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(Hansard)**

**Journal
des débats
(Hansard)**

Wednesday 27 October 2004

Mercredi 27 octobre 2004

Speaker
Honourable Alvin Curling

Président
L'honorable Alvin Curling

Clerk
Claude L. DesRosiers

Greffier
Claude L. DesRosiers

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LEGISLATIVE ASSEMBLY
OF ONTARIO

Wednesday 27 October 2004

ASSEMBLÉE LÉGISLATIVE
DE L'ONTARIO

Mercredi 27 octobre 2004

The House met at 1845.

ORDERS OF THE DAY

ONTARIO HERITAGE
AMENDMENT ACT, 2004

LOI DE 2004 MODIFIANT LA LOI
SUR LE PATRIMOINE DE L'ONTARIO

Resuming the debate adjourned on October 26, 2004, on the motion for second reading of Bill 60, An Act to amend the Ontario Heritage Act / Projet de loi 60, Loi modifiant la Loi sur le patrimoine de l'Ontario.

The Acting Speaker (Mr Ted Arnott): When we last discussed Bill 60 in this House, the Conservatives had the floor. We now turn in rotation to the New Democrats or the Liberals.

Hon Dwight Duncan (Minister of Energy, Government House Leader): On a point of order, Mr Speaker: I seek unanimous consent to give second and third reading to Bill 70.

Mr Gilles Bisson (Timmins-James Bay): No.

Mr Duncan: He wasn't in his seat.

The Acting Speaker: I'm sorry; the government House leader has asked for unanimous consent. Is there unanimous consent in the House?

Mr Bisson: No.

The Acting Speaker: I hear a no.

Mr Mike Colle (Eglinton-Lawrence): That's not the same rule we applied last week.

The Acting Speaker: Further debate.

Ms Marilyn Churley (Toronto-Danforth): I have a point of order, Mr Speaker: For personal safety, I understand that there's been some kind of leakage or something. I have severe allergies and I already have a headache from the strong odour of whatever it is in here—oil, gas; I don't know. Could you please clarify for the members sitting here what's going on and whether or not we're safe.

The Acting Speaker: In response to the member for Toronto-Danforth, we are taking this very seriously. We have security staff who are looking into the matter right now.

I'm aware that there's a very strong odour at that end of the chamber, and we are investigating to try and find out what it is. If there's anything to report, I'll certainly report it to the House.

Further debate on Bill 60. I recognize the member for Lanark-Carleton.

Mr Norman W. Sterling (Lanark-Carleton): Yesterday we were talking about Bill 60—

The Acting Speaker: Point of order? I recognize the member for Nepean-Carleton.

Mr John R. Baird (Nepean-Carleton): On a point of order, Mr Speaker: I apologize to the member for Lanark-Carleton for interrupting him. I would like to ask for unanimous consent that, notwithstanding any other order of the House, we debate Bill 70 and indicate that the Conservatives would certainly support the bill without speaking to it.

The Acting Speaker: The member for Nepean-Carleton has sought unanimous consent to deal with Bill 70. Is there unanimous consent? I hear a no.

I will return to the member for Lanark-Carleton. You have the floor.

Mr Sterling: Yesterday we were talking about amendments to the Ontario Heritage Act. The amendments to this act were in some ways very similar to Minister Tsubouchi's amendments to the Ontario Heritage Act when we were in government, but there are some noted exceptions.

Yesterday, when I was speaking on this act, I was trying to set the stage for this assembly and for the people of Ontario to be very circumspect with regard to the intent of this government in this bill with regard to property rights. I was recalling what happened with regard to another piece of legislation which this Legislature considered in the springtime. I'm referring to the act which dealt with the Adams mine up north. I said yesterday that while some members here and some members of the public didn't want to see Adams mine go ahead, that was not the real nub of the issue of the Adams mine act. The nub of the issue in the Adams mine act dealt with property rights, and we are dealing with property rights in the Ontario Heritage Act as well.

1850

I indicated to the Legislature that we in Canada are, I believe, in the only country in the western world which doesn't have property rights enshrined in our Constitution. That allows the Legislature of Ontario to basically strip away contractual rights, strip away property rights by passing a piece of legislation here, and the citizen who may be affected by the stripping away of those property rights really has no recourse, save and except to go to the courts.

What happened, of course, in the Adams mine legislation is that not only did they strip away the property

rights of an individual and a corporation but they denied that individual the right to go to court for full compensation, which is more grievous than stripping away somebody's property rights. When you say to somebody, "You can't go to court and seek fair compensation for a right which we have stripped away," you're breaking the rule of law. No Legislature, no Parliament should ever cross the line and strip away the rule of law.

But basically what this government did—and people haven't really talked about it, which bothers me very, very much—in the Adams mine case was, they said to the developer, "We're taking your property rights away and we're only going to allow you to go to court to get certain compensation." So what they did retrospectively was, they went back and said, "We're changing the rules, which you have followed for the last 10, 12 years, with regard to our Environmental Assessment Act and those kinds of things."

You see, what happened was that the developer went through a process 10 years, 12 years long. He went through all the legal process, got the proper certificates in order for him and his company to go ahead and do it, and this government said, "We're going to treat you differently from every other citizen in the province of Ontario. We're going to strip your rights away."

They singled out an individual and they did it on the worst possible basis. They did it on the basis of political advantage, because one of their members promised his constituents that this wasn't going to go ahead. So on the basis of a political whim they said to one of us, "We're going to strip your property rights away from you and we're not going to allow you to get fair compensation, which you're entitled to under the laws of Ontario and the laws of Canada."

There were a few editorials. There was an editorial in the *Ottawa Citizen* talking about our Premier, Dalton McGuinty. They thought he was a lawyer who understood what the rule of law meant, and that he and the Attorney General would stand in this place—and particularly, the Attorney General—and say, "I am going to protect the rule of law and ensure that each and every citizen is dealt with fairly and equally."

Now, how this ties into the Ontario Heritage Act is that there are sections within this act which allow a municipality to designate properties as heritage properties and thereby restrict an owner from utilizing that particular property for his purposes. They say to the owner, "You cannot use this property as you wish, but for the good of all we're going to take your property rights away from you."

I guess one of the most disturbing parts of this Ontario Heritage Act is that the Ontario government, for its own purposes, says that the Expropriation Act doesn't apply if the Ontario government designates a historical property for its purposes. What that means is that a person, under the Expropriation Act, is allowed certain rights for compensation. They're entitled to certain hearings and to certain costs under the Expropriation Act to ensure that someone who hasn't got a lot of money, and their prop-

erty is designated, can get costs for representation before the courts to ensure he or she gets proper compensation from the Ontario government.

Again we see this government looking toward property rights with a lot of disdain. Somehow they don't think that if the provincial government designates a particular property and says, "For the good of all of us, we want to designate this property and restrict the owner as to how he or she uses that property. We don't want to give that owner a fair shake. We don't want to compensate him or her for the fact that we are going to say to all of Ontario, 'You can enjoy this property, the facade of the building, whatever other parts of the building that are included in the designation,' but we won't allow proper compensation. We don't want to allow you help to go to the courts under the Expropriation Act to gain proper compensation for the right we have taken away"—and for me, this is very troubling, particularly troubling, not for developers or landowners who own very big and expensive properties, but for the common person who wouldn't have the necessary finances to go to court and hire a lawyer, hire the experts to appraise the property and protect their interests.

The other interesting part of the Ontario Heritage Act is that we heard during the campaign that this government wanted to restrict, wanted to pull back the powers of the Ontario Municipal Board. They said to the Ontario Municipal Board, "We're going to clip your wings. We're going to restrict what the Ontario Municipal Board can do with regard to appeals against a municipal decision."

Under this legislation, they do the exact opposite. Under this legislation, they say to the individual, "The municipality comes in and they designate your property as heritage property. Who do you go to to appeal that designation? You go to the Ontario Municipal Board." I thought what was going to happen, vis-à-vis what these people promised in their election, was they were going to lessen the powers of the Ontario Municipal Board. In fact, what this legislation does is enhance the power of the Ontario Municipal Board. It makes their jurisdiction larger, and so they're going to be involved in more things, including the right to say to a municipality, "You can"—or cannot—"designate this property as heritage property."

This government's total lack of concern for property rights, their lack of concern in following the basic tenets of our justice system, which has been developed over the last 1,000 years, makes me very angry, and on that basis, I move to adjourn the House.

The Acting Speaker: Mr Sterling has moved adjournment of the House. 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 will please say "nay."

In my opinion, the nays have it.

Call in the members. This will be a 30-minute bell.

The division bells rang from 1900 to 1930.

The Acting Speaker: Will the members please take their seats.

Mr Sterling has moved the adjournment of the House.

All those in favour of the motion will please rise and remain standing. You may take your seats.

All opposed to the motion will please rise and remain standing while you're counted by the Clerk. You may take your seats.

The Deputy Clerk (Ms Deborah Deller): The ayes are 12; the nays are 32.

The Acting Speaker: I declare the motion lost.

I recognize the government House leader.

Hon Mr Duncan: There is a noticeable odour in the chamber—and I want to take this seriously—that is

causing some members to express concern around health and safety. I think that's an important concern. I believe we should adjourn the House for the evening until staff from the Ministry of Labour can determine what the cause of it is. I seek unanimous consent to do that.

The Acting Speaker: Is there unanimous consent to move a motion to adjourn the House? Agreed.

Government House leader, move the motion.

Hon Mr Duncan: I move that the House be now adjourned until regular business tomorrow.

The Acting Speaker: Is it the pleasure of the House that the motion carry? Carried. This House stands adjourned until tomorrow morning at 10.

The House adjourned at 1932.

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

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