



No. 10B

N° 10B

ISSN 1180-2987

Legislative Assembly
of Ontario

First Session, 38th Parliament

Assemblée législative
de l'Ontario

Première session, 38^e législature

**Official Report
of Debates
(Hansard)**

**Journal
des débats
(Hansard)**

Thursday 4 December 2003

Jeudi 4 décembre 2003

Speaker
Honourable Alvin Curling

Président
L'honorable Alvin Curling

Clerk
Claude L. DesRosiers

Greffier
Claude L. DesRosiers

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<http://www.ontla.on.ca/>

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Copies of Hansard

Information regarding purchase of copies of Hansard may be obtained from Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Exemplaires du Journal

Pour des exemplaires, veuillez prendre contact avec Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311, ou sans frais : 1-800-668-9938.



LEGISLATIVE ASSEMBLY
OF ONTARIO

Thursday 4 December 2003

ASSEMBLÉE LÉGISLATIVE
DE L'ONTARIO

Jeudi 4 décembre 2003

The House met at 1845.

ORDERS OF THE DAY

Mr Peter Kormos (Niagara Centre): On a point of order, Mr Speaker: I propose to make a point of order regarding this motion, to whittle its orderliness and, with respect, in view of the fact that the Chair will have to rule on that point of order, and that the point of order will basically be addressing the motion and asking the Chair to find that the motion is invalid and that you are the subject of that motion, I put to you that it would be appropriate for you to step aside and find yourself another Speaker to hear the point of order. That's my first point of order.

The Acting Speaker (Mr Bruce Crozier): To the member for Niagara Centre, I think it would be more appropriate if the motion were put first, before you brought any points of order to it. At least the motion can be put.

Mr Kormos: Thank you, Speaker. I was merely following the direction that Speaker Curling provided earlier this week.

APPOINTMENT OF HOUSE OFFICERS

The Acting Speaker (Mr Bruce Crozier): Government House leader, would you read the motion?

Hon James J. Bradley (Minister of Tourism and Recreation): If they will hand me the motion, I will read the motion. Thank you very much. The motion reads as follows:

That Bruce Crozier, member for the electoral district of Essex, be appointed Deputy Speaker and Chair of the committee of the whole House; that Ted Arnott, member for the electoral district of Waterloo-Wellington, be appointed First Deputy Chair of the committee of the whole House; and that Joseph Tascona, member for the electoral district of Barrie-Simcoe-Bradford, be appointed Second Deputy Chair of the committee of the whole House.

Mr Peter Kormos (Niagara Centre): On a point of order, Mr Speaker: I repeat, sir, that I'm going to make a point of order which will ask the Chair to rule on the orderliness of this motion. In view of the fact that you are the subject matter of the motion, my first point of order is that you should remove yourself from the chair and invite a substitute to take the chair. That's my first point of order that I ask you to rule on, please, Speaker.

The Acting Speaker: With the member suggesting that I would be unfair in the chair, I can see the reason for his point of order. I think I'm an honourable member. I don't see that I need to rescue myself from the chair. If it reached a point where I felt that that was the case, then I would do so.

Mr Kormos: Thank you kindly, Speaker.

This motion I put is put to you in consideration of standing order 4, in accompaniment with standing order 5. I appreciate that standing order 4 indicates that "a member shall be appointed ... to be Deputy Speaker and Chair of the committee of the whole House."

Now that, if it were all that the Parliament had to deal with, would stand and speak for itself, but I take notice of the Legislative Assembly Act, which of course is statute, and the Legislative Assembly Act, subsection 28(1), says, "The assembly"—that's us—"at its first meeting after a general election shall proceed to elect"—elect—"one of its members to be Speaker and one of its members to be Deputy Speaker."

1850

Now, I anticipate any number of responses: "It's always been done this way." Well, the response to that—and Speaker Curling reinforced that just the other day when he ruled on a point of order I made—is that there is virtually little the House cannot decide to do on unanimous consent. But, you see, we have a conflict here between the standing order and statute—law. A standing order is a self-adopted procedural regime of this House.

I ask you to refer to Marleau and Montpetit, in particular to page 218. Marleau, respected author, talks about the hierarchy of laws. And just as standing order is subservient to statute, statute is subservient to constitutional law. We do not have here an issue of constitutional law, but we do have a conflict between statute and standing order. Marleau states very specifically and explicitly that standing order is subservient to law.

Now, it's not as if this was some overlooked section in the Legislative Assembly Act, because as you know, Speaker, the Legislative Assembly Act was amended in 1999, as a result of the change in definition of "recognized party." I didn't bring that amendment; the government of the day did. And it being amended implies very much that the statute was under review. So again, to the prospect of an argument that somehow this is a mere oversight, that section 28 has become redundant by misuse, I say no, that can't be the case.

So there you are, Speaker. The law says we have to elect not only the Speaker, which we've done, albeit an acclamation, but we have to elect one of the members of

this House to be Deputy Speaker. This motion purports to appoint one by way of motion. That is not an election. An election is clearly one of ballot. In the standing orders there's an outline, a procedure for how an assembly elects one of its members. The motion is clearly a process of appointment; I don't quarrel with that. Unfortunately, we do not have the power, short of unanimous consent, to appoint a Deputy Speaker. We have to elect one.

I leave it at that, sir. It's short, it's very precise and I think it's self-evident. Unless it's done by unanimous consent, the law—not standing orders, but the law—requires this assembly to elect its Deputy Speaker. An appointment by motion is not an election. An election is done, as we know, with ballots in secrecy and a counting of those ballots, subject to there being a contest; otherwise, it's an acclamation.

Mr John R. Baird (Nepean-Carleton): The member for Niagara Centre is correct. There is a difference of opinion between the standing orders, section 5, and the Legislative Assembly Act, subsection 28(1). I think we amended the standing orders in 1997. Five minutes after we amended them, we amended them a second time, and then we amended them again in 1999. The most recent amendments, in 1999, for example, gave official party status to the New Democratic Party. Where the voters did not, the Legislature did—

Ms Marilyn Churley (Toronto-Danforth): There were 130 seats instead of 103 then.

Mr Baird: —and I supported that, I say to the member from Toronto-Danforth.

I would submit that the standing orders take precedence in this chamber, in the parliamentary setting, by the ruling of Speaker Curling just this week that Parliament itself sets the way it will conduct its affairs through the standing orders, and that has not just equal precedence with the Legislative Assembly Act but would have greater precedence to that. So section 5 of the standing orders is fully in order.

The government did seek the advice of my House leader, the only individual who is a House leader of a recognized opposition party, with respect to this motion, and it is in fact following tradition that up to two, and two has been the practice, is reflected in the motion. I would submit that the standing orders would take precedence. The standing orders have been amended far more often and with far greater regularity, not just since 1997 but indeed since the late 1980s. I would submit that the standing orders would take precedence over the Legislative Assembly Act and that the motion is in order. The official opposition believes that the motion is in order and would look forward to having the opportunity for the House to render a verdict on the substance of the motion through a decision.

Hon Mr Bradley: Mr Speaker, upon reviewing the rules, I certainly must concur with the member for Nepean-Carleton in his interpretation, particularly on the ruling that has been made by Speaker Curling. Clearly it says, in section 5, "On the advice of the House leader of each of the recognized opposition parties in the House

given to the government House leader, up to two of the four presiding officers of the House shall be chosen from the recognized opposition parties." That is, I think, clear to all members of the House. It is in keeping with the ruling of Speaker Curling as to which of the parties in the House are recognized parties, and I believe we should proceed with the substance of the debate this evening.

Ms Churley: Mr Speaker, I would ask the acting House leader for the government tonight to refer to House of Commons Procedure and Practice—Marleau—where it says, just before "Speakers' Rulings"—and listen very closely to this, Mr Speaker; I'm quoting directly—"In the hierarchy of parliamentary procedure, just as statutory provisions cannot set aside constitutional provisions, standing orders cannot set aside statutory law. Only Parliament can enact or amend statutory provisions; the House of Commons can adopt its own rules as long as they respect the written Constitution and statutory law."

I put to you, Mr Speaker, that this precedent, this ruling, is very clear that the standing orders in this place cannot override actual constitutional provisions. I suggest that you take a look at this as a precedent already set. I put to you that it's important that we have a ruling tonight that allows this House to determine who its Deputy Speaker is going to be by a secret ballot.

The Acting Speaker: Member for Nepean-Carleton, briefly.

Mr Baird: I will be very brief, and I appreciate the opportunity. I would invite you also to look at precedent. I think every year this House has considered a motion, not an election, particularly with respect to a rotation between the three individuals serving under the Chair, and I would ask you to look at the precedent. Going back, certainly during my complete eight years here, that's always been the practice.

The Acting Speaker: The member for St Catharines, briefly.

Hon Mr Bradley: The statute does provide for an election—we recognize that—but the particular form of the election is provided for by sections 4 and 5 of the standing orders and by the precedents of the House. In my 26-plus years in the Legislature, I can always recall the precedents are such that the way the government motion reads this evening is the manner in which these officers have been appointed, including the member for Toronto-Danforth when this House chose to elect her, as it did, as one of the Deputy Speakers, in its wisdom.

Mr Kormos: I don't want to persist at this, but I keep getting provoked by the recurrent responses of others.

Look, we've got standing order 3, where it says, "The election of the Speaker"—that's an election—"shall be conducted in the following manner..." And then you've got standing order 4, which talks about the appointment of, for instance, a Chair of the committee of the whole House. This is the standing orders. So clearly an election is different from an appointment—an election means one thing, an appointment means another—and clearly the Legislative Assembly Act takes precedence, and clearly the Legislative Assembly Act talks about "election" rather than "appointment."

1900

The Acting Speaker: I thank the members for their comments and for their advice.

The member for Niagara Centre would know that the Chair can't rule on statutes of law. This Chair has to be guided by the standing orders of the Legislature. I've reviewed standing orders 4 and 5. From memory, I can recall that this motion has been made before and that a precedent has been set. I have read the motion and I see no reason to rule it out of order.

Mr Gilles Bisson (Timmins-James Bay): On a separate point of order, Mr Speaker: So, if I'm clearly to understand, where we're at now is that the Speaker of the House doesn't have to follow statute by way of law and we in this Parliament don't have to follow the laws of Ontario or the Constitution any more, if I understand what you're telling me. We can do what we want by way of standing orders: disregard the Constitution—

Mr Baird: The courts enforce the law.

Mr Bisson: —disregard the constitution of the province of Ontario, and disregard the Legislative Assembly Act, which is an act that sets out our authority here in Parliament. It's kind of bizarre.

The Acting Speaker: Any other comments?

To the member, I just said that the Chair can't rule on statutes of law, but the Chair can on the standing orders. The standing orders before me have been followed for many years; the precedent has been set. I see no difference in this motion than any motion that has been made previously.

Debate on the motion?

Hon Mr Bradley: The individuals whom we hope will be assuming these positions are individuals all of us are familiar with, and we are confident in their ability to carry out their responsibilities appropriately.

Mr Tascona has been a member of this House now into his second or third term—

Mr Joseph N. Tascona (Barrie-Simcoe-Bradford): Third.

Hon Mr Bradley: His third term, he points out to me at this time. He is familiar with the rules of the Legislature. He's familiar with the traditions and the precedents of this Legislature. He has demonstrated on many occasions that he has the ability to carry out these responsibilities appropriately. We have full confidence in his impartiality as he assumes the position for which he has been elected. Although they may want to speak for themselves, I certainly think I speak on behalf of my colleagues in the Liberal caucus—the government, in this particular case—in expressing confidence in Mr Tascona's election to this position.

In addition to that I would say, similarly, that we have in you, Mr Crozier, the member for Essex North, Essex-Kent—

Mr Crozier: Essex.

Hon Mr Bradley: —and just plain Essex now, which is really good; it's all of Essex. It used to be separated. You have been a member of this House for a number of years. Again, you are familiar with the procedures gov-

erning this House, those being the standing orders that govern this House.

Likewise, I have full confidence in Mr Arnott, as an experienced member of this Legislature and as one who has demonstrated the ability to be impartial when his responsibilities call for that. He is an esteemed member of this Legislature.

I believe that with the three individuals named in this motion, in fact we will have a House about which we all—we have confidence in all these individuals. You being in the chair at the present time, Mr Crozier, the member for the electoral district of Essex, I think seeing you as the Deputy Speaker and Chair of the committee of the whole House—I would be surprised if there would be any in the House who would not have full confidence in your abilities to carry out these responsibilities. In addition to this, Ted Arnott, member for the electoral district of Waterloo-Wellington, as the First Deputy Chair of the committee of the whole House: I know of no one whom I've ever heard in this House express a dissenting view as to the ability of that individual to carry out his responsibilities; and of course Joseph Tascona, member for the electoral district of Barrie-Simcoe-Bradford, as the second Deputy Chair of the committee of the whole House. All of these individuals are I think very capable of doing the job.

We know that it is difficult to be placed in a position where one has to make rulings, but we know that each of these individuals is prepared to and has spent some considerable time familiarizing himself with the rules that govern debates and procedures in this House.

I think it's important that all of us have confidence in these three individuals. I certainly would be surprised were I to hear any member rise in the House today to express a view other than the fact that these individuals can deal with their responsibilities in an appropriate fashion. All of you will have been elected, if that is the will of the House this evening, in the same manner as others have been over the years that I have been in this House, including the now member for Toronto-Danforth, who was hailed, when she was elected to this position, as one who we felt had all of the qualifications to be a person who could sit in the chair and preside appropriately. I know she was pleased on that occasion to be elected in the manner that she was, which is the same manner in which they are to be elected this evening.

I heard an intervention from the member for Nepean-Carleton when he mentioned that statutes are dealt with by the courts, and that the standing orders are dealt with by the Speaker of the House. I thought I heard him make that interjection a little while ago. He has certainly familiarized himself with the rules governing this House because he was the author of some proposals that were put before the Legislature for a change to the procedures and standing orders of this House. He suggests this evening that I ask for unanimous consent to revert to the 1995 rules. I don't think I will be able to do that this evening because I am dealing with this particular motion, but it is intriguing. It is tempting on certain days to go

back to those rules that were in place at that time. Nevertheless we will not.

When we think of all the rule changes that have taken place, perhaps the most Draconian, as I deal with rules this evening and those who have to preside over the rules, were those that were placed in effect in 1993 by the then government House leader, David Cooke, member for Windsor-Riverside, a member of the New Democratic Party government of Bob Rae. Some of the members who are here this evening were part of that government that agreed to those changes to the laws governing this House, in fact procedures which made it much more difficult for members of this assembly to carry out their responsibilities in a fashion to which they were accustomed. I certainly know that some of the members who sit in the New Democratic Party seats at the present time probably, upon reflection today, would recognize the Draconian nature of the changes to the rules that were made on that particular occasion.

1910

I only wish I had the Hansard before me tonight, where I could read some of the speeches of the New Democratic Party government members of the day who defended those rule changes, because what in effect started to happen—I want to make reference to this because I want to express some sympathy to the members elected as New Democrats to this House in some of their procedural antics this afternoon, not necessarily on bills but this afternoon.

What happened under the rule changes under Mr Cooke—although he was not a member of the House, the member for Nepean-Carleton would have had an interest in the Legislature at that time and been familiar with—

Mr Baird: I was working with Mulroney then.

Hon Mr Bradley: He was working with the Mulroney government on that occasion, as a Mulroney staffer.

I can say that were he to examine those rule changes, he would agree with me that the changes really restricted the members of this House in their ability to carry out their responsibilities.

My good friend the member for Niagara Centre engaged in what, south of the border, is called a filibuster; that is, he spoke at some length on the auto insurance bill of the day, and here we are back dealing with auto insurance again. He was making what he believed to be—and there were many who agreed with him—a compelling argument against the legislation that was advanced on that occasion. Certainly he had a lot of sympathy within the legal community, who thought their rights to be engaged in court proceedings were being restricted severely by that legislation. Unfortunately, when Mr Cooke brought in his changes to the rules of this House, they would have prevented the member for Niagara Centre, who was then the member for Welland-Thorold, from engaging in a lengthy discussion of the specific issues of the day.

How does that shake down? Well, that shakes down to the fact that as a result of restricting the length of time of speeches, what in essence happens now is that opposition parties unhappy with proceedings in the House are com-

pelled to engage in sometimes extraparliamentary antics or unusual motions or actions within this House, and I attribute that not to their desire to do so but to the fact that, for instance, my friend the member for Trinity-Spadina, who waxes eloquent on many occasions in this House, is limited to 20 minutes in his speeches most of the time, sometimes 10 minutes, when indeed, against a motion of some kind or a bill of some kind, he may feel that an hour and a half would be better to be able to put all the points in place in front of not only the members of the assembly but the people who are watching on television.

Therefore I say that this motion that is before us this evening is deserving, I believe, of the support of all members of the House, and I certainly urge them, although all members will have their own views, to support this motion, which is routine in nature, which is a common procedure that we have used and which will result in three honourable members being placed in positions of responsibility in this House.

Mr Baird: This is an historic night for two reasons. First, I think it's the first time we've ever debated a routine administrative motion of this nature. Second, it's the first time the member for St Catharines has ever left 15 minutes on the clock—ever.

Mr Tascona: Yes.

Mr Baird: The member from Barrie agrees with me.

I'd like to say I'm pleased to debate this, but I'm not. Bruce Crozier—great guy. Ted Arnott—great guy. Joe Tascona—another great member. I would be surprised if anyone would argue about their competence or capacity to assume their responsibilities with respect to the three jobs in front of us. But I didn't come here to debate this. Taxpayers in my riding, citizens who are concerned about their quality of life, about their health care, about their education, about their overcrowded schools, about waiting lists in health care, about the fear of crime in their communities, about the environment and the supply of energy, about how this government is proposing a big tax increase, the biggest tax increase in the history of Ontario—that's what they want us to be debating, the issues that are important to them.

I'm sure the member for St Catharines would much rather be talking about the shortage of ophthalmologists in Niagara and about his friend Conrad Black and the current predicament he finds himself in. But we're not; we're debating a routine motion. I understand why we're in a position where we're debating it. Frankly, I'm on record as supporting official party status for the New Democratic Party. I said last night, and I'll say it again, only two people seem to disagree with that: the government House leader and the Ontario electorate. I feel it's unfortunate that we have to spend an inordinate amount of time debating these routine issues, ones which perhaps should not be spoken to at great length unless there's a reasonable objection, which I know, Speaker, you'll be interested in hearing and I'll be interested in hearing if it comes out in debate later this evening.

Having had the opportunity to work with these three members for the last eight years, I've found at times,

Speaker, you can be a bit of a hothead. But generally speaking, you're a pretty good guy. You've exercised good judgment both in committee and in the House. You have a passion, like we all do, for dealing with issues, and I think you'll be able to exercise reasoned judgment in the position of responsibility as Deputy Speaker. The member for Waterloo-Wellington I know to be a thoughtful, decent person. He can be rather unmoveable, unflappable on some issues where I'd prefer he was on my side when we have debates in caucus, but he cares deeply about the people and the values of the people who sent him here. The member for Barrie-Simcoe-Bradford—I think the landslide majority that he received when the tide went out in the recent election speaks volumes to the confidence that the people who know him best have in him. Certainly that confidence is well placed, and I've had the chance to work with him.

I'm going to leave my comments at that, because I want to talk about the important issues. I want to talk about the fact that Dalton McGuinty looked into the TV cameras, looked into everyone's living room and said, "I won't raise your taxes." He looked into people's eyes and said, "I won't raise your taxes." I got a copy of the commercial, and I must have missed the little asterisk where he said, "I'm not going to raise your taxes unless you're a smoker, unless you run a small business, unless you're a senior, unless you're a parent who cares about religious education or an independent education for your children." He didn't look into people's eyes and say that he wanted to raise taxes. That's the issue people want us to debate instead of this motion—you know, broken promises. Breeding cynicism in the political process and in politicians: That's what this government is all about. I think that's a real disgrace.

My taxpayers in Manotick, Metcalfe, Osgoode, Rideau, Goulbourn, Stittsville, Ashton, Bells Corners, Lynwood Village, Country Place, Craig Henry, Arlington, Kenmore, Vernon, Edwards—they want me to talk about the important issues of the day. They want me to talk about how these folks opposite, some of them even beside me, said, "I promise to maintain the energy cap." It would be illegal for someone who was working for a corporation or a company to go door to door and promise people a price on electricity and then not deliver. These members opposite would call them fraud artists and con men, and they would want us—

Mr Dave Levac (Brant): On a point of order, Mr Speaker: I believe the member used terminology that we've been discussing for quite some time that's not appropriate in this place: "fraud."

The Acting Speaker: The member was referring to somebody going door to door.

Would the member continue and just keep—

Mr Baird: Speaker, you're right, good ruling. That's another reason why you should be the Deputy Speaker—wisdom. Many in your own caucus, I know, call you the wise helmsman of the Legislature.

The Acting Speaker: That may be out of order.

Mr Baird: I know the member for Brant's IQ goes up a few points when he's sitting near you, Speaker.

I was talking about energy, about the things that my constituents would rather we were debating. I was talking about how if people working for a company went door to door and promised people something in exchange for a commitment to a fixed price for electricity and then received consideration, they'd be fraudsters, they'd be criminals and they would be in jail.

1920

The Acting Speaker: I would remind the member that he is speaking to motion 10, so try to keep within some broad parameters.

Mr Baird: Thank you, Speaker.

That's what they would call them. But there was another group of people knocking on doors around Ontario, making promises, asking for consideration, preying on the seniors of this province—vulnerable people—preying on parents of little children. They too promised them a fixed price for electricity, and they gave them something in return.

Interjection.

Mr Baird: You know whom I'm talking about. Is that criminal? Is there any criminal investigation going on? Is there any consumer protection? Is Jim Watson, the Minister of Consumer and Business Services, on their case? No, they're not, but they should be. I think that's unfortunate. There should be no place for fraud and con artists in Ontario, if it's in the energy sector or in other sectors. We're going to be talking about that.

The member for Trinity-Spadina is here. I like the member for Trinity-Spadina. He's a good member. He has associated himself with some unsavoury characters of late. I must admit, they were saying the member for Trinity-Spadina was toast. Did he whomp his opponent in the election.

Mr Rosario Marchese (Trinity-Spadina): Whacked.

Mr Baird: Whacked. It wasn't even close. I was surprised, because I actually liked the Liberal candidate who ran against him. The Tory candidate who ran against him was even better than both of them—Helena Guergis ran a great campaign.

Mr Marchese: I liked Helena.

Mr Baird: He liked Helena too. Helena was a great candidate, and undoubtedly she will be the secret surprise attack for the member for Trinity-Spadina at the next election campaign in that great Tory riding of Trinity-Spadina. We hide the Tories there. We're going to bring them out at a time of our choosing.

Interjection.

The Acting Speaker: Order. I'd like the member for Nepean-Carleton to at least direct his remarks through the Chair—

Mr Baird: Yes, Speaker.

The Acting Speaker: —but also to move back to the motion, please.

Mr Baird: You're right, Speaker. I can't really debate this motion any more, because you can't debate great

qualifications. You can't debate the great qualifications of Joe Tascona, the member for Barrie-Simcoe-Bradford.

You could debate the ideology of the member for Waterloo-Wellington, as we have on many occasions. We respect each other, because he is always honest and upfront. He stands up for what he believes in. He is more progressive than conservative, shall I say? But he's always upfront and honest about his political philosophy. When he wanted to stand up for volunteer firefighters, the double-hatters, I stood with him. Some of the Liberals stood with him, except for when the vote came. Then they scurried into the back room.

The member for Waterloo-Wellington also has a great resolution on the order paper—the 25-year debt repayment plan—that the new Speaker will have to rule on, another great initiative brought forward by that hard-working member, which we look forward to debating. I know the members opposite will want to pass that.

Do you know what? You can pass it. You can support it. You can promise to do it. And if you change your mind later, it doesn't matter. You can just go back on your word. That's not a problem.

I've debated this far too long. I look forward to debating the real issues that are important to the public policy agenda of the people of Ontario. While an important motion, it's a routine administrative one that's never been debated in recent memory.

The Acting Speaker: Further debate?

Mr Kormos: On a point of order, Mr Speaker: As I understand it, the leadoff is completed.

The Acting Speaker: The clock should be set at 20 minutes.

Mr Dominic Agostino (Hamilton East): Speaker, I'll split my time with the member from Pickering-Ajax-Uxbridge.

I concur in some of the earlier comments made by my friend from Nepean-Carleton as to the quality and integrity of the individuals who are in front of us—Mr Tascona, Mr Arnott and Mr Crozier—distinguished parliamentarians, people who have been here, who know the rules and know how the Legislature operates and who would be worthy of the position of Deputy Speaker.

I am somewhat surprised that we're debating this. I think it is quite unprecedented. It was an agreement reached by the two recognized parties as to who it would be. That is traditionally the way it has worked here. It has been by the recognized parties in the House, as it was in 1999, when the member for Toronto-Danforth was one of the Speakers from one of the recognized parties in the House, and rightly so at that time. I do concur with my colleague that we should be spending our time discussing other issues in this House. We should be spending our time discussing the absolute mess that the previous government has left the people of Ontario.

The member from Nepean-Carleton went off on some tangent about this government, the Liberal government, like the election hadn't occurred. I thought the member would say that maybe this House needs to speak about OPG, the report today on the review. My colleague from

Nepean-Carleton was the minister responsible for OPG, and I thought he would believe this time in the House would be better spent debating this report, debating how we got into this mess; how a government, in eight years, allowed this to happen; how a government that appointed the people who have resigned now—that maybe he would explain what qualifications those individuals had to run OPG besides being friends of the Conservative government of Ontario, the government of the day. So I'm surprised that the member wouldn't have spoken about OPG in his rant about the government.

Again, as we are speaking to this motion tonight, this time, instead of debating on the basis of the fact that nobody in this House doubts the qualifications of the three individuals who are in front of us as Deputy Speakers, it would have been much more useful to the people of Ontario to talk about the deficit this government has left.

Mr Baird: My stomach upset is coming back.

Mr Agostino: I see that.

Throughout the election campaign we were told by Mr Eves—Premier Eves at that time—and by Minister Ecker, “Don't worry. Be happy. There's no deficit; everything's fine. It's just something the media has dreamed up.” Of course, we took office and we found a mess that is growing worse every single day. I believe this House should be spending time talking about this mess, not debating the three individuals who are going to be appointed to those positions, if it's the will of the House.

The Acting Speaker: To the member, that is the motion we have before us, so I'd ask you to speak to it.

Mr Agostino: Yes. These Deputy Speaker positions are important as time goes on, because we're going to be debating the deficit, and we need a Speaker in the chair who understands the issues we're dealing with. We're going to debate the \$5.6-billion, and growing, deficit that government left us. We're going to debate the fact that—

Mr Baird: You give drunken sailors a bad name.

1930

Mr Agostino: At least drunken sailors spend their own money, unlike your government did with taxpayers' money.

You need a Speaker in the chair who understands the mess this government has left. You need a Speaker in the chair who understands that this was not a number the Liberals pulled out of the air. This was a number reached, and a figure and a problem that was brought forward, by the former Provincial Auditor, a man of credibility, a man of integrity. It's also important to have someone in the chair who understands the auditor's reports, who understands the role of the auditor and the auditor's report, so when we debate the auditor's report in this House, when we debate an absolutely totally damning indictment of the former government, the PC government of Ontario that the auditor of Ontario—

Mr Baird: On a point of order, Mr Speaker: The member opposite is trying to vilify the former government and is not speaking to the resolution. I would ask him to direct his attention to the resolution.

The Acting Speaker: The member has drawn us to the fact that we should stick to the motion. I gave some leeway before. I think it's time that the game tightened up a little bit, so please speak to the motion.

Mr Agostino: I think the people of Ontario vilified this government on their own on October 2. It doesn't take us to do it; the electorate has spoken as to what they thought of the Conservative government of Ontario.

I want to go back to the point about how important are the individuals in the chair, because we are going to debate some important issues in this House. I'm trying to tie in the important issues we're going to debate and how important the role of the Speaker is going to be. So as we talk about the auditor's report, I think it's important for the Speaker to understand, obviously, the role of the auditor and what the auditor's report means to the people of Ontario. As we talk about the mess they left in health care, I think it's important to have one of these individuals there as Deputy Speaker who understands about eight years of mismanagement, eight years of a government that lost its way, eight years of a government that felt it was OK to continue giving massive tax cuts while basically drowning this province in deficit or drowning this province in debt, a government that felt it was more important to appease their corporate friends than to help the people of Ontario.

So these three gentlemen who are in front of us tonight as Deputy Speakers are going to have to be in the chair and deal with some very important issues in this House. They're going to have to listen to the debate as we talk about education in this House. They're going to have to listen to the mess they left. They're going to have to listen to the debate in regard to the fact that this government underfunded school boards in Ontario and then decided to blame the trustees. We have taken steps to fix that mess with Minister Kennedy's announcements of more money.

I'm surprised today that some of the Conservative members basically spent the day Toronto-bashing. Somehow they felt Toronto is not deserving. The fact that they have a greater multicultural community, more immigrants than anywhere else in the province, kids who need help with literacy—we try to help them. None of the other communities get help. My community of Hamilton—

The Acting Speaker: Member for Hamilton East, you're really starting to try my patience. I want you to come back to the motion, please.

Interjection.

Mr Agostino: Thank you, Speaker. I accept your ruling, but the heckling from the member from Nepean-Carleton is too rich for this. I think he spoke to the motion for about 10 seconds and then went off on some rant. I do accept your ruling, Speaker.

Interjections.

Mr Agostino: Listen. You learn more by listening than by talking, OK?

The Acting Speaker: Member for Hamilton East, through the Chair, please.

Mr Agostino: Speaker, this is an agreement, and it's unfortunate—I understand the NDP members feel they're not a party. The reality was, and the reality is, that there are procedural rules in this House that say, "Here's where official party status kicks in." In 1999, that party, the NDP, had official party status and they were part of the process of Deputy Speakers, which was fair and which was part of the rules. The rules didn't change. The makeup of the House didn't change. There was a reason why the change occurred between 1995 and 1999: because there were fewer seats in this Legislature. So an accommodation was made to fit that and to make it fair, but the reality is, there was no change in seats. The House makeup of 103 is the same now as it was before, so, therefore, we just can't keep changing the rules every time we don't like them. They were clearly in place and they were put in place by this Legislature.

Now, unilaterally, the NDP says, "Well, that's no good any more. We don't like that."

In conclusion—because I want to leave a few minutes for my colleague to speak to the motion—I think Mr Tascona, Mr Arnott and Mr Crozier are going to be three great Deputy Speakers. I will support this motion. I think it's a good motion. I would urge all members in the House to support it.

Mr Wayne Arthurs (Pickering-Ajax-Uxbridge): It's a pleasure to stand here this evening and see you sitting up there, doing the job you're doing. I don't have the time in this House to know the individuals well, but I've had the opportunity to spend a bit of time, listen carefully and try to get an understanding of what it is that the individuals whom we are speaking about this evening will have some responsibilities for.

I'd have to get used to not trying to think in the context of the member for Essex as I try to learn the geographies of folks in this House—Mr Arnott from Waterloo-Wellington and Mr Tascona from Barrie-Simcoe-Bradford. I'm also learning, as they move about the House, to recognize them in the various places that they find themselves.

The establishment of a Deputy Speaker, Deputy Chairs and Chair of the committee of the whole House is obviously an incredibly important role in the absence of the Speaker of the House, decided by a secret ballot. The Deputy Speaker then has an important function to play on an ongoing basis and not just in a casual sense, to fill in for some time that might be available.

The Deputy Chairs of the committee of the whole effectively act as the assistants to the Deputy Speaker. Coming from the other side of the House and the government side provides a balance, but I know the Speakers, when they're there and when they chair, work in a non-partisan fashion. You've clearly demonstrated that, as has the Speaker of the House and others who have sat in that chair on an interim basis, I'd say from both sides. Although there are times when one might question whether the partisanship, or lack thereof, is quite as well established as you've placed it. I've seen a

couple of occasions where I rather felt there was a little bit of partisanship yet going on.

Each of these individuals, I'm sure, is a skilled parliamentarian, having been returned to this place on more than one occasion. The member who is the Chair, or the Deputy Speaker, has to be able to rule firmly and effectively and have a strong grasp of the standing rules of order in the House. For those of use who are relatively new, we have to depend on the Speaker and the Deputy Speaker and the Chairs of the committees to provide some guidance and assistance in uncharted waters, at times.

I want to refer, if I can, to the standing orders, in part, because it is really the standing orders by which the Speaker and Deputy Speaker have to work to make the House function. Under section 4 of the standing orders, it speaks to the Deputy in clause 4(b):

"The Deputy Speaker shall, whenever the Speaker is absent or otherwise unable to act, perform the duties and exercise the authority of the Speaker and shall otherwise assist and relieve the Speaker as directed by the Speaker."

So it provides an opportunity for the Speaker to be able to absent him- or herself, as the case might be—in this instance, the Speaker being a male, himself—from the House for period of time when they have other duties to attend to and know that there will be those available. The Deputy Speaker or the Deputy Speakers, as the case might be, would be able to support in that regard.

I understand this is a rather routine motion, and as I listen to some of the debate go on, it's not the norm that we'd be spending time doing this, but I might suggest that it's probably not inappropriate that we do it. Given the activities of the past couple of weeks, I'm certainly getting a grounding in the procedural rules as they relate to this Legislature. This certainly is an opportunity to review in part the standing orders and be sure that the individuals that we have in that chair are ones who are knowledgeable and skilled at the application of the rules.

1940

There are times that it might be suggested we may be debating this to a fault, and I would even suggest that at times I thought we were debating to a fault some of the motions we've had before us in the past couple of weeks. But there is some relief, and the Speaker is asked to be cognizant of that. The relief might come when the bells ring, whether it's a five-minute bell so we can have division and a further recorded vote, or whether it's a 30-minute bell or a further 30-minute bell, or maybe a further 30-minute bell, that gives us lots of time to contemplate and/or review standing orders and listen to members across the House expound on their years of experience with points of order and points of privilege.

Mr Speaker, whether it's yourself there or the other members whose names have been put forward, the members from Waterloo-Wellington and Barrie-Simcoe-Bradford, it's important to be able to recognize the establishment of a quorum in the House. We've heard some debate about quorum over the past few weeks. The

quorum stands at 12; I've heard it suggested that maybe something less would be an appropriate quorum; I'm not sure if that would be seven or three or whether one would make it a quorum. In that case, Mr Speaker, I guess you would be the quorum, if it were down to one.

The interesting part, Speaker, is that although you're called upon to provide rulings on an ongoing basis, as we all recognize, you're not there to participate in the activities of the House in a formal fashion of debate, but in the event of a tie at the end of it all, you have the ultimate authority to be able to cast a vote and establish the necessary decisions in this House, which makes the positions of Speakers and Deputy Speakers and committee Chairs and Vice-Chairs of considerable power. When not all of us are in the House at all times there is always the possibility of a tie vote and thus the opportunity for the Speaker to make the determination on how legislation might move forward in the province of Ontario.

It's been suggested that we could be speaking, and it has been already referenced—and, Mr Speaker, you've been right in counselling the members not to spend an inordinate amount of time off the motion at hand talking about the finances of the province of Ontario, or the lack thereof, I might suggest at this point, or whether it's talking at this point about labour laws, the energy issue, which was before us today, insurance, education, universities, health care—all of those are important and I know we'll spend many, many hours and days debating each of them independently on many motions and many bills. But right now we're here to speak to the matter of who will fill that chair in the absence of the Speaker and who will be the Chair of the committee of the whole.

But since we're here anyway, and now it's some quarter to 8 and I suspect we'll be here some hours hence—

Mr Kormos: Four hours and 15 minutes, give or take.

Mr Arthurs: Probably, and then some.

The function of the Chair is to ensure that decorum is established and maintained in the House, and I must say you're doing an outstanding job this evening, as I see members on all sides carefully listening, working, multi-tasking, with a limited amount of banter back and forth across the House.

Reference was made to page 12 of the standing orders, and that's the matter of a lack of a quorum. Currently the quorum sits at 12. I understand—and I stand to be corrected because it will take me some time to get a grasp of it all—but in the absence of a quorum I believe that the bells would then ring for a period of five minutes. On the resumption after that five minutes, if there was not a quorum in the House, the House would adjourn to the next sessional day, whenever that day might be. If that were on a Thursday, I presume that next sessional day would be on a Monday. If it interceded between Monday, Tuesday, Wednesday, then it would be on the following day.

The order and decorum in the House and the conduct of members is critically important. I know, Deputy

Speaker, whether it is yourself, Mr Tascona or Mr Arnott, from each side of the House and from their various jurisdictions, you would ensure that the conduct and decorum in the House is such that we will be respectful of it.

The Acting Speaker: Just for the member's information—and we all learn something as we go—when you mentioned a quorum, if it's determined that a quorum isn't present, the bells will ring up to five minutes. If a quorum then is formed, the bells stop ringing.

Further debate.

Mr Kormos: I want to make it very clear that when either I, or any New Democrats, speak to this motion, we do not, by speaking to it, concede that it is in order. I don't say that by way of challenging the Chair. I say that by way of making it very clear that, without challenging the Chair, we do not accept your ruling and we do not, by speaking to this motion, concede its propriety, its orderliness, but because of the nature of the proceedings we feel compelled to address the motion, having raised the issues that we did by way of point of order and having other substantive concerns about this substantive motion.

Yes, as I understand it, this could well be the first time that a motion of this sort has been the subject matter of debate. Well, that's what happens when there isn't agreement between all parties as to these positions.

The purpose for agreement amongst all parties isn't so much to avoid debate, it's so that there be universal acceptance of the legitimacy of the person assuming the role. I say to you that the process utilized in this instance has the potential to diminish the legitimacy. I don't say that in the hyper-technical term because if, at the end of the day—and I'll speak to this before my modest 20 minutes are up—the propriety of this procedure is established, then one has to live with the results. But there is the technical legitimacy that flows from a process that's proper, and then there is also the legitimacy that flows from the recognition by parties affected by a decision—in this case the assumption of these three roles by three members of the Legislature.

I am obviously not pleased at all about the fact—you talk about precedent, Speaker—that it is unprecedented that all members of the House aren't in agreement about these three positions that are the subject matter. I was pleased to be here in 1990 when, for the first time in this Parliament's history, as I understand it, a Speaker was elected, and that was, as I'm sure you'll recall, Speaker Warner. Subsequent to that in 1995, and then after the election in 1999, we saw Speakers being elected during the term of the Conservative government.

One of the remarkable and dramatic things, as I have no hesitation in acknowledging, is that Speaker Warner was the party establishment, or the caucus establishment, or government establishment, favourite. That's a given. There's no denying it. But similarly, the last two Speakers that we've had in this assembly were clearly not the governing party caucus's favourite sons, if you will, because they were sons in both instances. They in both instances—in the instance of Speaker Stockwell and

Speaker Carr—were Speakers who truly were elected in a process where the election wasn't but a rubber stamping of the Premier's will, of the government caucus establishment's will. We were blessed, I say, as an assembly to have had the leadership of those two Speakers. While Mr Stockwell and I, while he was here in this House in roles other than Speaker, rarely agreed upon anything and seemed to be incapable of entering the same room—from time to time, I thought, the same building—without there being disagreement, I've got to tell you that I am compelled to acknowledge Stockwell as one of the significant and important and extremely capable Speakers of this assembly. That is echoed—I say to you once again that while my relationship with Mr Carr was more cordial than it was with Mr Stockwell, far more cordial, which isn't hard, I've got to tell you that Mr Carr, once again, was a Speaker who was unparalleled.

1950

To go back to before 1990, I remember Speaker Edighoffer, who was very much handpicked, chosen, an extremely partisan person—from time to time, to perhaps the more experienced, you could identify the partisan nature of some of his rulings—but at the same time extremely competent. It's the whole argument about patronage. You see, "patronage" is in and of itself very much a dirty word, but the really repugnant patronage is patronage without merit. When you see patronage with merit, it becomes somewhat more difficult to be critical. I recall Edighoffer as being the beneficiary of patronage, if you will, but being so skilful, skilful to the point where he concealed except to the most experienced eye the occasional flight of partisanship. Because, look, people aren't perfect; I've noticed that and I acknowledge it. I have been in the presence of so-called neutrals, adjudicators, all of my adult life. I was in the presence of them a whole lot in my youth too, but that was an entirely different scenario. I've watched adjudicators, so-called neutrals, make determinations. I've seen good ones—very good ones—and I've seen bad ones—very bad ones. I've seen so-called neutrals so bad that they were an embarrassment.

I want to tell you, Speaker, that one of the problems with choosing Chairs in the manner we're choosing them now, when you don't have agreement, is that you invite debate. It compels debate. I want to say to you that quite frankly I'm not satisfied—I'm not suggesting that you aren't, but I'm telling you that I'm not satisfied—that you have the capacity or that you've demonstrated the capacity of a neutral. I don't want to be pompous in this regard, but one of the tests was when you were invited to remove yourself from the chair around the consideration of a point of order that dealt with the motion that directly affected your assuming this position, and you declined to. I suppose that was within your discretion; you made a choice. You could have, but you didn't have to. Had you removed yourself, you would have gone a long way toward demonstrating your eagerness not only—oh, do I paraphrase old judicial determinations—to be neutral but

to appear to be neutral. There has to be the confidence in the role of the Speaker; it's a very important position. All of the Chairs play very important positions.

I'm also interested in the haste with which the government wanted to have these three positions filled, because it seems that for the last week, week and a half, Speaker Curling, elected as he was, was quite readily assisted by any number of people, yourself included, and Mr Arnott, one of the other names included. That leads me to believe that it must be about the money, because the Deputy Speaker earns an additional salary of \$12,616. I don't begrudge that. The Deputy Chairs of the committee of the whole also earn an extra \$9,291. That takes your minimum wage, should you be chosen, to just shy of \$100,000—\$97,856—and in the case of the Deputy Chairs, \$94,531.

I've heard the phrase, "It must be about the money; it's just the money; it's about the money and nothing else," tossed around here frequently over the last few days. The haste on the government's part to fill these positions in a formal way compels me to believe it must be about the money, because the positions can be performed quite thoroughly without the formalization of them.

In the short time that you have taken the chair, as a volunteer, I presume—and as I understand the process, when the chair is vacant it's not to be vacant; any member can be called upon to sit in it and perform the role—I have seen you do well. I don't believe it's necessarily your best, but the approach has been somewhat casual. I've not known you to have participated in any substantial points of order in this assembly, although I may be in error. I may not have been here on an occasion when you did. Nor do I recall you, in the years that I've known you here, as a particularly interested student or fan of procedure.

Mr Shafiq Qaadri (Etobicoke North): On a point of order: I have listened patiently to the member opposite impugn the reputation of the Speaker, his motives, his purchasability and so on. I feel that is very contrary to the standing orders and, frankly, the tenor that should be upheld in this Parliament.

Mr Kormos: Look, Speaker, I don't like doing this at all, but this is what happens when you compel a debate on these positions. This is what happens when you have an unprecedented scenario where the positions to be filled are determined by way of a motion like this that is debated because it's a motion that hasn't been agreed to by all parties in the House. Do you get the point? Exactly.

If one puts one's name forward in a motion to which there is not unanimous consent, that invites agreement, then one is inviting debate about the ability of those persons to perform the roles they are seeking. It's regrettably the inherent flaw in dismissing seven members of the Legislature and not permitting them to play what is an important role in creating a background of universal approval of the people chosen. You understand—you've been here to see these positions filled often enough—that

when there's agreement as to the positions, one is hard-pressed, even if one in one's heart or one's mind harbours some doubts about that person, to stand up and articulate them. Right? Because you've agreed to them.

That's the problem with the process that the government, it appears with the direct and ready collaboration of the Conservatives, the official opposition, has embarked on. As you know, as a result of my point of order—I'm not re-arguing the point of order; I know I shouldn't and I won't do that—I have great concerns about the process we are embarking on. We are compelled now, because of your ruling, and again, so be it. My concern is about, literally, the legality of it—and not to say that it's illegal in the sense that somebody should go to jail. I'm not suggesting that. There isn't that level of opprobrium attached to it. But the propriety of it and perhaps the reversibility of it; I don't know. There are others here who perhaps could comment on that or lend some assistance.

This is not a pleasant evening. It's not been a particularly happy week, has it, fellow members of the Legislative Assembly? Indeed, when we get down, when the rubber hits the road, we find out that when it's about the money, when it's really about the money—

Mr David Zimmer (Willowdale): On a point of order, Mr Speaker: For the member from Niagara Centre to suggest that the designation of the Deputy Speakers is about the money—he said that earlier in his comments and he went into some detail and broke down salary differentials and so on—to suggest that is unparliamentary.

The Acting Speaker: It's not a point of order.

Interjection.

The Acting Speaker: I'm listening very carefully, and if it becomes unparliamentary—I thank the member for his comments, but we'll continue.

The member for Niagara Centre.

Mr Kormos: Thank you, Speaker. I'm familiar with the ruse of phony points of order to extinguish a speaker's time, especially when it's limited, so I move adjournment of the debate.

The Acting Speaker: Is it the pleasure of the House that the motion carry?

All those in favour, say "aye."

Those opposed, say "nay."

In my opinion, the nays have it.

Call in the members. This will be a 10-minute bell.

The division bells rang from 2002 to 2012.

The Acting Speaker: The member for Niagara Centre has moved adjournment of the debate.

Will all those in favour stand and be recognized. Thank you.

Those opposed, please stand.

Clerk of the House (Mr Claude L. DesRosiers): The ayes are 5; the nays are 29.

The Acting Speaker: I declare the motion defeated.

Further debate?

Mr Kormos: I have but three and half minutes plus. I, quite frankly, am fearful of other people here using

points of order to exhaust that time. I think it's prudent under all of the circumstances. Again, I'm not about to suggest that I know the answer, but the prospect, I've been told, of judicial review is there. In view of that, it would be prudent of me to do what I'm about to do and prudent of this House to approve it. I move adjournment of this House.

The Acting Speaker: The member for Niagara Centre has moved adjournment of the House. Is it the pleasure of the House that the motion carry?

All those in favour will say "aye."

All those opposed will say "nay."

In my opinion, the nays have it.

Call in the members. This will be a 10-minute bell.

The division bells rang from 2014 to 2024.

The Acting Speaker: The member for Niagara Centre has moved adjournment of the House.

All those in favour, please stand and be counted by the Clerk. Thank you. You may take your seats.

All those opposed, please stand to be counted.

Clerk of the House: The ayes are 6; the nays are 31.

The Acting Speaker: I declare the motion defeated. Further debate.

Mr Kormos: I will now obviously wrap up. We've got two issues here. One is that it's acknowledged that the two most junior positions are ones that are not filled by way of election but are certainly filled by convention and tradition and, for the obvious reasons, by way of consensus, agreement amongst all parties in the House. The statute provides for the election of the Deputy Speaker, and for the obvious reasons an election is done in secret, by secret ballot. There have been times in the past—in fact, all the times that I'm aware of, certainly the times when I've been here—that that Deputy Speaker was determined not by ballot, as the Legislative Assembly Act requires, but by what I suggest to you is unanimous consent. Having done that in the past does not eliminate the need to do it when called upon to do it in the present. Those who regret the tone of the debate should reflect on the fact that that's exactly the reason why one either elects people to these positions by secret ballot or, when they aren't to be elected by secret ballot, one does it by unanimous consent after consultation with all of the parties, all of the caucuses in the House. That's the way it has been done. So the concern that might have been expressed and that may be expressed throughout the balance of the evening should contemplate that.

Yeah, I've been part of a caucus here that's been the majority, and I've been part of a caucus here that's been the minority. At the end of the day it's really about the commitment of individual members to this assembly, to real democracy, to avoiding the oppressiveness that the majority can so often indulge in over minorities. Mr Bisson referred yesterday to the tyranny of the majority, a phrase that's oft-cited in terms of the responsibilities of a majority, and that is to have as perhaps its foremost consideration the protection of the minority. I'm not sure that we're witnessing that here and now. It's regrettable. I suppose time will tell where this takes us.

The Acting Speaker (Mr Joseph N. Tascona): Further debate?

Hon Gerard Kennedy (Minister of Education): Mr Speaker, it strikes me that in the public interest—the tone of this debate is desultory, addressing none of the needs of the public, maybe some private needs of members of this House. I move the question on this matter.

The Acting Speaker: The member for Parkdale has put forward that the question be put. It's not in order, because the time allocation motion indicates that there be a full sessional day allocated to the debate on this particular motion.

Further debate.

2030

Mr Mike Colle (Eglinton-Lawrence): We're here today debating whether or not this motion to have the Deputy Speaker take their place is in order. What we really should be doing here is talking about the real business before the people of Ontario. Today we got this amazingly sad document talking about the billions of dollars being wasted at Pickering, which is costing the people of Ontario \$25 million a day that could be used for education; \$25 million that could be used for our hospitals; \$25 million a day to fix our schools, our city.

Interjection: Twenty-five million a day?

Mr Colle: That's what it's costing us. The previous government, in essence, was negligent in watching over one of the most important assets we have in Ontario. There has probably never been a more damning report about mismanagement, incompetence and pure negligence, when we could have, as I said, been doing things with this money to fix the infrastructure of this province. Instead, we're here tonight talking about procedural actions that members of this House find don't suit them. So I think the people of Ontario would rather talk about—

Mr Baird: On a point of order, Speaker: I notice your predecessor in the chair had brought members to order when they were not speaking to the question before the House.

Mr Colle: As I said in my initial remarks, what I'm saying is that the people of Ontario want this House to be seized with the government's job. The job of the Legislature and the appointed MPPs is to talk about things that affect their schools, their hospitals, the fact that this province is facing an incredible deficit left by the former government. That's what they want us to be debating—not these procedural gymnastics.

An example I gave is the pressing issue of what we do with the biggest boondoggle, mess, in the history of any province, the OPG fiasco, which is going to impact not only our future ability to give energy at affordable prices to the people of Ontario, but it's going to add immense financial pressures to all the things that need to be done in this province. That's what the people of this province want us to be debating, not procedural gymnastics.

Mr Bisson: I'm just so surprised that no members of the government or the Tory opposition want to speak to this particular debate.

Interjection: There are no Tories here.

Mr Bisson: Well, I can't say there's no Tories here, because that would be unparliamentary. The standing orders—

Interjection.

Mr Bisson: Oh, there are two; I'm sorry. I would not be able to say that, according to the standing orders. I'm not going there, to say that there are only two.

Mr Baird: On a point of order, Speaker: The member opposite knows that you can't make reference to the absence of a member, and I'd ask you to come to order.

The Acting Speaker: Member for Timmins-James Bay, do you understand that?

Mr Bisson: I understand fully and I would not want to do anything contrary to the standing orders. I think you know me better than that.

There are a couple of things I want to say in this particular debate and I want to try to lay this out as clearly as I can so that members, especially members who have just been elected to this House, understand that what is happening here is that we have a situation now where basically, the way the standing orders and the Legislative Assembly Act operate—the Legislative Assembly Act, for members to know, is normally the law by which we guide ourselves within this particular assembly. The standing orders basically flow from there, and after the standing orders come the precedents in regard to Erskine-May, Beauchesne and others.

What we have now is a situation where there is not unanimity in the House when it comes to who the officers of the House should be. I know that the government members and the members of the Tory opposition say, "We're the majority. It's only right. There are more of us than there are of you; therefore, because we're more than you, we can do what we want. We can do that because we're the majority and we don't have to take into account how the minority feels." I understand that. I don't agree with it; I think it's wrong-headed. In this particular case, even though the Legislative Assembly Act says clearly on page 14, "There shall be an election of the Deputy Speaker," you're saying, "Never mind, we're a majority. We can do what we want because our standing orders say you can do an appointment."

As my good friend Mr Kormos, the member for Niagara Centre, pointed out in his point of order—which was ruled out of order by the Speaker, but I still don't agree—what takes precedence when it comes to how this Legislature operates is, number one, the Legislative Assembly Act, which guides us when it comes to the work we do in this assembly. The Legislative Assembly Act is where we get our authority to sit as a Parliament and pass laws in this Legislature. The standing orders themselves are basically the way we deal with the business of the House, and following from there, if they're silent and they don't speak to a particular issue or there is some ambiguity when it comes to the standing orders, we look at precedents. That's what Erskine May, Beauchesne and the others are all about.

What we have now is a situation where our Legislative Assembly Act, which is the act that governs the right of

this Parliament to do the work it does, says, "You shall have an election," but by way of practice that we have enshrined inside our standing orders, it says that where there's an agreement, we should have the appointment of the Deputy Speaker of the assembly. We have a situation where in the past there has been agreement among the parties about whom we should appoint. Each party would put forward their nominees, and if a party had a problem with a particular nominee, and that's happened before—members who have just come here would think we just rubber-stamp every appointment that comes from the parties. I can remember one occasion where there was some difficulty with one particular appointment, and that party basically made some changes in order to satisfy the opposition.

The reason we have that is so that all parties can have confidence in the officers of this House. At times in debate, the government, by right, will want to have the Speaker rule on a particular issue when it comes to the rules of the House, or the opposition also will want the Speaker to rule on a particular issue, and to do that in a way that is impartial, that is done without looking at what his or her party colours should be.

Now what we've got, clearly, is a Conservative opposition and a government—in this case a Liberal government—who have got a deal that says, "This is my guy, and this is your guy. I'm OK with your guy, and you're all right with my guy, and because we're the majority and represent 80% or 90% of the House, we can do what we want. We've got an agreement between the recognized parties in the assembly. We don't have to take into account what the NDP has to say, because they're just a minority in here, and that's OK."

I want to just give you this thought. Imagine if the Constitution of Canada were to work that way. I look at members of this House, from people like me—I'm a francophone from northern Ontario—to people of other ethnic backgrounds. Imagine if our Constitution said, "The majority can do what it wants when it comes to the Charter of Rights and Freedoms. The charter only works if the majority is of the view that what is in the charter is right." I want to propose to you, what would happen to gay people in this province and this country if the majority of the people said, "It is the majority of people who decide what the rights of gays and lesbians should be"?

Imagine if we said, "It is the right of the majority to decide what happens to people of visible minorities within the country called Canada as it applies to our Charter of Rights and Freedoms." Imagine if we said, "Trade unionists are treated by way of how the majority feels, because they're pesky people. Those trade unionists go out and negotiate collective agreements and every now and then they have strikes against employers. They just get in the way of progress and in the way of the employer doing his or her daily business. Therefore, we, the majority, believe we should override the rights in the Charter of Rights of this country." I wonder what we, as parliamentarians, would say if we were to see that. I

would probably guess rightly that most members of this House wouldn't stand for that for a second. Can you imagine a person of colour, a person from a visible minority community, who would be done wrong by our society and people would purport that we have to override their rights because a majority of Canadians feel differently? We rightfully in this House would be trying to defend our charter, saying that the rights of the minority need to be protected.

2040

Can you imagine if the rights of gays and lesbians in this country—because I've gone through three or four debates in this House where they've been fairly difficult when it comes to being able to get the rights recognized, rights that are already in the charter, and trying to get our particular Legislature to recognize them. At the end of the day, the Charter of Rights says that the basic principle is the minority has to be protected, and we need to be able to recognize and protect the rights of minorities in this country.

Well, the Legislative Assembly Act is much the same way. We are all honourable members. We have all been brought to this House by way of election. The citizens of our ridings can't be wrong. They have voted for us by way of majority or way of plurality and have brought us into this Legislature. Now, I may not agree with some of the outcomes of the last election, but that's for another debate.

My point is, who are you, sirs and ma'ams, to all of a sudden decide by way of your majority that New Democrats in this House should not be taken into account? I'm saying that the precedent that you're setting is a dangerous one. At the end of the day, our democracy works well when? Our democracy works well when we recognize that the laws of our land basically say we protect the rights of the minority and we don't trample the rights of the minority, because in our system of democracy we believe it's important that people who are in a minority have an opportunity to have their say. At the end of the day, you're going to get your legislation; you're a majority here. You even have the Tories voting with you, so you have more in the majority than you need. The Tories are, quite frankly, snuggling up with the Liberals every chance they get. That's a whole other debate. We know you're going to get your laws, we know you're going to get your votes, but the point in a debate like this is that you have to have the ability to at least hear the other side.

I'm saying, what you guys are doing ain't right. It doesn't sit right with what our Constitution says when it comes to protecting the rights of the minority, and quite frankly, I don't think it sits well with voters out there. I think most people out there recognize at the end of the day that no matter who the minority in the House is—Liberals, New Democrats, or Tories—they have a right to be heard.

To the particular point of the Speaker, the Speaker has to have the confidence of the House. What we're purporting to you is, by way of election, by way of

tradition in this House, we've done it a couple of ways. When it comes to electing a Speaker, since the time that I've been here, we have a secret ballot vote and we vote for who we think the Speaker should be. At the end of the day, I don't know what other members have voted, and I have to accept the will of the majority of this House, because right or wrong—and I would argue that it's right—the ability of a democracy to make a decision is always a better one. If I had five people here, I'd be able to demonstrate that a little bit better.

Interjection.

Mr Bisson: Thank you. I just didn't know how many times I can put my hand up.

Mr Kormos: They were waving back.

Mr Bisson: They were waving back. Hello.

I just want to say to the members, the Speaker has to have the confidence of this House, and what we're saying is if there's not an all-party agreement, and there's not an agreement among all the members here when it comes to the political affiliations they come to the House with, how can we say that our Speaker—not our Speaker, because our Speaker was appointed, which is a whole other debate—but when it comes to our Chairs of this House, there has to be, quite frankly, confidence on the part of all members in the House that those people can do their jobs in an impartial way.

What you're doing here tonight is saying, "We will dispense with the legislative requirement under the Legislative Assembly Act that says we will have an election." You say, "Because the standing orders say we can appoint, we're going to appoint."

Mr Zimmer: On a point of order, Mr Speaker: It seems to me that if the member, in his argument before this House, is going to quote from the act, he has to quote the act accurately. He said that the standing orders make provisions for an election, and on close reading of standing orders 4 and 5, there is no provision for an election. If I can just draw your attention, because I think—

The Acting Speaker: I don't think it's a point of order, the member for Willowdale, but I think he understands what you're saying. Let's proceed.

Mr Bisson: My point is that there is a convention within our standing orders that says we shall elect the Speaker, and there is a law in the Legislative Assembly Act that says we shall elect our Deputy Speakers as well. If we choose to, by way of agreement of all parties, we can appoint. If there's not an agreement among the parties, we shall have an election. That's my point, and I don't know how much clearer I can make it.

I just want to say to the members, what you're doing here is dangerous, because we're going down the road, quite frankly, where by way of the majority of this House, we are basically going to say that the minority doesn't have anything to say when it comes to expressing its views in this Legislature. By way of this motion, you're saying we have to accept on behalf of you, the majority, who the officers of this House are going to be without any say from us. I don't have an ability to affect the outcome of this vote, because we are but seven

members. I'm saying I would rather be in a position to vote for those people who I think would be most impartial when it comes to being able to rule and being able to deal with the business of this House. At least that way, by way of secret ballot and by way of the law of the Legislative Assembly Act, I would feel a lot more comfortable.

I would ask the members to do but one thing: to take a 10-minute pause, to go away and reflect, and to say, "What is so hard about upholding the most fundamental thing in our democracy, the right to vote?" I would ask that the members of the assembly walk away for 10 minutes and think about what we can do very quickly here tonight by putting some ballot boxes at the end of the Clerk's table, letting those people stand who want to stand for the position of Deputy Speaker, and allowing all of the members of this House to vote so that at the end of the day we, as members, can vote by way of secret ballot and give our Deputy Speaker the complete confidence of this House. Otherwise, this process is a sham and it ain't going to work. I would ask members to reflect on that as I ask for adjournment of the debate.

The Acting Speaker: The member for Timmins-James Bay has moved adjournment of the debate. Is it the pleasure of the House that this motion carry?

All those in favour of the motion will please say "aye."

All those opposed to the motion will please say "nay."

In my opinion, the nays have it.

Call in the members. This will be a 10-minute bell.

The division bells rang from 2047 to 2057.

The Acting Speaker: All those in favour of the motion will please rise.

All those opposed to the motion will please rise.

Clerk of the House: The ayes are 5; the nays are 29.

The Acting Speaker: I declare the motion lost.

Any further debate?

Mr Bisson: I must say I'm rather disappointed with the members. I know how we all got here. We stood for election, each and every one of us. We ran on a campaign somewhere out in Ontario, in one of the 103 ridings, and we didn't ask, "Can we have a motion in our riding so that I can be elected?" I remember the last election. Did any of you stand there and say to the returning officer, "I don't want to go through this bothersome election process. That's just too much trouble"? Why do we want to do those kinds of things? Because we're all democrats, right? We happen to be New Democrats, but in a common term we're all democrats. We all believe that you should come to this House by way of an election, not by way of a motion. In fact, I'm a little bit surprised that members of this assembly, who are practised in the tradition of democracy, which is called going to the ballot box, didn't want to elect their Speaker. I don't know how much clearer I can make it. At the end of the day, our House officers have to have the confidence of the House.

When we came into this place but a couple of weeks ago we had an election for Speaker. In this particular case, it was an appointment. Nobody else stood, and he

was appointed. All right; fair enough. I don't like it but I've got to accept that at the end of the day he was acclaimed, but at least there would have been the process of an election. In this particular case we've got a situation where we say that if there's unanimity among the parties, we're able to appoint—

Mr Marchese: Maybe.

Mr Bisson:—"maybe" is the operative word, I agree—but only if there's unanimity among the people here. Clearly, there is not unanimity. Therefore, we have to go to the law that operates this place, the Legislative Assembly Act—I don't know of any clearer way of putting it—where the Legislative Assembly Act says there shall be an election of not only the Speaker but of the Deputy Speaker. When you go to look at the orders of precedence, it clearly says that the standing orders are not first; in fact, the Legislative Assembly Act is the first thing you have to work by. Number two, you go to your standing orders because those are the rules you establish for the business of this House, how it's going to operate. If that is confusing, because it's not as clear as it should be, you go to the orders of precedence.

What we've got in this case is pretty clear. The Legislative Assembly Act says we have to have an election—pretty clear. There's not unanimity in this House. It seems to me it's pretty clear. I just have a hard time trying to understand why members would not want to have an election. Are the members being appointed tonight fearful that they would not be elected? I can't believe that. I can't believe they're fearful they wouldn't be elected. So what do they have against an election?

I say to myself, what is this really all about? Members from the Liberal caucus said it's about money, and I agree. It's all about money. It's about the money our Deputy Speakers and our deputy Deputy Speakers are going to be getting. They want to be able to go home this Christmas with an extra little paycheque of 12,000 bucks in their pockets and say, "Honey, dear, neighbours, friends, I'm making more money. Look how good I am." This is not about democracy; it's about making sure people can put paycheques in their pockets. I'm saying that's not what democracy should be all about. It seems to me we fought wars against that kind of stuff.

I ask the members in this House to reflect on this. We are all here because we were charged by the people who voted for us with coming to this assembly and with representing them here. But key is that they voted for us. The Legislative Assembly Act says that we should be voting for a Deputy Speaker, therefore I am guided by the Legislative Assembly Act, and I believe we should be voting for the Speaker and the Deputy Speaker.

Mr Speaker, in order to reflect on that, I would move adjournment of the House.

The Acting Speaker: Is it the pleasure of the House that the motion carry?

All those in favour of the motion will please say "aye."

All those opposed to the motion will please say "nay."

In my opinion, the nays have it.

Call in the members. There will be a 10-minute bell.

The division bells rang from 2102 to 2112.

The Acting Speaker: The member for Timmins-James Bay has moved adjournment of the House.

All those in favour of the motion, please rise.

All those opposed to the motion, please rise.

Clerk of the House: The ayes are 5; the nays are 29.

The Acting Speaker: I declare the motion lost.

The member for Timmins-James Bay.

Mr Bisson: This makes my point, to an extent. We have rules of the assembly that say what we can and can't do in this Legislature. Now we've just gone through a vote, and a member was not in his proper seat for the vote, but the Chair decided, "What the heck. We don't have to look at the rules. It's OK. It's only the minority complaining. Why should we pay any attention?" That's my point. My point at the end of the day is that we all have to have confidence in the people who are the presiding officers of this House, and to be in a situation where people, because they're the majority, can disregard the rules—"Never mind that there's a Legislative Assembly Act. We can do what we want. We don't have to pay attention to the Legislative Assembly Act. It's not important." It's like saying you've got a Charter of Rights and Freedoms, and at the end of the day minorities are being hard-pressed, "But let's not worry about that. That's bothersome. Those people in minorities, they don't need protection. We're the majority, and we know what has to be done."

Well, it's that way in many countries around the world, and the last time I checked, those aren't very good countries to live in. There are those where the rights of the minority are oppressed, and quite frankly a very few at the very top live well. If that's the kind of society people in this assembly stand for, I have a very big difficulty with it.

I was hoping that members of this assembly would reflect, that we'd actually have an election on the officers of this House. Clearly, people don't believe in democracy; I think that's wrong.

Ms Churley: I'm happy to be here tonight to speak to this motion before us, and that is the motion to appoint the Deputy Speaker and the deputy Deputy Speakers, and explain why I am fully in support of, and was fully in support of, the point of order around why we should be having this election tonight. I'm not going to go into the details as the member for Niagara Centre did about the rule of law—we'll be coming back to that at a later date—because what I want to talk about is why we're here tonight yet again.

I'm willing to concede that I don't like this either. I find it pathetic, and I find the situation we're in not very good for democracy overall. I've been in this place since 1990. I indeed have sat as a Deputy Speaker, and although it has never been acknowledged, I sat as the first female Deputy Speaker in this Legislature. That was an appointment; that was an appointment by my party of the day. You will recall that the Tories changed the system somewhat, where each party appointed a person and we

rotated the deputy position. The Liberals have reversed that position, and I thought it was a good position, because it allowed each of us an opportunity to have not only the extra pay for the deputy, but also the extra responsibility. It was a good system, and I was proud to have sat as the first female Deputy Speaker of this Legislature.

I remember I had to have a whole new design for my costume, because there hadn't been a female outfit for a deputy before. For the other positions there were, but as you know, the Deputy Speaker gets to wear a special outfit while sitting in the chair—a long history, which I can tell you about later. But members were saying earlier, "Well you, Ms Churley"—NDP; they were leaving out the NDP—"you were chosen in this House, so what's the big deal? Since you were chosen, picked, appointed, why would you be demanding an election tonight?"

I want to explain why, and there are two big reasons. My colleagues talked about the first reason earlier, and that is, every time since I've been here—and we started the elections in 1990, but before that, all of the appointments were appointments—all of the legislators in this place agreed; we all chose who those people would be together. So when my leader of the day appointed me as Deputy Speaker and each of the other parties appointed theirs, we all talked together. It was an agreement by all the parties. My name was put forward, and it could have been rejected, but it was agreeable to everybody. That's the way it worked then.

As has been pointed out, what has happened here is that because New Democrats have seven members, albeit more of a percentage of the popular vote than the last time, and because the Harris rules—and let me point out it's a Harris rule which the Liberals in this case are deciding to cherry-pick as a rule they can't possibly change even though it's an unfair one. As I continually point out to people, that Harris rule allocated eight people to make up, out of 103 members, the number for party status here. Compared with other jurisdictions across Canada, it's about double what is normally needed to suit democracy—not for this party; it could be that party. It could be the Liberals next time with less than eight members. It's a pretty volatile electorate these days.

In fact, as people are getting more and more disillusioned with the way this place works, or doesn't work, there are going to be fewer and fewer people voting, and we're going to see changes in governments a whole lot. To some of the new members sitting beside us who are so arrogant now and are frustrated by the bells ringing and—

Mr Kormos: Because they're sitting beside us.

Ms Churley: —and because they're sitting beside us instead of over there—the arrogance is overwhelming as new people. I remember being a new minister in this place and having to take some time and learn how things work. But I understand, having said that, the frustration. These seem like silly games, I am sure, because they've got important work to do, and that, in their minds, takes over everything else. But this is unprecedented, and because we don't have that magic Harris number to make

up party status, this gives the government the excuse to work only with the Tories, who were their avowed enemy not that long ago, to go in backrooms and make deals about who's appointed to the chair in which you sit tonight.

2120

I don't take issue personally with you or any of the other members who have been chosen by two of the parties in this House, without the consent of the third party. That is why we're insisting on demanding that we go by the rules, and the rule is that there should be an election of the Deputy Speaker. We didn't have a say in who that person should be, just like we're not being given a say in many things that go on around here that affect our constituents, affect our ability to stand to make our voices heard.

I heard a member from the government side earlier who did stand up and debate for a while, talking about, "We've got important business to discuss." Yes, we do.

Interjection.

Ms Churley: No, that's not what I'm getting at. He brought up—

Mr Marchese: That's a good point.

Ms Churley: Yes, it is a good point, but he brought up the issue of this hydro report that came out today that we should be discussing. We only got one question in question period today. It was way down the list, and when it finally did come to me, the Tories and the Liberals were so busy yelling back and forth about whatever issue they were concerned about that I was drowned out. And the Speaker did nothing. In fact, somebody called my office and said, "What happened? I've never heard such an uproar in the House. We couldn't hear you. All we could hear was the noise around you." That's very unusual.

Had we had the opportunity, we would have asked many questions today about this hydro report. The Tories weren't going to ask you questions about that, as they aren't for many of the issues that I'm sure the Liberals would love to have more questions on, because those subjects are important not only to the people of Ontario but also to the government. Right now they get to lambaste the Tories because it's all their fault, for the time being.

We're here, we're available. We want to be engaged in the debate. We want to be asking the questions that are so relevant to the people of Ontario, and we're being denied that.

There's another very good reason why I think we should have an election; indeed, I think we should change the structure of the appointment process around here. I talked about my having been the first female Deputy Speaker here. I don't know if you've noticed, as I have, that all of the appointments this evening—I consider it to be absolutely sexist that we have some very good women in this Legislature who have had some experience. I look at the member for Etobicoke Centre, a former school board trustee who has chaired the Toronto board of education, who would make a good Deputy

Speaker, or one of the Speakers. Or the member from Don Valley West, who is sitting here tonight, who in my view would make a remarkable Speaker.

Interjection.

Ms Churley: No kidding.

Ms Kathleen O. Wynne (Don Valley West): I just got elected.

Ms Churley: You just got elected? So what? He has never sat in the chair before.

Having said that, if they would not want to stand for election, I would stand for an election. Why should I not be allowed to stand for an election? I am experienced. I have been the Deputy Speaker, and guess what? I would be willing to do it without the extra \$12,000 in my pocket. Because this is about the money. We hear members stand up here—because we're not getting that extra money for our positions that we still hold. We still have a House leader. We still have a deputy House leader. We still have a whip. We still have a deputy whip. Now, the deputy leader never gets extra pay—never got extra pay for this position, anyway. We still have the caucus chair. We still have all of those positions. They're not being paid. I can guarantee you they're working hard.

I'd be willing to stand for an election and be one female in this place representing the Legislature in that chair, but I don't have that opportunity. In fact, we didn't have an opportunity to try to put my name forward as somebody who's experienced—and by all accounts, everybody who has sat here before would say, and some said tonight, not only was I a good, competent Chair, but I was a fair and even and neutral Chair and ran this place with an even hand, with a sense of humour and, by all other accounts, was a very good Deputy Speaker.

But I have been denied—and I hear the good doctor over here chuckling. The lack of respect, and I would say from all three parties, now—I'm upset by all of this, Mr Speaker, as I think everybody is. This is a new member's first experience with this place, and I've never seen anything like it. It could all be avoided. It could be avoided. And you need to start understanding that, as you sit there and get sarcastic and come up with your, "You're not a party," quotes every opportunity you get, when we're trying to stand up for your rights. This is not how this place normally is run; it really isn't.

We've all had our differences in the past; I can guarantee it. And there have been uproars in this place. I can tell you about the current Speaker—you all know; it's legendary—who sat in his seat and refused to vote, and this had been worked out ahead of time by both opposition parties working together. In fact, it was New Democrats who first came up with the idea.

Hon Mr Kennedy: Oh yeah, of course.

Ms Churley: It was. Gerard, we did. I know you don't like to believe that anybody on God's earth except Liberals—

Mr Bisson: No, no; except Gerard.

Ms Churley: —except Gerard—can come up with good ideas. Indeed, it was New Democrats. But leaving that aside—if they don't want to give credit, I don't care.

Mr Marchese: It was a collaboration.

Ms Churley: It was a collaborative exercise. We talked to the Liberals because they were the official opposition. They got to refuse to stand up first and vote, and we had already worked out in advance that when that happened, we would, as both of the parties of opposition, go over there and protect him and stay with him all night, and that's what we did as opposition. That's what oppositions did together then.

Everything has changed in this place. There are a number of new members here who—normally when we come back after a break and an election there are new members from all parties, and we all try to get to know each other and talk a little bit. But the animosity here, because of the situation that has been created, is not allowing that to happen. It's a very, very unpleasant atmosphere, and not only is it an unpleasant atmosphere, but it really does impede democracy, because we're unable now to find ways to work together when the two other parties determine among themselves in the backrooms how things are to be done, excluding us.

But I must say, coming back to the very large concern I have as a feminist, as somebody who ran many years ago as a feminist standing up for women's rights and equity—and we're still so far from that. I mean, look at the number of women who have been elected here. Look at the number of women who have been elected.

Mr Tim Peterson (Mississauga South): What's that got to do with it?

Ms Churley: I believe one of the new Liberal members—where is he from? It's Mr Peterson; I don't know where he's from—just said, "What's that got to do with it?" What has that got to do with it, that we're still so underrepresented in terms of females in this Legislature? He's now asking what that's got to do with it. That's got everything to do with it. This place does not represent the face of Ontario in terms of visible minorities and in terms of women. In fact, there are fewer women here now than there were in the last Legislature. When we were in government, we had about a third of the cabinet made up of women. We're going downhill. Things are actually getting worse. But there should have been a woman, since we're appointing people without talking to all three parties, and not one woman was chosen by the ruling party or by the Tories. We're going to see all men here tonight.

So I want people to reflect on that, and perhaps the government and the Tories, since they're not talking to us, can come back with a new name, a female name, a competent—and there are many to choose from here tonight.

Having said that, I'm going to move adjournment of the debate.

The Acting Speaker: The member from Toronto-Danforth has moved adjournment of the debate. Is it the pleasure of the House that the motion carry?

All those in favour of the motion, please say "aye."

All those opposed to the motion, please say "nay."

In my opinion, the nays have it.

Call in the members; it will be a 10-minute bell.

The division bells rang from 2130 to 2140.

The Acting Speaker: The member from Toronto-Danforth has moved adjournment of the debate. All those in favour of the motion, please rise.

All those opposed to the motion, please rise.

Clerk of the House: The ayes are 5; the nays are 27.

The Acting Speaker: I declare the motion lost.

Mr Frank Klees (Oak Ridges): On a point of order, Mr Speaker: I want to express just how concerned some of us are—I'm sure it's not intentional—that some members are not properly acknowledging you on the way into the chamber and on the way out of the chamber. I'm sure the whip of the Liberal caucus will take this up at their next caucus meeting to ensure that you're appropriately recognized for who you are.

Mr Kormos: All the more reason to have an election.

Ms Churley: Yes, all the more reason to have an election. That was not a point of order.

So we have Mr Curling appointed as the Speaker by the two parties from a backroom; Mr Crozier as Deputy Speaker, appointed in a backroom by the two majority parties here; Mr Arnott appointed by the two parties with the majority here in a backroom, with no consultation with the New Democrats. A backroom deal, that's what we're seeing here all the time now, with no consultation with New Democrats. We have four males in the chair with no representatives from the females in this place. We had the member for Mississauga South heckling a little earlier when I raised this as a concern, saying, "What's that got to do with anything?" Mr Speaker, I would submit to you that it's got everything to do with everything around this place, and democracy, and trying to change the rules in a way that we in fact enhance democracy, and the government doing things to show that it was serious when it talked about enhancing democracy.

So not only do we have an arrogant new government now who's making backroom deals with the Tories and leaving New Democrats out because, as they like to say, "You're not a party. We don't have to talk to you." If that's your attitude, this is what you get. These are the rules we're going to play by, because we are playing by the rules. It is unfortunate that we're not seeing a woman appointed to this chair tonight, since we're having appointments. I mentioned that the—

Interjection.

Ms Churley: I'll let you stick with that.

I mentioned the member for Don Valley West. She said, "Well, I'm new here." That might be a problem, but then—

Mr Kormos: That's not a problem.

Ms Churley: I don't think that's a problem. She's very smart, dare I say smarter—no, I won't say that. We have the member for Sarnia, who is experienced and in fact has sat in the chair on many occasions. Why not her? Why could not this government, along with the Tories, if they're not going to consult with us—we would have appointed a woman; we didn't have that opportunity. I

don't mind that much. I'm really busy. But I think when people turn on the TV and are watching this place, it's a good example to all the little girls out there, all the women out there, that there are some women in the chair running this place. It's really too bad that both the parties who made this decision didn't go there. I do want some members to reflect a little more on that. It's very important. I say to the member for Mississauga South, it's extremely important and he should reflect on that. On that, I move adjournment of the House.

The Acting Speaker: The member for Toronto-Danforth has moved adjournment of House. Is it the pleasure of the House that the motion carry?

All those in favour of the motion, please say "aye."

All those opposed to the motion, please say "nay."

In my opinion, the nays have it.

Call in the members. This will be a 10-minute bell.

The division bells rang from 2145 to 2155.

The Acting Speaker: All those in favour of the motion, please rise.

All those opposed to the motion, please rise.

Clerk of the House: The ayes are 6; the nays are 26.

The Acting Speaker: I declare the motion lost.

Ms Churley: What I said earlier today in private members' business, when the member for Grey-Owen Sound, Mr Bill Murdoch, had a democracy private member's motion put forward which won today, and it still stands, is that where you stand depends on where you sit, and that just about sums up the situation we find ourselves in here. It really does depend on where you sit in this place, and when you sit in the government benches, fine democrats—and I don't mean New Democrats; I mean fine democrats like the member for St Catharines and some of the others who, when in opposition, spoke so passionately and so well. I was so impressed. They were my mentors in many ways about democracy and the rights of minorities. They stood up for democracy and stood in their seats and defied the rules sometimes. They were here—Mr Bradley—when I was here. They not only worked with the rules that we have for democracy but defied the rules to make a point. It's just sad to see how that all changes when members sit across the floor on the government side.

Mr Michael Prue (Beaches-East York): I've sat in this chamber for a couple of years. I often watch members, as I am watching here now, read newspapers, most often the Globe and Mail. I can't see from this angle whether in fact that is the Globe and Mail, but if it is, there is a point to be made. I would invite all the members who have a Globe and Mail to open it up to the section with the editorial, because I have been a great fan of the saying that's at the top of the Globe and Mail that has been there for as long as I can remember, since I was a boy. It reads as follows, and I think it's very germane to this debate: "The subject who is truly loyal to the chief magistrate will neither advise nor submit to arbitrary measures"—Junius.

Mr Mario Sergio (York West): Who said that?

Mr Prue: This is Junius. It's in the Globe and Mail, and it's been there for many years. It tells ordinary peo-

ple, it tells legislators, it tells lawyers, it tells magistrates, it tells anyone in authority and those who are not in authority that if they are to be truly loyal to their country, truly loyal to democracy and truly loyal to the chief magistrate, they should never, ever advise or submit to arbitrary measures.

If you want to know why New Democrats are standing here tonight, and if you want to know why we're here at 10 o'clock, that is because this is an arbitrary measure. This is a measure that has never taken place before in this province. As a matter of fact, I am unaware that it has ever taken place anywhere in Canada.

We have rules and we have procedures and we have laws, and all of those, sadly, have been abrogated today. All of them have arbitrarily been taken away and a new rule, hitherto unknown to all of us, is being enforced, and enforced particularly upon the minority.

2200

The rule of law is something that I think we as Canadians hold dear to our hearts. In fact, the rule of law is equal in importance to, and some might say more important than, democracy itself. It is what separates us from anarchy. It is what allows for a civilized society. It is what we have fought for and it is what some people have died for. The rule of law ought never, ever be arbitrarily dismissed and arbitrarily changed for expediency, and for expediency's sake alone. I can see nothing else tonight except that this is expedient for the government in power that wants to get on with the business at hand and wants to do it in a way that crashes upon the rights of the minority.

The rule of law is enshrined in the Canadian Constitution. The rule of law is enshrined in all of our history. If you look to the country to the south, the rule by which they go is, "life, liberty and the pursuit of happiness." In 1865, when the Fathers of Confederation, who are all immortalized in a painting just outside this chamber, got together and thought about what would make Canada great, the motto by which we should live, by which we should strive in our democracy, they chose "peace, order and good government." The order came from the rule of law. That was of such fundamental importance that to them order was more important than life, liberty or the pursuit of happiness.

We as a country have gone to great lengths to enforce that over the years. In fact, the reason I think all of us are here in this chamber tonight is to uphold the rule of law. As parliamentarians, as politicians—some of us came from other levels—if we disagreed with the law, we went to change the law; not arbitrarily but with sober second thought, with passionate debate, considering all of the facts, we went to change it.

We have before us tonight the Ontario Legislative Assembly Act. It clearly sets out, enshrined in the rule of law, what we as parliamentarians need to do in the election of a Speaker and of Deputy Speakers. Where there is a conflict in law—and I'll take all the lawyers in the room back to Law 101—what predominates first is the Constitution. If it is not found in the Constitution, you

look to the statute law. If it is not found in the statute law, you look to the regulation. If it is not found in the regulation, you look to the policies and procedures that are normal practice. Lowest on the totem pole are the policies and procedures that are ordinary practice. Much higher is the actual statute itself.

Throughout my history as a parliamentarian, as I guess a lawgiver, as a mayor, as a councillor and as a city councillor in the megacity—we were called upon from time to time by our citizens to challenge the rule of law. I want to tell you I would never, ever do that. We were challenged by our unions, when I was the mayor of East York, not to follow the dictates of this august chamber when the government of the day, the Bob Rae government, had the social contract. We felt very uncomfortable, and I have to tell you that I felt very uncomfortable as a mayor, imposing the social contract upon the workers of East York. They begged us not to do it, and I told them quite frankly that I could not. As the chief magistrate, as I then was, to the borough of East York, it was my duty to uphold the law. It was my duty to abide by it even though I might be in disagreement. It was their duty as subjects to do so too.

The amalgamation, again imposed by members of this august chamber: The residents of East York overwhelmingly voted against it—82%. They wanted us to do extraordinary measures. People were talking about barricading the streets; people were talking about taking the law into their own hands. That was the strength and the conviction they had. Although with all my heart I opposed amalgamation and continue to do so, and continue to think it was a bad idea, I told them that could not be done, because the importance was not one piece of legislation, not a government we hated, but to uphold the rule of law—that if we did not like the law, we should change it. That is what, in part, made me want to come here: to change that law and to change other laws that I disagreed with.

There is no defence here tonight. I understand what the Speaker said and I am reluctantly standing here in total opposition to what was stated. There is absolutely no defence that the law is outside the realm of this chamber or outside the duty of the Speaker to interpret. We all, as legislators, must interpret laws. We must all live by those laws. We cannot arbitrarily change them because they are expedient, because they are going to allow a group of people to have what they want on that given night, to the benefit of themselves or to the detriment of others. That is what we must rebel against. That is what we must say no to. That is what we are here for. All of us have that duty. Whether you exercise it tonight or whether you allow this travesty to happen, you must eventually come to that same conclusion yourself. I'm sure you will. You will all stand here some day, if you are lucky enough to be in this Legislature long enough, and say, "This is not right. I must oppose it. This is arbitrary. I must not submit to it."

A member of this Legislature said it very well and I'd like to quote him. I quoted him the other night, but I'd

like to quote him again, because I think what he said on that day is germane to what all of us must think today. The member I'm quoting is the now Premier, and I take this quote from Hansard, May 13, 2002. He was speaking to the then Premier of Ontario, the Honourable Ernie Eves, and was upset that the then Premier was flouting the law of the province of Ontario. He said:

"Premier, you have a majority.... I expect that you will govern it fairly and with respect. As long as you do that, I will give you whatever help and support that I can, because that's my job. If you fail to do that, I will put as many roadblocks in your way as I possibly can, because that too is my job."

The members in this House tonight have said many times, and made accusatory statements against members of the New Democratic Party, that we are obstructionist. Perhaps we are, but we have cause to be. You have said that you want to go home, and so do I. You have said that this is OK because it has the support of the majority of the members of this House. But I would submit, and I would ask that you all reflect: If we are truly loyal to the chief magistrate, if we are truly loyal to Her Majesty the Queen, to whom we have all taken an oath, if we are truly loyal to this Legislature, if we are truly loyal to the process of democracy and to the rule of law in this province, we cannot—not one of us—either advise that we continue with this motion, nor should we submit to it.

We are here as a small group in the corner. Life is very difficult. But we know and I know and you all know that the decisions made here today, the procedures that are made here today, will have precedence to future Parliaments, to future Legislatures. If you weaken the cause of democracy, if you allow this to happen, then in fact what you are saying is that this Legislature is becoming less and less relevant, to the point that we might as well just elect a person to be the Premier and to dictate the position. We might as well say that our voices should not be heard.

I do not believe that that is the intent of the members of this Legislature. I believe you are all honourable people. I cast no aspersions on those who seek these offices, either by appointment or by election. I cast no aspersion that they are motivated by money or greed or the lust for power or anything else that has been said here tonight. But what I will say is that we should do what is right: We should follow the law; we should be proud of our traditions; we should be proud of our laws; and if those laws are in conflict with what the majority wants to do, then we should change those laws. But we should never, as Junius said, arbitrarily submit to them.

I've spoken long enough for now. I would like people to reflect on that with all seriousness, just once, and I would ask for an adjournment of the debate.

The Speaker (Hon Alvin Curling): The member from Beaches-East York has moved adjournment of the debate. Is it the pleasure of the House that the motion carry?

I heard a no, and I heard a yes.

All those in favour of the vote to be cast, say "aye."

All those against, say “nay.”

I think the nays have got it.

Call in the members. There will be a 10-minute bell.

The division bells rang from 2212 to 2222.

The Speaker: Mr Prue has moved the adjournment of the debate.

All those in favour of the motion, will you please rise to be counted.

All those against, please rise.

Clerk of the House: The ayes are 5; the nays are 25.

The Speaker: I declare the motion lost. Mr Prue?

Mr Prue: I had hoped that you might have taken the time to reflect upon my words. It seemed that I was accorded the most unqualified silence I have ever experienced in this House without heckling. I would thank the members for that, because what I was trying to tell you was of utmost importance, at least to me. I think what we all need to reflect upon, as legislators—

Hon Mr Bradley: Marion Bryden never moved adjournment of the House.

Mr Prue: The heckling has started again, and I guess I must get used to that.

We do not arbitrarily submit, as I was saying, to the ruling of the person who was in the chair—I can’t even say “Deputy Speaker” yet.

Mr Marchese: The member from Essex.

Mr Prue: The member from Essex, who was sitting—

Hon Mr Bradley: You’re looking very leader-like tonight, very leader-like.

Mr Prue: OK. I guess I have been a leader for a long time in many respects.

We do not arbitrarily submit to that. We believe that it is wrong. I am saddened, as I have said, at what has happened here today, and I am saddened at what some of the next steps might be. The steps do not involve throwing up roadblocks, in following what Dalton McGuinty told us all very poignantly we must do, and that is not to submit. What I think it now involves is a time of a different kind of politics. The members of the House have spoken. They have said that they do not want to reflect upon where we are going.

I remember many years ago, as a much younger man, watching Pierre Trudeau on the national news talking about members of the House of Commons being nobodies when they were but 100 feet or 100 yards outside the House of Commons, and that their role at that time was increasingly being diminished. I remember being angry at what he had to say. I remember being disappointed as a Canadian at what was being said about them.

Mr Sergio: On a point of order, Mr Speaker: The clock got stopped.

Mr Prue: I thought I had forever.

I remember as a Canadian being disappointed, and I remember, being, I think, an astute student of politics, feeling that that was a shame. To me, what happens in the Legislatures and in the House of Commons is not only germane to all of us, but it is important to all of us. The people who are elected should be shown respect, they

should be listened to. Their views will, of course, always differ and should always differ. If they were always the same, we would not need a Legislature, we would not need a House of Commons.

It appears that the minority, in this case us, will have to abide by the tyranny of the majority. I guess the tyranny and the majority will overrule. The tyranny and the majority will say what we have to say does not matter. They will say whatever is expedient and whatever must be done in order to go home early. Whatever must be done to get the legislation done will be done.

I have to tell you that is disappointing. Today is very disappointing to a naive guy like me, who came here hoping to change just a little bit, or if not to change, at least to preserve the history and the culture of our democracy, and the tradition that I have grown up with and have always tried to preserve. I have commented to people around the world that there is one thing about Canada, and that is we are tolerant of our minorities. We listen to them, we allow protestors, and even when we disagree with them, we allow them the opportunity to say it. We have those who champion them, the courts that will champion them, this Legislature that will champion them, the free press that will champion them.

Much has been said about other alternatives. I heard my colleague from Toronto-Danforth talk about the possibility of having a woman appointed as one of the Speakers. I listened very carefully to her, and I have no difficulty with what she’s saying, that a woman should be here. But to me that is not as high an issue and not as fundamental an issue as the rule of law. The rule of law seems, unfortunately, to be taking a back seat.

All I can do is what Dalton McGuinty advised so well to do, and that is to throw up another roadblock. So I would move adjournment of the House.

The Speaker: Mr Prue has moved adjournment of the House. Is it the pleasure of the House that the motion carry? I heard a no.

All those in favour, say “aye.”

All those against, say “nay.”

I think the nays have it.

Call in the members. It will be a 10-minute bell.

The division bells rang from 2228 to 2238.

The Speaker: Mr Prue has moved the adjournment of the House.

All those in favour, please rise.

All those against, please rise.

Clerk of the House: The ayes are 6; the nays are 28.

The Speaker: I declare the motion lost.

The member from Beaches-East York.

Ms Churley: Yell out this time.

Mr Prue: Mr Speaker, I have been advised to yell, but I don’t think I can. My heart is broken, and I don’t think I can do that.

I would like to state again for the record—you’ve heard it several times, and I want to say it one more time. I want you to all think about this. Go home and sleep on it: “The subject who is truly loyal to the chief magistrate will neither advise nor submit to arbitrary measures.”

Hon Mr Kennedy: These are arbitrary measures.

Mr Prue: These are arbitrary measures you are doing, Mr Minister. They are arbitrary—

Hon Mr Kennedy: This is abuse of power.

Mr Prue: How can I abuse power? OK, now I have something to speak about.

Interjections.

Mr Prue: The power is exercised by the executive council. Anyone who knows—

Interjections.

Mr Prue: Here I am in the middle of heckling again. Just a little bit of a political lesson to the minister: Power is exercised by the executive council. It is the executive council that determines the laws that are put before the Legislature, and not the Legislature itself. We are here to speak to them, to give voice on behalf of our constituents who have sent us to this place. We are here to pass comment upon the various bills that you as an executive council put forward. It is you who have put forward this arbitrary measure for nothing other than expediency's sake, and expediency's sake is trampling upon the rights of the minority. Again, it's a sad day.

Mr Zimmer: Go win another seat.

Mr Prue: I've been told again for the umpteenth time to go and win another seat. That seems to be the answer from the members who have given no real thought to what has happened here tonight. I tell you we will win another seat. It will be our goal, and we will be successful in winning another seat. I am waiting for one of you to vacate yours. I am waiting for you to run in the federal election. We are waiting for you to quit, we are waiting for you to determine that this not the place or, conversely, to come on over, because we are right, and when you reflect upon it you will realize that and will want to be on the side that is doing the right thing.

Mr Marchese: I want to welcome the citizens of Ontario who might still be awake watching this parliamentary channel. If they are, it's 20 to 11 and we are on live; it's not a repeat. So stick around. We still have another hour or so of discussion—not much debate, but discussion.

I want to get immediately into the ruling made by the Speaker—the member for Essex, who was in the chair—deciding on a point of order moved by the member for Niagara Centre. Paraphrasing what he said, the Legislative Assembly Act requires that there be an election, and he argued that that overrides the standing orders. It seemed to me a very reasonable argument to make. The presiding Speaker, the member for Essex, didn't do what the member for Niagara Centre recommended, and that was that he should step aside because there was a clear conflict in this case. He refused to do that.

Mr Kormos: That was the first test.

Mr Marchese: That was the first test that was put to him. Then, after making the arguments on the point of order about the Legislative Assembly Act overriding the standing orders, he stood there in the chair.

I have two suggestions for the Speaker. One was made by the member for Niagara Centre, which was that he

should have decided to step aside as a way of showing objectivity, as a way of showing impartiality vis-à-vis the point of order. My second suggestion, as a way of showing objectivity, would have been for the member to recess this House for whatever time he might have deemed necessary—10, 15, 25 minutes—as a way of showing this House that the point of order put forth by the member for Niagara Centre had merit. We believe the point of order had merit, and we believe the presiding Speaker at the time should have considered it by recessing, if ever so briefly, to give the appearance of having thought about it, but he didn't do either of the two: stepping aside or recessing to show that perhaps there could be some doubt in his mind about the ruling that he was going to make, ruling against the point of order, or to show at least that he's willing to talk to the Clerks who, of course, may have had some opinions to offer. Maybe they did offer counsel to him and that's why he didn't recess, but I would have recessed.

Mr Baird: On a point of order, Mr Speaker: This is actually a serious point of order. The member opposite has gone on for some time now dissecting a ruling by the Speaker that was made earlier this evening. The standing orders are exceptionally clear that when the Speaker, whether it's you or whoever is in the chair, makes a ruling, it is not up for debate. I think he's bringing, in all seriousness, great disrepute to the respect that all members should have, whether they agree or whether they disagree with your ruling, that he is not entering into debate on the motion present, but he's also entering into debate about an earlier ruling that Speaker Crozier made. I would ask you to rule on both points.

The Speaker: I want to thank the member from Nepean-Carleton for his comments. As I listened carefully, I know of your concern, but the fact is, member from Trinity-Spadina, the Speaker did make a ruling on that. I ask you to proceed in debating the motion that is on the floor, and not to again address the decision of the Speaker that was made previously.

Mr Marchese: I should point out, with due respect, that I wasn't challenging the ruling of the Speaker. I merely offered some suggestions, given the point of order that had been raised. If you review the remarks I made, I didn't challenge the ruling. I offered advice on how to proceed with the ruling that he made. If that's a problem, then you can rule that out of order.

But these are the suggestions I offer to them in the same way that I offer another suggestion to the other presiding Chair, the member for Barrie-Simcoe-Bradford, Joe Tascona, who, on a point of order moved by the member from Oak Ridges, which in my humble view was quite clearly not a point of order, allowed the member to go on and on and on. I offer a suggestion to the presiding—

Mr Baird: On a point of order, Mr Speaker: This is again a very serious point of order. The member opposite is proceeding to, in a legislative sense, surgically dissect Speaker's rulings. I think that poses great concern for all members of the House. He's entering into debate about

rulings that the Speaker has made. That's explicitly forbidden in the standing orders. It causes concern. I quite often disagree with the Speaker's ruling and I quite often disagree with your rulings, but you have to be the ultimate referee. You have to be the one who is elected by all of us to make these decisions.

I have great concern that the member is persisting in doing that. I think he's showing flagrant abuse to your request that he speak to the motion. But it's not just the fact that he's not speaking to the motion; it's the fact that he's continuing to, in a legislative debate, surgically dissect those rulings and offer commentary and suggestion, and that's not permissible.

The Speaker: I know that the member from Trinity-Spadina has the utmost respect for the Chair and the Speaker. I would also say that, as you make your comments, please address them to the motion on the floor itself. Some of your suggestions, of course, have no impact on the decision the Speaker has made already, so I would ask the member—

Interjections.

The Speaker: Order. Please, members, would you mind sitting? Then could I ask the member to keep addressing his issue to the motion that is on the floor? Thank you.

Mr Marchese: Responding to the motion here, I know that government members obviously say they want to play by the rules, they are playing by the rules. We, as the third party here, clearly want to play by the rules as well. It is our role and our function as opposition members to play by the rules, exercising the rights given to us in this place and getting guidance from the Legislative Assembly Act in terms of what we can and cannot do. While it is clear that some of the members don't like that, we tell the citizens watching this parliamentary channel that we are doing what we are duty-bound to do as members of this place.

2250

I know the government members would like to be able to run this place *ex cathedra*, by fiat. The Conservative members did it before them. That's why Conservative members have no problem with the Liberals changing the rules when they need to, to suit their own needs, because they did it in ways that were criticized viciously by the Liberals, the then official opposition. But once the Liberals are in power, they don't seem to like the fact that opposition members do what they have to do. I know the member from St Catharines understands this very clearly.

We are doing our job. I understand and know and believe that the rump here—and I don't mean that in a derogatory way—believes otherwise. They believe—I think this is misplaced—that this minority is overriding them and the majority of Liberals. How could a little group of seven New Democrats override the will and power of this majority Liberal government? How is it they can claim there is a tyranny of a minority over a government that has absolute power to rule and to do what they want, day in and day out? And they do,

because they can. But to hear the rump here next to me and the chatter that I hear regularly, you would think that we are running this assembly, that we are in charge, and that they are victims of this tiny little minority of seven New Democrats. It ought not to astound some of you, but it's true. This is what they say. It's a tyranny of seven.

Monsieur Duguid, I invite you to speak, because I know you need the practice in this assembly. Get up and gesticulate, as you might want or not, stand still, as you might want or not, show some emotion if you want or not. Do it. You've got the time and this is your opportunity to do it. You've got to get up and speak, exercise your power. I don't understand why you would be so silent when you have the ability and the power, member from Scarborough Centre, to get up in this place and defend yourself and your government. Please do that. That's what I think you should be doing, unless you want to communicate to the public that we are overriding, poor member from Scarborough Centre, with our power, omnipotent, omnipresent in this place, and that you are powerless sitting there in the back reaches of this place and can't say a thing. You can. Unless of course the whiz kids who are now running the Liberal Party are dictating what it is some of you can and can't say.

I remember Jim Bradley, the then opposition member, constantly attacking the Conservative government. With glee he would do it, talking about how that government was run and overrun by the whiz kids. I don't think Liberals have whiz kids, do you? What do they have, a different brain trust? What are they called? Beware of the whiz kids. I tell you, you've got to stand up for yourself and debate in this House; otherwise they're going to silence you. And it won't be because seven New Democrats are forcing you to do it; it will be because the whiz kids running the Liberal circle—

Ms Churley: The old boys.

Mr Marchese: The old boys and girls, I suspect.

Interjection.

Mr Marchese: It could be old boys as well; I don't know.

We are saying to you that when you dictate the rules and when you say, "We have made our decision," because the recognized parties—the Liberal Party and the Conservative Party—have the numbers to be the official parties in this place, and as such, only they can decide what can happen in this place. So they've decided to override the Legislative Assembly Act, which says there ought to be an election of the Deputy Speaker and the others, because they have an agreement with each other to do so.

We're saying we are part of this assembly. This is a New Democratic Party, a caucus, that has a role to play, and we're playing it. If we are not consulted and we are not part of the decision-making in this place, then we will exercise the rules of this place to participate, as we should.

I don't take too kindly to the fact that some of the members think this is a game. I know the Minister of Education said, "This is about private interests." What is

that? What is it about what New Democrats are raising that has to do with private interests as opposed to the public interest? The member for Eglinton-Lawrence said, "This is procedural gymnastics," as if we're simply having fun and it's just a game for us.

It's neither a game nor anything to do with private interests, but everything to do with protecting the public interest. That's why we're here. We don't just represent the private interests of Rosario Marchese, Peter Kormos, Shelley Martel, Michael Prue, Marilyn Churley, Gilles Bisson and Howard Hampton—all New Democrats. We don't merely represent ourselves; we come here elected by many: New Democrats mostly, and others—Liberals and Conservatives probably supported me, I'm sure. I don't represent a single private interest, either mine or someone else's, but the interests of all those 19,000 or 20,000 people who voted for me, in the same way that others voted for our members to represent a public interest, with particular views shared by many—not by one, not by two, not by seven, but by many.

Interjection: Is there a motion coming?

Mr Marchese: There is a motion coming, because we want everyone in this place—Liberals and Tories, who have colluded with each other, not just once, but many times—to reflect on what I and others have said. With that, I call for adjournment of the debate.

The Speaker: Mr Marchese has moved adjournment of the debate. Is it the pleasure of the House that the motion carry?

All those in favour of the motion, say "aye."

Interjection.

The Speaker: Mr Bisson, I would much appreciate it if you were in your seat and stopped heckling. If we talk about decorum in the House, I'd like us all to respect that.

All those against, say "nay."

I think the nays have it.

Call in the members. This will be a 10-minute bell.

The division bells rang from 2258 to 2308.

The Speaker: All those in favour will please rise to be counted.

All those against, please rise.

Clerk of the House: The ayes are 5; the nays are 26.

The Speaker: The motion has been lost. Mr Marchese?

Mr Marchese: I want the citizens of Ontario, the members of the Liberal Party and cabinet ministers to reflect on yet another thing, and it's worthwhile—

Mr Baird: What about me?

Mr Marchese: —including the Tories. But you're so much in collusion with the others that speaking to them is like speaking to you directly.

Reflect on this: Monsieur McGuinty, when he was then the opposition leader, said the following. He was talking to the then Premier Ernie Eves: "Premier, you have a majority." Listen to this, Gerard and Jimmy:

"I expect that you will govern it fairly and with respect. As long as you do that, I will give you whatever help and support that I can, because that's my job. If you

fail to do that, I will put as many roadblocks in your way as I possibly can, because that too is my job."

I say to you that we are doing our job. In the same way that Monsieur McGuinty was asking to be treated fairly and with respect, we're asking the same of him and of you. If you do not offer that fairness and respect, we are going to do our job of putting as many roadblocks—says he and say we—as we can, in order to be heard and in order that we can represent those who supported us. There aren't just a few, but many. Close to one million people voted for us. That's not a few people; that's a lot of people. We represent them. We are their voice.

If we are not heard, it is our duty to put as many roadblocks as we can, using the rules of this place to do that. As I asked you to reflect on what I said earlier, I want you to reflect on what your leader said then that he should now be practising as the Premier of your party. I want you to reflect on that as I move adjournment of the House.

The Speaker: Is it the pleasure of the House that the motion carry?

All those in favour of the motion, please say "aye."

All those against, say "nay."

I think the nays have it.

There will be a 10-minute bell.

The division bells rang from 2312 to 2322.

The Speaker: Mr Marchese has moved adjournment of the House.

All those in favour, would you please rise and be counted?

All those against, please rise and be counted.

Clerk of the House: The ayes are 5; the nays are 25.

The Speaker: I declare the motion lost.

Mr Marchese: Reflect on this, Speaker, and other Liberal members. McGuinty said the following: "The Harris-Eves government has simply not been kind to democracy in Ontario. For example, they have severely limited debate in the Legislature. In their first term, they changed the rules 42 times to restrict debate and limit the power of elected representatives. That's 42 times. They have forcibly closed debate on 60% of the bills presented at Queen's Park—60%."

Mr Baird: We should all go home and have a shower.

Mr Marchese: John Baird, quiet.

"By way of comparison, in 1985, that figure was 1%." That was Monsieur McGuinty, the then-leader of the Liberal Party.

I say to you, it was bad then and it's getting worse now, and motion 13 is worse than what we've ever seen before.

Ms Shelley Martel (Nickel Belt): I don't enter this debate tonight with any great pleasure. Some members might not believe that, but I would rather be home with my kids as well. I think, through the course of the debate, you will understand how concerned I am about where we find ourselves this evening, following on the heels of another motion earlier this week which I think is really detrimental to this House and to democracy generally.

For people who are just tuning in, it's probably worth backing up and talking about the motion that we are dealing with and what happened a little bit earlier. At the start of this evening's session, the government called government notice of motion number 10, standing in the name of the House leader, Mr Duncan. It says the following:

"That Bruce Crozier, member for the electoral district of Essex, be appointed Deputy Speaker and Chair of the Committee of the whole House; that Ted Arnott, member for the electoral district of Waterloo-Wellington, be appointed First Deputy Chair of the Committee of the whole House; and that Joseph Tascona, member for the electoral district of Barrie-Simcoe-Bradford be appointed Second Deputy Chair of the Committee of the whole House."

The key word that people who are watching need to have highlighted for them is "appointed." By the motion that we are dealing with tonight, these three people, none of whom I have any complaint with on a personal level, will now essentially become officers in this assembly, ostensibly serving all of us as members.

The key word is "appointed." They are being appointed as a result of essentially a backroom deal between the government and the official opposition, with no input and certainly no consensus from the members of the New Democratic Party. That of itself is a problem that I'm going to deal with.

The second, more serious, problem is that the Legislative Assembly Act, which we should be abiding by, says something quite different with respect to the election of the Deputy Speaker. In subsection 28(1) of the Legislative Assembly Act, it says, "The assembly at its first meeting after a general election shall proceed to elect one of its members to be Speaker and one of its members to be Deputy Speaker."

The key word here is "elect." There should have been an election for this position, and there will not be. There will not be because of what happened here tonight, which I think is a real tragedy. Essentially, the law just got thrown out tonight. The Legislative Assembly Act got thrown out because the member from Essex decided that he didn't need to bother himself with the details of the law, and the House will now be forced to live with that decision.

I want to tell members of this House that I don't willingly submit to that ruling or that decision. I don't willingly accept that decision that was made by the member from Essex to essentially throw the law out the window and have it overridden by a government motion. When we start doing that, when we start overriding the act and allowing government motions to supersede the law, what's the point of having the act at all? What's the point of having any debate in here at all? Maybe cabinet can just come in and run the whole place and shut down any legitimate debate from any of us, who were also elected in our own ridings.

I have a right to be here. I was duly elected.

Mr Levac: On a point of order, Mr Speaker: I think this was requested before you sat in the chair, that the

Speaker was being challenged. I wonder whether that is in order.

Mr Kormos: On the same point, Speaker: This, with respect, is the problem. The motion seeks to place the member for Essex in the position of Deputy Speaker. A consideration of—

The Speaker: Order. I've listened very carefully to a number of members from that side, and somehow I think you're questioning the Speaker's decision. I just want to caution you that, as the Speaker has ruled on that, I hope you're not questioning the decision of the Speaker. I would warn the member to continue to speak on the motion and stop questioning the decision of the Speaker.

2330

Ms Martel: Speaker, I'm making the point that I will not willingly submit to the decision. It's been made. It's been forced on the House. I don't accept it.

Now, the government members who have been here tonight speaking about this say that it's OK to do things this way because the two recognized parties in this assembly, the government and the official opposition, agreed who should have these positions. So you don't obviously need to apply the law, because the recognized parties have that agreement about who should be appointed to these positions, and they've been named in the motion. I don't agree with the argument that the government and the official opposition have made here this evening. You have no right to go down that road just because you're in collusion to try and expedite business around here. You have no right to do that, and that's what's happening here this evening.

Secondly, just because you've entered into some kind of backroom agreement doesn't mean you have the right to trample on the rights of the minority. I am one of a number in that minority. We don't agree that we should have appointments of the three members to be Deputy Speaker and Chair of the Committee of the whole House or the First Deputy Chair of the Committee of the whole House or the Second Deputy Chair of the Committee of the whole House. There is no consensus here amongst all the members. We should be having an election. We should have had an election. That's the way we should have spent the time tonight: having an election.

You might be able to come forward with a consensus on this matter, and that's fine. Perhaps there would have been consensus on these positions, if the government and the official opposition—but particularly the government—had decided that they were going to consult with the seven of us about this matter. Because, as members here, we have to live with those people too, not just the official opposition and the government. It's true that often in the past, as a result of having that discussion beforehand with all the members in the assembly, there has been consensus about who would have those positions. But of course that kind of consultation hasn't been happening around here since this Legislature sat. It hasn't been happening.

I guess the Liberals believe that they don't have to talk to us because we don't have official party status—

Mr Kormos: Pursuant to the Legislative Assembly Act.

Ms Martel: Pursuant to the act. We won't say anything more about that act tonight, will we?

You might want to try and keep that up for a while. You might want to ignore us. You might want to see how much you can limit our participation here or in committee or in subcommittee, which some of us faced today. You might not want to consult with us about scheduling the business around this place and scheduling committee hearings etc, but I have to tell you that if you want to act in that way, then for my part, for our part, we'll use the rules to the fullest. We will use the rules to our advantage. We will make the point by using the rules that as duly elected members here, as members of an NDP caucus, we have a right to be heard, we have a right to participate, we have a right to be included in the deliberations in this House, and we are going to exercise that right to the fullest extent we can, one way or another, day in, day out, every day that we sit. That's what we're going to do.

I think that I, and we, not only have a right, we have a duty, we have an obligation to participate. We have an obligation to be a part of the deliberations. We have an obligation to participate in committee and subcommittee, because we were duly elected to do that. This party got 15% of the vote. We got 60,000 more votes than in 1999. I am here, and we are here, to fully represent those people who decided to vote for us in this last campaign. We are going to look to the rules to ensure that we meet our obligation, not only to our constituents who elected us in our own ridings, but to those other people in other ridings in Ontario who voted New Democrat too. We have an obligation to represent them, and we're going to do whatever it takes, using the rules, to make sure we live up to that obligation here in this House, in committee and in subcommittees. That's what we will do.

As I said earlier—and this is a classic example; it's why we're here tonight—the government can choose to ignore us. They did with respect to the positions we are talking about now. We have, in the past—and I've been a member here for 16 years—come to a consensus about the appointments of those people in those positions. But the government doesn't want to include us in those negotiations. That's fine. So there isn't a consensus about those positions. There isn't an agreement about what happened here tonight. I'm going to be hard pressed to accept that those positions have been foisted on me when I had no say about them. I'm going to be hard pressed to accept that in the next couple of years as those people assume those positions. I don't wish any of them ill will—I've worked with all three of them—but what happened is not right. If this keeps on happening with other decisions that we would normally arrive at by consensus, that won't be right either, no matter how the rules or the assembly act is trampled on. It won't make it right.

Speaker, if I might, I would call for adjournment of the debate.

The Speaker: Is it the pleasure of the House that the motion carry?

All those in favour, say "aye."

Those against, say "nay."

I think the nays have it.

Call in the members. This will be a 10-minute bell.

The division bells rang from 2338 to 2348.

The Speaker: All those in favour, please rise and be counted.

All those against, please rise and be counted.

Clerk of the House: The ayes are 5; the nays are 24.

The Speaker: I declare the motion lost.

Pursuant to the order of the House adopted earlier today, I am now required to put the question: Mr Bradley has moved government notice of motion number 10. Is it the pleasure of the House that the motion carry?

All those in favour, say "aye."

All those against, say "nay."

I think the ayes have got it.

Call in the members. This will be a 10-minute bell.

Pursuant to standing order 28(h), I have a note from the chief government whip asking that Mr Bruce Crozier, member for the electoral district of Essex, be appointed Deputy Speaker and Chair of the Committee of the Whole House; that Ted Arnott, member for the—

Mr Baird: Dispense.

Mr Kormos: No.

The Speaker: —electoral district of Waterloo-Wellington be appointed First Deputy Chair of the Committee of the Whole House; and that Joseph Tascona, member for the electoral district of Barrie-Simcoe-Bradford, be appointed Second Deputy Chair of the Committee of the Whole House. He asks that the vote be deferred until December 8. The vote will be deferred.

BUSINESS OF THE HOUSE

Hon James J. Bradley (Minister of Tourism and Recreation): On a point of order, Mr Speaker: Since business has been concluded, I'll give the business of the House for next week.

Monday, December 8: in the afternoon, Bill 2; evening, Bill 4.

Tuesday, December 9: in the afternoon, Bill 5; evening, government order number 2.

Wednesday, December 10: in the afternoon, opposition day motion; evening, the House is not scheduled to sit.

Thursday, December 11: in the afternoon, to be announced; evening, to be announced.

The Speaker (Hon Alvin Curling): It being almost 12 o'clock, this House stands adjourned until 1:30 of the clock on Monday.

The House adjourned at 2352.

CONTENTS

Thursday 4 December 2003

GOVERNMENT MOTIONS

Appointment of House officers,

government notice of motion
number 10, *Mr Duncan*

Mr Bradley	453, 454, 455
Mr Kormos	453, 454, 461
Mr Baird	454, 456
Ms Churley	454, 467
Mr Agostino	458
Mr Arthurs	459
Mr Colle	463
Mr Bisson	463
Mr Prue	470
Mr Marchese	473
Ms Martel	475
Vote deferred	477

OTHER BUSINESS

Business of the House

Mr Bradley	477
------------------	-----