowest common denominator in our system, when lawyers with little experience, and in some cases perhaps not as well-established track records, serve as public defenders and face off against lawyers who are better paid, better resourced and more likely, therefore, able to present their case?

So you talk about wanting to serve poor people and talk about communities like Brockville. Well, I look at my riding. I've got lots of rich people and I've got plenty of poor people too, and the poor people in my riding demand and deserve access to a justice system which works for them, which ensures them justice.

Look at the state of Illinois, what the Governor there has had to do with respect to a review of something like 160 death penalty cases. I think one of the things we need to look to in that instance in Illinois is the public defender role for some of those folks. We're now finding that many of them were not guilty.

The member for Eglinton-Lawrence is right. Which ever way he votes, I'm voting.

**The Deputy Speaker:** Further questions, comments? Hearing none, the member for Eglinton-Lawrence has up to two minutes to respond.

**Mr Colle:** I do thank members from the government side and my colleagues from Toronto, from the beautiful Danforth, and what can you say about Rosedale and Muskoka? I just love Muskoka. The only trouble is, the last time I was in Muskoka—we're losing those beautiful lakes, with all those boathouses. With three slips, you can't see the shorelines of Muskoka any more. Sad but true.

To get back to Bill 181, we are not on the side of the lawyers, as the member from Niagara Falls said; we are on the side of the people of Ontario who for some reason are before the courts, who deserve representation, and fair representation. That's what this is about.

I know he brought in the dollars and cents, because he proved again that this is about bargaining in this assembly. That's what the Attorney General has basically stooped to. He's making us part of his bargaining ploy with the lawyers and the legal aid system.

I think the legal aid system is not perfect but it has worked generally well, considering the challenges. As my colleague from Rosedale said, in the greater Toronto area: 4.5 million people. There are 100,000 new people coming into the area every year. It is not like where Beaver lives. There are a lot of rough and ready things that go on, so you need good lawyers, a good court system, a good judicial system that is open, accessible and fair.

I hope this government would stop its posturing, stop these antics, really tactics, sit down with the providers, come up with a reasonable solution and stop trying to use the Legislature to get their way.

**The Deputy Speaker:** The floor is open for further debate.

**Ms Churley:** What we've been asked to do here today is to help cover a political problem that the government has, that the Attorney General has, because he's been unable to negotiate a fair deal with legal aid lawyers. So he has come before this Legislature with a slapped-together, quick-fix solution without many details. We've been asked to support this, and we're continually told by the government members that we're here trying to support rich-cat lawyers. That's not what this is all about. This is about fair and equal justice for all in this province. That is the cornerstone of democracy in Ontario, in Canada. We are proud of that, and that could slip away even further than it has to date. That is the concern that has been expressed here today.

That's a slap against democracy, but the fact that I've only got 10 minutes left to talk about this very complex bill—I have a lot to say on it; I've got 10 minutes in which to say it—is another area where this government has taken away some more democracy from our system here in Ontario, by taking away the opposition's ability to speak, and by taking away committee time.

This is a bill that cries out, in fairness and for justice, to be taken out for committee hearings because we are talking about changing the very foundation of how we provide access to the justice system for poorer people, lower-income people, for women and children fleeing from violence. Those are the very big, important issues we are talking about here. So no, this isn't just about lawyers and who supports lawyers and who doesn't. It's not about them at all. It's about providing justice in the best way we can.

I want to say how transparent the Attorney General and the Tory members who have been speaking today are when they deliberately use the general concept people have about lawyers, sort of like they have about politicians, and we're very familiar with that. They are deliberately, in this case, vilifying lawyers, saying they are greedy and want to make hundreds of thousands of dollars and are not worthy and we have to slap them down.

I want to make clear that most of the lawyers I know, the good women and men who provide legal aid services in my riding of Toronto-Danforth, a downtown neighbourhood which has, like that of the member for Rosedale, a lot of low-income people and a lot of very high-income people, do the good work. I want to say to all members in this House that those lawyers should be held in our highest esteem for the work they do. Let me tell you that none of those lawyers that I deal with and that I know fit in any way the description this government has given, portraying them as fat greedy rich cats.

He suggests lawyers are pocketing \$70 or so an hour, and that's a lot of money, but he didn't go on to explain that those very fees also cover a lot of overhead: staff, office, training, all the fees lawyers have to pay. I would say to the Tories, who are deliberately attempting to discredit the legal aid lawyers: many of them actually lose money, do not make a cent, or make very little, because they cannot cover those overheads, and they don't pay themselves.

I want to take this opportunity to thank all the legal aid lawyers out there, in my riding of Danforth and beyond, who work so hard on behalf of the people they represent under the existing circumstances.

Speaker, you may not be aware of this, but I am hearing rumours that the government and the lawyers, the law society, may have reached a deal. I'm not sure, but the AG I'm sure could confirm that. They may have now reached a deal. I don't know what that is, if they have reached a deal, but I can say that whatever the deal may be, we still need public hearings for the main reasons I've already talked about. I don't know if a public defence system is generally a good thing or a bad thing. I don't know for sure. Maybe there are mixes that can work under the right circumstances.

What we do know is that in the US, when they heard about what we were doing here, US public defenders who were interviewed by the media about this bill before us were apparently, and I'm quoting, "stunned that the Attorney General in Ontario would be involved in the

public defender system at all." Here is why, some of the points. The experience in the US points to the importance of an independent board governing the public defenders. We don't know if that's going to happen here. We fear it will not be an independent board. Across the US public defender system, we found out, it runs the gamut. Some are good and work; some are well-funded and well-organized; others have no standards at all and pay very little. Right away you have a discrepancy in the type across the US, and in the type, the quality, of the service provided to low-income people. Thirty years ago, the Washington-based National Legal Aid and Defender Association developed caseload standards that many states have since adopted, but we've been told the association claims that lawyers still are not meeting those standards.

Those are just a few points, a few reasons why we need to take the bill out for public hearings.

**1700**

If the rumours I'm hearing are correct, that a deal has been reached or almost reached, what kind of hybrid system is going to be brought forward? What are we going to see? We need to have an opportunity where people, lawyers who are working in the system, can come and talk about their experiences, where clients, former clients, the communities can come and talk about what they think of the system being proposed and how it might be changed to be better.

I don't know. I rely on the expertise of Peter Kormos, who is our criminal justice critic, because he has experience in this area. What I can tell you is that there are so many flaws in this bill to date that we have really big concerns about them, and the bill is being rammed through.

I want to touch on something else. I think I'm going to hear it again in two-minute responses, and that's OK. Everybody knows the New Democratic Party didn't increase the funding for the legal aid system. What I would say to the government is that it's something that was a bit of an issue then. It wasn't a crisis, but it was an issue during a very bad recession when we were balancing many needs, at a time when we made choices and created quite a big deficit, as everybody knows as well. Every time we borrowed money, which went to try to keep people afloat in a failing economy, we made that choice. We made choices as to where to spend that money. It was the third party at the time, now the government sitting here, that would have made the loudest noise had we increased the deficit a bit more so we could increase the funds for legal aid.

I will say this: the time is now, the crisis is now. Ten years ago there was no crisis. To be sure, more funding could have been used. I'm sure the legal aid lawyers would have preferred it, would have liked it, but they were managing. Now they are not managing, with all the changes and the cost of living. The crisis is now. It's now that the demand is there to fix it, and the government was unable to sit down and reach an agreement. I hope very much an agreement has been reached.

One of the reasons these legal aid lawyers—you can't blame them, not having had a raise in 15 years. Then they find out the lawyers who work for the crown were given a 30% raise two years ago, and they got left out. They are the people who are out there in the trenches doing the very hard work.

I'm going to end. I don't have time to get into it, but I spoke earlier about my concern with this kind of public defence system, that in particular women coming out of a family violence situation are very vulnerable and need to have the opportunity to choose a lawyer on their own to fulfill their own needs. At that vulnerable stage, if they and their children are fleeing from a violent situation, they need somebody they're comfortable with, somebody who sometimes can help them with their emotional problems. This is no simple, black-and-white law and order. This is a very complex issue and I would demand that the government bring it out for public hearings.

**The Deputy Speaker:** Members now have up to two minutes for questions and comments.

**Mr Maves:** I appreciate the opportunity to respond to the comments of the member for Toronto-Danforth. It was interesting to note that she had more of a tone today where she's not quite sure whether the mixed delivery system is a benefit or not. I don't know what to attribute that to. I think her party is quite opposed to the bill. I know Mr Kormos has asked for public hearings. The NDP, to date, has done nothing but say that moving to have some public defenders is the wrong way to go. She had a bit more of a conciliatory tone.

I wondered if that had anything to do with the comments from my colleague from Parry Sound-Muskoka, Mr Miller. He posed a very interesting question in his speech when he asked why the New Democrats would "oppose a bill that would allow Legal Aid Ontario to implement a system that has worked well in a province governed" by the NDP. He called them their "ideological and partisan soulmates," and asked why, if it works in Manitoba, it wouldn't work here.

Furthermore, he said that he felt it was "incredibly ironic that a caucus that trumpets the quality of services provided by the public sector is so vigorously defending a private sector monopoly that has been denying the vulnerable people they claim to represent access to justice." It was a very interesting question.

It's a private sector system now. The bill actually moves to introduce a public sector component, which is something the NDP go to no end—we know this about them; they're consistent on it and that's good—to trumpet. So why they would oppose this bill that brings in a public sector component is somewhat passing strange.

**Mr Smitherman:** I'm happy this afternoon to have a chance to comment on the speech by the member from Toronto-Danforth, or the member from across the river, as we like to refer to her in Toronto Centre-Rosedale, as we share a riding boundary. I know she's listening intently to everything I would say.

I wanted to pick up on a comment I was making earlier in consideration of the remarks by my colleague

the member from Eglinton-Lawrence, and that is that in moving forward, in sending a message of a dramatic change in the nature of delivery for legal aid for low-income Ontarians, what's the due diligence on the part of the government in terms of looking at models that have worked?

We hear a lot about Manitoba. When I think about jurisdictions that are analogous to my riding of downtown Toronto, Manitoba isn't always at the top of the list. I must confess that some of that stuff I heard earlier was Newfoundland and Labrador.

**Ms Churley:** That's where I'm from.

**Mr Smitherman:** Great. More power to them.

I'm interested in trying to see the effect of Governor Ryan—I believe that's his name—the governor of Illinois, a Republican and pro-death penalty philosophically. He has stayed the execution—I'm not sure if I've got the phrasing right—and is reviewing on a case-by-case basis 160 death row murder convictions and is tossing them out left, right and centre for a variety of reasons. Some of it's new evidence or confessions or DNA. Is there a factor there about the low quality of public defenders in the state of Illinois? I don't know. I'm posing the question and saying that in moving forward with a bill without having done due diligence on a matter like that underscores the very real concern that low-income people will not have access to good-quality justice, and that's a problem.

**Mr Bisson:** I want to commend the comments made by our deputy leader, Marilyn Churley. If the members across the way from the Conservative caucus were listening—it was interesting to note they got up and said, "Oh, her conciliatory note. Is that because she supports the legislation?" You missed the point of her speech. I understood what she was saying—

**Mr Maves:** No, that's not what I said.

**Mr Bisson:** Listen for a second. You guys are trying to ram a piece of legislation through the House lickety-split, without any real committee time to take a look at the very serious issues that have to be dealt with in this bill.

The fact, and she pointed it out, is that you've created a crisis in the legal aid community. You have not adequately funded legal aid across this province. To try to say, "Oh, it was the NDP that caused the problem 10 years ago," is a bit of a stretch.

The reality is that 30% of people in the court system today in our community of Timmins are not able to get representation when they go to court. Why? Because your government changed the policy by which people are able to get legal aid tickets to have that representation.

**1710**

Marilyn Churley was 100% right when she said there are vulnerable women who are fleeing from situations of abuse who are having difficulties today. We're asking the simple question: is it the right thing to do to have a mixed system where you use public defenders? Is that a good system? My good friend Mr Smitherman raised the point: is there any correlation between the bad convictions that

have happened in Illinois, where a whole bunch of people are having their convictions overturned because of the public defender system? I think it's a good question.

So we're saying let's take a look at this bill in committee. There was a deal between the government and the opposition parties to do 12 days of public hearings, four days of clause-by-clause. It was agreed to at the House leaders' meeting. I was there. Your Attorney General said, "No, I don't want a deal. I don't want this going to committee," and you're saying to us, "Oh, now you guys don't agree." Excuse me. This is a serious matter and it deserves serious consideration. That's why we want it to go to committee. I commend our deputy leader for having raised that issue.

**Mr Raminder Gill (Bramalea-Gore-Malton-Springdale):** It is a pleasure to join the debate this afternoon and perhaps respond to some of the comments made by the member for Toronto-Danforth, as well as other members; for example, my esteemed colleague from Niagara Falls, who is usually quick on his feet. I know he's going to be speaking a little later on and I'm sure we'll be listening to what he has to say; Toronto Centre-Rosedale, Timmins-James Bay.

One of the things the member for Toronto-Danforth mentioned was, "I know the members opposite are going to ask, what did we do when we were in power?" Yes, she's right, we are going to say that. They were there five years, practically. Usually, as you know, governments have four years. They can extend up to five if they are a little bit nervous going into the election, and that's what they did when they were in power. They stretched it just to hang on to power for five years. But they did not do anything; they could have addressed the issue.

In the meantime, we have increased I believe by 5%—I don't know the exact numbers. I think it's now up to close to \$80, or \$77. I'm not sure exactly what the numbers are, but I think it's decent. I'm not saying it's too much or too little. I'm not the judge of that. But comparing it to other professions, I think it's a decent wage. I'm not saying that they shouldn't be asking for more; I think everybody deserves to ask for more. But we have to be practical.

As you know, the combined system, the mixed system, seems to have worked in Quebec and Manitoba for the last 30 years. I understand that in civil legal aid there's already a mixed system in Ontario. So I don't know what the problem is. I think it's a good system that the Attorney General is proposing and I certainly support that.

**The Deputy Speaker:** Before I return to the original speaker for the two-minute responses, may I just remind members of the House that when you're doing two-minute responses, it's to be based on what the original speaker said and not what anyone may have commented on. The previous speaker said he was going to do it and didn't and I'm glad that he didn't, but I would remind members that is the standing order of the House.

Back to the member for Toronto-Danforth for a response.

**Ms Churley:** I would like to thank all the members for their comments. I would urge the members to take a look at your very own report, the McCamus report, which has been shelved for about five years now. It said very clearly in that report that block contracting should not be used as the means to deliver family law legal aid services, and that is a major concern of mine. But the report also said private lawyers should continue to be primary providers of services.

Let's be very clear on this, because I do not support this very flawed bill before us. I believe if this bill is passed as it is, a terrible injustice will be done to poor, low-income people in the province. Let's be very clear on this. What I'm concerned about is that this bill is going to be rammed through without proper debate time. This is all the time I have now, today, and others will not have had the opportunity to speak. No public hearings, and it is a very complex issue. As the member for Rosedale said, the due diligence has not been done. I don't understand all the ramifications of this Americanized system. The public doesn't understand all the ramifications. The government members don't understand all the ramifications of this piece of legislation and of moving to this public defender system.

We are talking about some kind of hybrid system, but we don't know exactly what it is. I don't support the direction the government is moving in, but I want more of an opportunity to understand exactly what they are suggesting and where they want to go, and I really want the lawyers who are in the field to have that opportunity as well.

**The Deputy Speaker:** Further debate?

**Mr Maves:** It's a pleasure to rise and contribute to this debate. Before I get into my own comments, one of the comments made across the way, I think by the member for Timmins-James Bay, was that the government has created a crisis in this situation because it is not paying legal aid lawyers enough, and he said, "Don't blame us for being here 10 years ago." It's interesting that he would say that. I think the members opposite—I was in the Legislature a couple of nights ago when Mr Bryant, the critic for the Liberal Party, and our Attorney General were in this chamber together. Mr Bryant was speaking, and they kind of went back and forth with two-minute hits.

What's interesting to me is that when I look at the provincial comparison of legal aid tariffs, we in Ontario are the highest in the country, and not by a little. We're at \$88 an hour. From 1987 to 1990, the Liberal government increased that by a total of zero per cent. From 1990 to 1995, the NDP government increased those rates by a total of zero per cent.

So we said, "Maybe there is a problem. They haven't had an increase over those 10 years," and so we did give them an increase. They're now at \$88 an hour. Is that the highest in Canada? Yes, it is. Is it the highest in Canada by a little bit? We have the highest paid nurses in Canada—ahead of Alberta again after our recent contracts—by about 30 or 40 cents an hour, I believe.

What is it in this case? The second-highest to Ontario is not \$86 or \$84 or \$82. It's actually \$74. The legal aid lawyers in Ontario are \$14 an hour ahead of the next closest province and that's Alberta at \$74. BC is third at \$72 an hour. Newfoundland is at \$60 an hour, PEI is at \$60, New Brunswick is at \$60 and Nova Scotia is at \$55 an hour. So for the member opposite to say—after we gave them a wage increase ranging from between 5% and 23% just this year, by the way—that we're underfunding it and starving these lawyers to death is kind of ridiculous.

**Mr Bisson:** So why aren't they taking the tickets?

**Mr Maves:** The member opposite says, "Why aren't they taking the tickets?" In fact, they are taking tickets all over Ontario. But there are places in Ontario where they are not. So we are implementing a mixed delivery system so we have a backup to the system we currently have.

When I heard Mr Bryant last week, the Attorney General said, "What's your position?"

He said, "Let me speak very slowly. I'm against the bill."

That's not a position on an issue. The issue is broader than standing in the Legislature and saying, "I'm against the bill."

The issue is, what would you do if you were the Attorney General and poor people in Brockville, Cobourg and Ottawa were being refused service? Silence. Well, they'd pay them a little more money.

Right now, at \$88 an hour for 2,000 hours a year, that's \$176,000. They can top that up and go a little further to about \$196,000 that they can bill for legal aid. They want to move to \$140 an hour. The next closest province is at \$74 an hour, and they want to move to \$140 an hour. Mr Bryant, by his silence, and his support of legal aid lawyers, indicates that he supports their position. That would move legal aid lawyers to—\$140 an hour at 2,000 hours a year is \$280,000 a year. That's a substantial amount of money. We on this side of the aisle said, 88 bucks an hour, with 74 bucks an hour in Alberta, the second-closest province, we think is fair and reasonable, but in some places they don't want to work for that amount of money. So we said we have to do something, so let's go with the mixed delivery model.

1720

One of the reasons why we thought that might be a good idea is because a gentleman named Patrick Monahan, who used to be an adviser years ago to the Liberal Attorney General Ian Scott and Premier David Peterson, writes in his book, *A New Legal Aid Plan for Ontario*, along with Frederick Zemans, that we should indeed move to a mixed delivery system. The member opposite, Mr Bryant, the critic for the Liberals, talks in glowing forms about Mr Scott and Mr Monahan, and this is exactly what these gentlemen have recommended.

As I've said already, in eight other provinces they have some mixed delivery services. My colleague from Muskoka talked about the mixed delivery system in Manitoba, where 60% of legal aid work is via certificates and staff provides 40%. They say one of the beauties of

their system is its choice of counsel. We all support choice, and why shouldn't those folks have the choice? Maybe, where there's a mixed delivery system, they know of a staff lawyer who has a good reputation and they want to use that staff lawyer, so they can. Maybe they know someone who is not a staff lawyer but they can go and get them with a legal aid certificate. They have that choice in that mixed system, and I think that's appropriate.

I want to go back to members opposite. Again, Mr Monahan, who worked for the Liberals, was a staunch Liberal adviser from 1987 to 1990. He said that—

**Mr Smitherman:** A staunch adviser?

**Mr Maves:** Well, he was an adviser. How's that? Captain Critical over here.

Mr Smitherman complained that a public defender system probably doesn't offer the same quality of service. Professor Zemans, in his book, and he has spoken publicly, says that "All the studies show that in fact client satisfaction, rates of guilty pleas, rates of incarceration do not significantly change under a mixed delivery scheme." So I hope that brings some comfort from a well-known expert, from Osgoode Hall Law School. With their experience in looking at the legal aid system in Ontario and public defender systems in the United States, they came to that conclusion.

I think it's an appropriate bill for a variety of reasons. I think the Attorney General has been generous with legal aid in Ontario. Again I say, we're \$14 an hour ahead of the next-closest jurisdiction in what we pay them. The Liberal Party opposite seems to want to go back to the treasury and pay yet more as their simple solution to this problem. We say that can't always be the solution you come up with. You can't just say, "We'll just spend more money, just throw more money at it."

The Attorney General has thought about it and he's looked at jurisdictions around the country and has talked to experts in the field. He's done his homework and he has said, "Let's move to a mixed delivery model." I've not heard anything yet in the Legislature that tells me that it is a wrong move, and I commend the Attorney General for his actions. The members opposite talk about having some kind of agreement ready with the lawyers in the province on legal aid tariffs. He may very well be in a situation where they're about to make an agreement. I have no idea. I haven't talked to him about that recently. Regardless, I think this bill is an appropriate bill and I think moving to that mixed delivery system is an appropriate step for the system here in Ontario.

Maybe we got pushed to this point. Maybe we should have moved to this point earlier. Maybe that could be the case. Maybe, if anything, we're guilty of not moving toward a mixed delivery model earlier. However, I think it's an appropriate move at this point in time, and that's why I'm supporting the bill.

**The Deputy Speaker:** Members now have up to two minutes for questions, comments.

**Mr Kwinter:** I want to continue participating in this debate by making a couple of comments, particularly on

the member for Niagara Falls. Professors Fred Zemans and Patrick Monahan wrote a book. I have no quarrel with the book, in theory, and no quarrel with a mixed delivery system. But if the system was going to work, it would be working now.

The problem we have is that there aren't enough lawyers who are prepared to take legal aid certificates at the rate they're being paid. So even if you put in a mixed system, and those people in the private sector who would be prepared to take the legal aid certificates aren't there, then your system is not going to work.

You also keep comparing Ontario with other jurisdictions across the country. That is an unreasonable and unfair analysis because the cost of living, the cost of rent, the cost of all of the things that happen are far higher in Ontario. If you're going to do that, then at least put in some factor so you can realize the difference in the economics.

If the lawyers continue to refuse legal aid certificates, then what you really have is not a mixed system but a single system, where the only people who are taking these cases are people who are going to be staff lawyers, and then you get all of the problems that we've outlined.

I think the mixed system can work, but only if you make it attractive enough for those people who are in the private sector to participate. If you don't get them on board, your mixed system doesn't work because you're missing a very important part of the equation.

Until you understand that and realize that, then you don't have a system. You can't impose it. There is no mandatory requirement that any lawyer has to take a legal aid certificate. So unless you have their goodwill and their co-operation, the system will not work.

**Mr Bisson:** I thought those were excellent comments that were just made, but I won't comment on them.

The government member got up and said, "The opposition opposes this. What is their solution? What are they going to do? They're not standing for anything." All we know is what we're telling you to be true. The problem, as was described earlier, is that the legal profession now is not subscribing to the legal aid system to the degree that we need to represent people, especially at the lower-income scales.

As I've said, in the community of Timmins, I'm told by people who work in legal aid that 30% of people who go before the courts are going unrepresented. So I'm asking you a very simple question, as the member put forward: how is a mixed system going to deal with those particular individuals?

It seems to me what we're going to end up with is a law for the rich and a law for the poor. We're going to increase that problem tenfold, because those people who can afford to pay for lawyers, as they do now, will get one class of service. There's not going to be enough lawyers who are willing to take the legal aid certificates, because it doesn't pay enough, so people will be forced to go into the public defender system. Then how is that going to work?

You end up before a court and all of a sudden this poor public defender gets the case foisted on him at the

last minute, has to come up with a defence, doesn't have the resources to properly investigate, doesn't have the time to spend on the case in order to properly defend the person, and the person is found guilty. All I know is, that's not a system that I favour.

What the New Democratic Party is telling you—my leader, Howard Hampton, and our critic Peter Kormos—is that we had a deal to send this bill to committee. We were going to go 12 days to committee in order to have the legal community and others come before the Legislature to tell us about how you can make this work, if you can make it work at all. The reality is that your government has walked away from that deal.

So don't come to me and say, "Well, what are you proposing?" All I know is, the mixed system is not the answer, and certainly what we've got now is a problem. So allow this thing to go to committee so we can figure out what to do.

**1730**

**Mr Miller:** It's my pleasure to comment on the member from Niagara Falls, who certainly raised some rational concerns and points to do with this bill that has been put forward to really make sure that those who need it are receiving the assistance of a lawyer. The solution that has been suggested in this legislation is a mixed delivery system, whereby there will be some staff lawyers and there will be other lawyers who will participate in the system via a certificate whereby they're paid currently \$88 an hour. As has been pointed out, that \$88 an hour is the highest fee in Canada at this point. It probably isn't a lot compared to a regular lawyer fee, but I think there is also some civic responsibility involved, where every lawyer should be providing some service for those who can least afford it. So I think a blend of the certificate system at \$88 an hour and staff lawyers is a good way to go.

Actually, I'm quite surprised that the NDP are against this, because they're usually in favour of more public servants against anything private at all. So I'm kind of surprised, because this is really having more civil servants, having staff lawyers, having publicly paid employees. So really it's quite surprising to me that they aren't in support of this.

The member from Timmins-James Bay was talking about 30% of people who are not able to get a lawyer. Well, that's what this is all about: solving that problem.

I think we also have to think about the victims as well. Last night I saw on the news that a convenience store in my hometown of Bracebridge was robbed and the owners were savagely beaten. So we have to also remember victims when we're talking about the justice system.

**Mr Bisson:** On a point of order, Mr Speaker: I'm sure that members would like to know that former member Derek Ferguson is here amongst us, whom we haven't seen in a long time.

**The Deputy Speaker:** I believe it's Derek Fletcher. Welcome. Good to see you again.

**Mr Bisson:** I have to say I'm sorry. I can never remember all the names, even now.

**The Deputy Speaker:** Thank you. Now we're going to—I had to figure out where we were at. Questions and comments?

**Mr Michael Bryant (St Paul's):** I would say that the government may be engaging in a certain amount of, shall we say, economical use of the truth, in that the suggestion that the recommendations of the likes of Monahan and McCamus, of the law society and others, are somehow being followed here is just not right. If all the government wants to do is bring in some staff lawyers on a mixed basis to address legal assistance, the dirty little secret about this bill is that they can do it right now under the present legislation. Right now, Legal Aid Ontario can do just that. But that's not what this government wants to do with this bill.

This government wants to, first, take away the independence of Legal Aid Ontario, take away the independence of an independent body set up under their own law in 1998 to determine legal assistance, usurp that and put that into the hands of cabinet. And that, we say on this side of the House, is a blank cheque to deliver a mortal wound to legal assistance in Ontario, because it will inevitably result in poor quality, poor economics, no independence, a plea-bargain factory and the failure of legal assistance in Ontario that for years had been a bedrock of our judicial system.

So I say to members of the government that they may be citing their supporters in a fashion that uses the truth in an economical fashion.

**The Deputy Speaker:** The member for Niagara Falls for up to two minutes on a response.

**Mr Maves:** To the member for St Paul's I just say, "Boo!" There's a bogeyman behind every door to the member for St Paul's. It's quite comical to see what a conspiracy theorist he is. He's worse than a whole bunch of other members in the Legislature, and there's a bunch that think there are a lot of conspiracies. But the comments he just made were, in fact, complete rubbish—100%.

As I said earlier, I was here for the member for St Paul's debate with the Attorney General a couple of nights ago. The Attorney General wanted him to state his position, and he said very slowly that he's against the bill. But of course, he knows that doesn't state a Liberal position. So on this side of the aisle, we're pretty convinced that the Liberal solution to this entire problem right now is more money. Why? Because, quite frankly, that is always the Liberal solution to just about every problem that faces us in Ontario today.

The member for York Centre, when he got up and responded to my comments, confirmed, as the Attorney General and I concluded the other night during debate, that indeed their solution to this problem was more money. He stated quite clearly that we need to pay the lawyers more money, that the recent increases we gave them—mind you, when the member was in the Legislature as a cabinet minister from 1987 to 1990, he didn't want to pay more money, but now he wants us to pay more money. He complained that 88 bucks an hour was

not enough compared to Alberta's 74 bucks an hour. That's not fair because the cost of living is higher. That's why the rate is \$14 an hour higher. Even though the Liberals are sometimes hesitant to state what their solution is, what their actual position is on an issue, it's nice to know, it's nice to be able to confirm here tonight, that indeed their response once again is to throw more money at a problem.

**The Deputy Speaker:** The floor is open for further debate.

**Mr Joseph Cordiano (York South-Weston):** This is yet another demonstration of a government pattern that repeats itself in terms of its lack of concern and consideration for true justice for all in this province. It's another example of this government being entirely without concern for what's fair. It isn't just about more money; it is about setting priorities, allowing people who cannot afford access to justice to gain access to justice. That is one of the fundamental values we hold dear in this province. It is of fundamental importance to us to have access to justice. It's the cornerstone of our democracy. It's part and parcel of what we believe in. This government always and forever reduces everything to dollars and cents, and it does so without due consideration for those who can least afford to pay. So sure, it comes down to dollars. If you can afford justice, you're going to get justice. That's the Conservative way in this province. That's what this government has wrought on this province. It repeats itself in every way.

When it comes to funding our public education system, what has this government done? It's going to fund private schools to the tune of \$3,500 by way of a tax credit. That sets up the possibility for a two-tiered system. That's a very complex subject and it cuts both ways. Many people who send their kids to private schools that are religious in nature can't afford those schools. They make supreme sacrifices. There's no doubt it cuts both ways. Throughout my political career, I have seen that there is some argument to be made for that. But I think this government isn't really directing its attention to that. I think this government is setting up a two-tiered system for education because it basically says, "Why should we provide the best level of education to all? Why should we provide the same level of service to all, the same access to justice for all, if you can afford to pay it?" That's where we draw the line because somehow in society we need to determine who's going to get what level of service on the basis of your ability to pay.

**1740**

Let's talk about the reality. The reality is, and the truth is, that this government and all of its members believe in that very concept, that if you can afford to pay for these services, which they deem to be Cadillac services—and we've seen this government, without any concern for the poor, slash welfare rates at the very beginning of its term in office, condemning people who were dependent on social assistance to be greatly disadvantaged, more than they were already disadvantaged, relying on social assistance. Speaker, as you and I know, we all have people in

our ridings who are dependent on social assistance. None of these people live a luxurious lifestyle. None of these people have the privileges that most of us have. We're talking about these very people when we're talking about access to legal aid in Ontario.

What this government proposes to do is yet again strike a blow against those people who can least afford any other knocks against them. I have seen throughout my political career people not having access to justice because they can't afford to access justice. Often, it's people who are poor that need access to justice and need some assistance in paying for that access.

I think, and others who have spoken before me in my party and my colleagues think, that what this government is proposing by way of a public defender will lead to a two-tiered system. I don't think that people will be well served by this at all. Once again the government is moving headlong into this process, setting up this system without any due consideration.

I agree with those who have said we should have hearings on this bill. I agree with those who say that this is a significant and important change in Ontario's history. It's not something we should take lightly and it's not something that shouldn't be debated at great length, not just in this assembly but in committee. I think a committee that's properly structured should be given the opportunity to examine this bill in greater detail to determine what the real impact is going to be on a system that we restructure. Will it be of value? Will there be merit? On the surface, that does not appear to be the case.

I do not profess to have any expertise in this area, but I know from years of experience that people have had great difficulty accessing legal aid. I just want to cite some facts and figures. The number of certificates has gone down dramatically. It used to be in the early 1990s that the number of certificates was some 200,000; by 1996-97, that number dropped to 75,000. So is there access to justice? It has been reduced for people with low incomes. It is greatly declining. Again, the number of lawyers willing to do legal aid work has declined dramatically. In 1995-96, it used to be 5,011 lawyers, and it dropped to 3,865 lawyers in 2000-01. That is a very steep decline in the number of lawyers that can take on this work. Now far be it from us to suggest that lawyers in general aren't well paid in this province, but we can see from the decline, in terms of the certificates that are issued, that there hasn't been an increase in the tariff since 1987.

More money is required and there's no getting around that. The old saying is you get what you pay for. If you create a two-tiered system, then you're going to get a two-tiered system, with those who can afford to pay for the best legal services and the best legal minds getting those best legal minds, and those who can't get the public defender. It's exactly what happens in the US; there's no secret about that. So again, I think we're moving quickly toward an Americanization of all aspects of our society, all aspects of our lives as we know them in Ontario. This government is precipitous in its desire to become more Americanized.

Will it save money? Probably. But is that what we want in the end? You know we saved money when you slashed welfare rates to social assistance recipients. On the other hand, you set up two-tiered systems. I think the attempt is still being made to do that in health care. There's at least a queuing process that is obviously putting a lid on health care services and what's accessible and what's not. The delays in health care amount to the same thing. You essentially have a two-tiered system. People jump the queue all the time in the health care system. They have access to better health if they know the right people. These are anecdotal stories that we hear all the time.

This is the sort of thing you're imposing on legal aid. I don't think that, in the end, it's going to serve people with low incomes very well and it's not going to serve our society very well if people don't have access to justice.

I believe that the public defender, going that route, essentially amounts to creating a two-tiered system. It is yet another example of a government that has set a pattern, and when it comes to people with low incomes, they just don't give a damn.

**The Deputy Speaker:** Members now have up to two minutes for questions or comments.

**Mr Bisson:** I thought those were interesting comments. I only wish that the government at times would listen a little bit to the comments that are made by the opposition. The government seems to get the feeling that everything we do on this side, when it comes to the opposition, is oppose for the sake of opposing. Well, it's not the case. There are certain issues in this House that, yes, we have ideological beliefs and differences on that we will oppose you on. For example, when you attack workers or when you attack the most vulnerable in our society, we New Democrats will go after you on that, and I understand that; that's fair game. When we were government, you attacked us on things.

But on bills like this one we probably can get some agreement, and this is what is really frustrating. I went to the House leaders' meetings about a week ago, and there was a decision that we were going to allow this bill to go to committee for 12 days. We were going to allow outside-of-Toronto travel for four days and it was going to allow consumers of the system, the lawyers in the systems and those people who know far more about the system than all of us put together to come before us and say, "How about a mixed system; is there some validity to that; are there some things that we need to do differently; how can we make the system work?" What we can all agree with on both sides of the House is that the current system has a problem.

Thirty per cent of the people in my community of Timmins are going to court and don't have representation. The reason for that is that there are not enough private sector lawyers who are willing to take legal aid certificates. Why? Because, in their view, it doesn't pay enough.

We know there's a problem there, so we're saying that there has to be a solution. Possibly, part of the solution is to go to a mixed system. I'm not sure that you would have to go a long way to convince me on that, but the issue is that we are not going to resolve it by saying, "Oh, we fixed this, because now we're going to go to a mixed system." We will still be left with the same problem, and that is that those on the lower-income scales in our society are not going to be able to afford to hire lawyers, they won't be able to get into the legal aid system because not enough lawyers are willing to take the tickets, and they will be represented by public defenders who, I would argue, won't have enough time to prepare their cases. What are you doing to fix the problem? Nothing.

**Mr Maves:** I'm rising to respond to a couple of things the member from York South-Weston, the members proceeding him and the member from Timmins-James Bay just said: that there are not enough lawyers in the system and that's the problem.

We believe that this bill is going to add more lawyers into the system, and that will help to solve the problem. The member from York South-Weston also agreed with the member from York Centre, Mr Kwinter, that they need to be paid more money. We're glad they finally are starting to put their position on the record. We already gave them that raise to \$88 an hour, the highest in the country by \$14 an hour. They want to go higher still and throw more money at it.

1750

The interesting thing about that is that the Attorney General and I tried to pin down the critic, Mr Bryant from St Paul's, on this, and he was careful not to say this. I want to just read into the record a conversation between a reporter and Mr Bryant. The reporter said on September 30, 2002, "What would you do—spend more money on legal aid to fix it?" Michael Bryant: "No," he said. A little bit offside with his members. "You know, the experience in the United Kingdom and other jurisdictions has been to, yes, reform the legal aid system. You look at different ways of providing it."

That's what we're doing in this bill. So it sounds like he supports the bill. Just two minutes later the reporter said, "Do you think there should be a raise?" Michael Bryant: "Obviously the tariff has got to be increased."

The quickest flip-flop on record by the Liberal Party. One minute he said no; the next minute he said that obviously there's got to be a raise. In here today, his members are also saying, "Give them more money. Throw more money at the problem." The Liberal magic elixir to everything.

**Mr Bryant:** This is great. This is a debate. He says something and I say something back. This works well.

Let me say it again: a mixed system is already in the law. I don't understand. I don't know how many times I have to say it. We already have the capacity, the legislative capacity, to have a mixed system.

**Mr Maves:** No, we don't.

**Mr Bryant:** He says, "No, we don't." You should read the law that you passed in 1998. The mixed system is already on the books. It's on the books. So if it's there, then what is the government doing? Why are they bringing in this legislation?

If, as the member says, it's about a judicial decision, well, you appeal the judicial decision. What, are we going to bring in legislation every single time the government doesn't like a judicial decision? No. And the Attorney General, of all people, knows that. The Attorney General has to, as a matter of course, like every Attorney General before him, appeal decisions of the courts up until the point a decision is made, such as, for example, on the McIntyre decision dealing with contingency fees, that they're not going to appeal further, just as with the Hydro One initial public offering decision of the Ontario Court of Appeal, which the government decided not to appeal further.

If the Attorney General has a problem with an interpretation of a bill that clearly says Legal Aid Ontario has the flexibility, then it should appeal the decision. But that's not what this bill is about. It is not a backhanded way—it shouldn't be a backhanded way—of appealing a decision. It is an effort to usurp the powers of Legal Aid Ontario, which currently has the last word on administering legal assistance, and to put it into the hands of cabinet. That is what this bill is about. And we say that's going to end up costing taxpayers more and it's going to end up serving the public less, which seems to be the Harris-Eves formula on governance.

**The Deputy Speaker:** Further questions, comments? Hearing none, I'll go to the member for York South-Weston for up to two minutes in response.

**Mr Cordiano:** Once again, I think that the government is attempting to push something through which, it says, will in the end serve people with low incomes much better than what we have already. You know, at the end of the day, this is about the government cutting back on costs. This is about giving a cut-rate service to people. And that's what it really amounts to. Low-income people will not have access to justice at the same high level, high standards of legal justice that others would who could afford to pay for it, if we go the route of the public defender. I think that is not something that could be shielded away from. This is what this bill amounts to.

I think it's a pattern that's been followed by this government, whether it's raising fees of one kind or another in the health care system for seniors, for copayments of every kind, when it came to slashing welfare rates for people on social assistance. At the end of the day, this government is saying to people with low incomes, "Tough. It's the way it is. We can't afford to pay for these types of services. You're going to have to tough it out."

This has been a cornerstone of our way of life, of our society. We have always believed that people should have access to justice and should be given that opportunity. That's why legal aid was created in the first place.

This is about dollars and cents. It is in the end about the government trying to save money. It is about the government trying to curtail services that were there in the past and that it will no longer make available to people with low incomes.

**The Deputy Speaker:** It now being almost 6 of the clock, this House will stand adjourned until 6:45 this evening.

*The House adjourned at 1755.*

*Evening meeting reported in volume B.*

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