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of Debates
(Hansard)**

**Journal
des débats
(Hansard)**

Tuesday 7 June 2005

Mardi 7 juin 2005

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

Tuesday 7 June 2005

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

Mardi 7 juin 2005

*The House met at 1330.
Prayers.*

ESTIMATES

Hon. Gerry Phillips (Chair of the Management Board of Cabinet): I have a message from the Honourable Lieutenant Governor, signed by his own hand.

The Speaker (Hon. Alvin Curling): The Lieutenant Governor transmits estimates of certain sums required for the services of the province for the year ending March 31, 2006, and recommends them to the Legislative Assembly.

MEMBERS' STATEMENTS

RURAL ONTARIO

Mr. John Yakabuski (Renfrew–Nipissing–Pembroke): If I have said it once, I have said it a thousand times: The McGuinty Liberals have turned their backs on rural Ontario. Time and time again we've seen legislation and over-regulation encroach upon the rural way of life. It has hurt our local economies and industry. Even rural health and education always come as a last priority to a government more concerned with its urban agenda. Made-in-Toronto policies do not work in rural Ontario. As we continue see, rural livelihoods are being damaged by a government that clearly couldn't care less.

I've received a report from the Renfrew County Coordinating Committee for Rural Action, a group comprised of various organizations that represent rural interests. This committee has prepared an insightful report entitled *The Rural Ontario Challenge*, which I've mailed to all members of this Legislature. It highlights many of the problems in rural Ontario and expresses the extreme frustration of rural Ontarians, that their concerns have been forgotten and their problems ignored. They discuss in their report specific items that span everything from environmental issues to a lack of support for our farmers to unfair and excessive taxation. Ultimately, they stress that their wealth, their livelihood and the values of rural Ontario are under attack, and this is wrong.

I would ask all members of this House to please review *The Rural Ontario Challenge* and respond to the committee with their comments. Something must be done immediately to rectify the wrongs of this government and

its attitude toward rural issues. I ask all members of this House today to give this report their full attention.

POST-SECONDARY EDUCATION

Ms. Judy Marsales (Hamilton West): I'd like to take a moment today to talk about the achievements our government has made in providing greater opportunities for young Ontarians seeking to obtain a higher education through funding our colleges and universities to enhance apprenticeship programs, college equipment and facilities.

MaryLynn West-Moynes, president, Mohawk College of Applied Arts and Technology, says: "On behalf of Mohawk College ... our staff and students, I am writing to thank you for the investment your government has chosen to make in post-secondary education. The courage to put postsecondary education in the forefront demonstrates a clear sense of priorities."

In this year's budget, the McGuinty government made an unprecedented funding announcement of \$6.2 billion for postsecondary education, which represents the most significant increase to postsecondary funding in 40 years. We need to ensure that our colleges and universities are able to provide the best resources for our students. This funding will help our colleges achieve that goal.

I want to applaud the good work being done at Mohawk College to train and educate the next generation of hard-working people from my community and across Ontario. Young people who consider a career in a skilled trade have a prosperous future ahead, and I'm proud to say that I come from a community that has produced so many of those great workers over the years.

Mohawk College will also benefit from funding through the modernizing college equipment fund and the allocation of funding through the facilities renewal allocation program.

HIGHWAY CONSTRUCTION

Mr. Tim Hudak (Erie–Lincoln): If the government really wanted to have successful implementation of its greenbelt legislation in Niagara, it would invest in two major transportation corridors: the mid-peninsula highway as well as the 406 south. The members opposite know that if they freeze growth in the north, the grow south initiative should be supported 100 percent, which includes four-laning Highway 406 and expanding it to Port Colborne.

Unfortunately, to date the minister has only responded with platitudes on these highways, with vague commitments and referrals to studies that were completed as far back as 2001 for the mid-pen and design for the 406 expansion to four lanes in September 2003.

As I've said in the House many times, as my colleague from Niagara Centre has said many times, extending the 406 to Port Colborne, expanding it to four lanes down toward Welland, is an essential investment. This should not be lost on my colleagues opposite. I know the minister for infrastructure renewal is going to be very supportive of this initiative. We're calling on him to announce it very soon, because other highways like the 401, 417, 404, 427, 402—the entire series of 400-series highways—got specific mention in the budget except for—

Interjections.

Mr. Hudak: All right, except for the 406 and maybe the 420, but the other ones did. It's up to 27,000 cars a day, the busiest stretch of two-lane highway in the province. It will complement the mid-peninsula corridor as well. I call upon the McGuinty government to actually get moving on these two important projects.

RICHARD POTTER

Mr. Ernie Parsons (Prince Edward–Hastings): I would ask that the House join me in welcoming back, in the members' east gallery, Dr. Richard Potter. Dr. Potter in his first 91 years has accomplished a great deal: exemplary service during World War II overseas, mayor of Belleville, beloved family physician, and MPP for Quinte from 1967 to 1975. During that time, in the Bill Davis government, Dr. Potter served as Minister of Health, and continues to be recognized and applauded for his accomplishments.

It has been said by many that Dr. Potter is the father of home care, something of which he should be very proud. We had the opportunity today to have lunch with the current Minister of Health, and everyone will be pleased to know that he has endorsed what the current Minister of Health is doing, so we appreciate the all-party support on this issue.

Dr. Potter continues to make our province a better place to live. He continues to be actively involved in his community, actively giving advice and suggestions, and I very much appreciate it. Sitting to his immediate right, I would also welcome back Mr. Hugh O'Neil, former MPP for Quinte and former cabinet minister. It has been an absolute delight to have them with us, and I hope Dr. Potter will return.

1340

NEWBORN SCREENING

Mr. John R. Baird (Nepean–Carleton): I'm pleased to rise in support of advancing the cause of newborn screening in the province of Ontario. Last week, on June 1, John Adams and a number of parent advocates

visited Queen's Park to talk about the importance of screening more young babies for serious disease. They were really giving Ontario a call to action to fill the gaps in newborn screening and to develop an inclusive and comprehensive system for saving babies from rare but serious conditions which can do these newborns great and serious harm.

If we look at the diseases that we screen for in children—we have a newborn screening program in the province of Ontario. I have the form right here today. If we advance just a few more tests, we could save lives and save many newborns in Ontario from very serious conditions.

Through the screening initiative which was first begun in the 1960s through a private member's bill by Stephen Lewis, Ontario was at that time at the forefront of newborn screening. The sad reality is that Ontario has now fallen behind 44 different states in the United States. The parent advocates and medical physicians who were here last week are calling on Ontario to expand newborn screening so that we can save even more lives and have a greater quality of life for those children who are tested.

I have a private member's bill, Bill 101, that will accomplish just that. It was a bill that was first introduced by the member for Windsor, the now Minister of Energy. Bill 101 would do a terrific amount of good to support this initiative. It would ensure that every child is tested. The cost of this testing could be as little as \$25 to test a child. I think \$25 could be spent in no better way than on an expanded newborn screening system. Ontario must once again rise to the top of North America and not sit at the bottom.

AIR QUALITY

Ms. Marilyn Churley (Toronto–Danforth): A just-released Toronto Public Health study, done with the federal government and McMaster University, cites that air pollution is killing 822 people a year in Toronto. The transportation sector was identified in the study as the most significant contributor to smog in Toronto—surprise, surprise. It is time that the McGuinty government started putting its money where its mouth is and started funding transit at the levels required to begin to bring down levels of air pollution.

The TTC transports 1.4 million riders per day, and GO Transit moves about 170,000 riders per day, yet the TTC and GO Transit are among the least-supported transit systems in North America. In 1992, the provincial government was responsible for 80% of the total costs of GO Transit, whereas the fare box accounted for the other 20%. But in 2003, this has been reversed, with the government being responsible for only 20% and the fare box funding 80% of the costs.

Government must fund transit; this government must fund transit. The government's land use planning initiatives, both the greenbelt and the Places to Grow legislation, are failing to curb urban sprawl. The northern boundary of the greenbelt in south Simcoe county has

become the Wild West of land development and speculation, and thus leapfrog development is contributing to more urban sprawl. The Places to Grow legislation talks the talk but doesn't walk the walk. There are new major highways and road extensions into and around the greenbelt to fuel further sprawl.

We need a coordinated transportation and land use planning strategy to curb sprawl, and we need it now to prevent those premature deaths in Ontario.

GOVERNMENT'S RECORD

Mr. David Oraziotti (Sault Ste. Marie): As we near the conclusion of this year's spring session, it gives us an opportunity to reflect on the achievements of our government and, as the member for Sault Ste. Marie, the achievements in my community. In less than two years, we have made record investments in the key areas of health care and education, strengthened our economy through partnerships in the auto sector and passed greenbelt legislation to protect our environment. Where past governments have failed to protect our public services and failed to be accountable with Ontario's finances, we have put our province on a more solid financial footing by reducing our deficit by \$2.5 billion this year.

Clearly, the path Ontarians are on today, with peace and stability in the education sector, greater access to our colleges and universities, a steady reduction of wait times in health care and confidence in our economy gives us all a greater sense of hope about our future.

In my riding of Sault Ste. Marie, our investments are making a significant difference. The functional plan of our proposed \$200-million hospital has been approved, with a radiation therapy bunker. The Group Health Centre has a new contract worth \$26 million. Our \$5.6-million investment will help complete a truck traffic link to the Sault Ste. Marie International Bridge. A \$3.7-million provincial investment will be put toward the construction of a new, multi-purpose entertainment and sports facility, and a \$1.5-million investment from the northern Ontario heritage fund will help assist a new flakeboard plant to open this summer, creating additional jobs.

I think all Ontarians can be proud of the progress we have made and will continue to make over the next several years.

HEALTH CARE

Ms. Laurel C. Broten (Etobicoke-Lakeshore): When we came to office, Ontarians expected us to clean up the incredible mess in our health care system. Our underserved communities had been ballooning for years, and over one million Ontarians had been left without access to a family doctor or to basic levels of care. Wait times just seemed to be getting longer and longer. Nurses and doctors were fleeing the province because they faced a government that treated them as a secondary concern to tax cuts. Our long-term-care homes went

without inspections for disgraceful lengths of times, and the residents were denied the basic dignity and respect they deserved.

In an effort to improve and protect universal health care in Ontario, we passed the Commitment to the Future of Medicare Act and banned pay-your-way-to-the-front-of-the-line health care. We have provided \$2.2 billion to hospitals since we took office. We have invested in over 3,000 full-time nursing positions. We've made historic investments in community-based care programs such as home care and community mental health. We've restored standards in our long-term-care homes, and we're hiring more staff and creating an environment where our seniors are treated with the dignity and respect they deserve. We're executing a plan to encourage doctors to work in teams to provide greater access to health services to Ontarians. We have unveiled a comprehensive wait time strategy.

We have not cowered in the face of these challenges. Rather, we have taken on this task with the courage, dignity and tenacity expected of a government by the people of Ontario. We're producing real results for Ontarians, Mr. Speaker, and I'm pleased to tell you that we will continue to do so over the rest of our mandate.

VENDING MACHINES IN SCHOOLS

Mr. Dave Levac (Brant): When the Minister of Education announced last November that all junk food and unhealthy beverages would be removed from elementary school vending machines across the province, this Liberal government took a very important step toward making our schools healthier places for our children and their learning.

It is often said that imitation is the sincerest form of flattery. I'm pleased to inform the members of this House that other jurisdictions are following Ontario's strong example by eliminating junk food from their schools—not California, though. Take Connecticut, for example. Two weeks ago the state Legislature voted to ban the sale of junk food and soda pop products in all its public schools. I'm told that some state representatives opposed this move, claiming that the government had no right to encourage young generations to make wiser choices about eating habits. They were satisfied with the status quo: school vending machines full of candy and chips and sugary drinks by the handful at every recess and every lunch hour. They didn't see a need for the government to take a step to make their schools healthier places for students to learn and grow. Does that sound familiar?

We on this side of the House know that it is our job to give our kids the best possible choices and a fresh start in life. Unlike our Conservative predecessors, we're not content to sit idly by while our children make unwise choices about nutrition and active living—choices which will have a lifelong impact on their well-being. We know we can do better, and for the sake of our future generations, we've created change that's working for our children.

VISITORS

The Speaker (Hon. Alvin Curling): I have the distinct pleasure of introducing two outstanding former members from the riding of Quinte: Dr. Richard Potter, of the 28th and 29th Parliaments, who is also the former Minister of Health, as someone indicated here earlier, and the former Minister of Tourism and many other ministries, Mr. Hugh O'Neil, of the 30th to 35th Parliaments. Please welcome them both here today.

REPORTS BY COMMITTEES

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLY

Mr. Bob Delaney (Mississauga West): I beg leave to present a report from the standing committee on the Legislative Assembly and move its adoption.

The Clerk-at-the-Table (Ms. Lisa Freedman): Mr. Delaney from the standing committee on the Legislative Assembly presents the committee's report as follows and moves its adoption:

Your committee begs to report the following bill without amendment:

Bill 133, An Act to amend the Environmental Protection Act and the Ontario Water Resources Act in respect of enforcement and other matters.

The Speaker (Hon. Alvin Curling): Shall the report be received and adopted? Agreed.

The bill is therefore ordered for third reading.

1350

INTRODUCTION OF BILLS

ENDING MANDATORY RETIREMENT
STATUTE LAW AMENDMENT ACT, 2005LOI DE 2005 MODIFIANT DES LOIS
POUR ÉLIMINER LA RETRAITE
OBLIGATOIRE

Mr. Bentley moved first reading of the following bill:

Bill 211, An Act to amend the Human Rights Code and certain other Acts to end mandatory retirement /
Projet de loi 211, Loi modifiant le Code des droits de la personne et d'autres lois pour éliminer la retraite obligatoire.

The Speaker (Hon. Alvin Curling): 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 it.

Mr. Bentley?

Hon. Christopher Bentley (Minister of Labour): I'll defer till ministerial statements.

MOTIONS

PRIVATE MEMBERS' PUBLIC BUSINESS

Hon. David Caplan (Minister of Public Infrastructure Renewal): I seek unanimous consent to put forward a motion without notice regarding private members' public business.

The Speaker (Hon. Alvin Curling): Do we have unanimous consent as requested by the minister? Agreed.

Hon. Mr. Caplan: I move that pursuant to standing order 96(g), notice be waived for ballot item 76.

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

STATEMENTS BY THE MINISTRY
AND RESPONSES

MANDATORY RETIREMENT

RETRAITE OBLIGATOIRE

Hon. Christopher Bentley (Minister of Labour): Today the McGuinty government has introduced legislation that would end the practice of mandatory retirement. This legislation recognizes what we all should already know: Your skills, ability, drive and determination do not stop once you turn 65. It recognizes that those who are 65 and older should enjoy the same right to earn a living and contribute to society as those who are younger.

We have presented legislation that would end mandatory retirement while not undermining existing pension, benefit and early retirement rights. Ours is a fair, reasonable and rational approach that will not undermine those benefit, pension and early retirement rights that so many depend on.

People should have the right to choose their life's paths to as great an extent as possible. The right to choose should not be restricted only to a few, such as politicians and the self-employed.

Dans la mesure du possible, nous devrions tous avoir le droit de choisir le parcours de notre vie. Le droit de choisir ne devrait pas être restreint à une minorité de gens comme les travailleurs indépendants et les hommes et femmes politiques.

Someone who is 64 years and 364 days old does not become disposable just because a calendar page flips.

Sir John A. Macdonald was 76 when he was elected Prime Minister for the last time in 1891 from, I recall, Kingston. Long-serving New Democrat MP Stanley Knowles was last elected at age 71. Ed Broadbent, the former leader of the federal New Democratic Party, ran successfully in the last federal election at 67. When Winston Churchill became Prime Minister of Great Britain at the height of the country's wartime peril, he

was 65; Nelson Mandela, President of South Africa at 77; and it goes on.

Back in 1966, age became a prohibited ground of discrimination in employment, but not for individuals aged 65 or older. While that was considered appropriate in 1966, we don't consider it so today.

In June 2001, the Ontario Human Rights Commission released a paper entitled *Time for Action: Advancing Human Rights for Older Ontarians*. In it, the commission asserted that mandatory retirement policies undermine the dignity and sense of self-worth of older workers. The commission called for a change to the definition of "age" in the Human Rights Code to end mandatory retirement.

It was a timely paper. When the Human Rights Code was first enacted, the so-called baby boomers were still children or teenagers. The demographic situation then was significantly different than the one we have today.

Ontario, like many jurisdictions, currently has an aging workforce. There are 1.5 million seniors in Ontario today. By 2028, we expect that number to be about 3.2 million seniors—more than double. In 2002, 36% of the total working-age population in Canada, those between age 15 and 64, fell within near retirement age of 45 to 59. That share is expected to grow to 39% by 2006.

Mandatory retirement is an outdated concept in the context of a society where we live longer and healthier lives.

A report recently prepared for StatsCan indicated that, while many Canadians want to retire before they reach 60, many older Canadians choose to, or need to, continue to work.

A recent international survey by the HSBC international banking group revealed that people around the world overwhelmingly believe they should have the right to work until any age they choose.

Some people simply cannot afford to retire. About one third of working women feel financially unprepared for retirement, compared to 29% of working men. Also, people who support and care for other family members may need to continue working.

Our research has shown that while ending mandatory retirement gives people choice in their lives, it also has no negative consequences for younger workers. Other jurisdictions that have ended mandatory retirement have not seen a resulting stagnation in employment opportunities for young people. In fact, there's a trend over recent years to earlier retirement. The average retirement age has in fact decreased.

Every worker would have the choice whether to work, but not every worker would exercise that choice. Approximately 100,000 people reach 65 every year, but some have estimated as many as 4,000 would actually continue to work.

We recognize that ending mandatory retirement is a significant societal shift, both in attitude and practice. There are a lot of issues and concerns, a lot of positions to consider. And we have considered the issues in a fair, reasonable and prudent way.

I would like at this moment to recognize the hard work of my parliamentary assistant, Kevin Flynn from Oakville, who conducted the public consultations.

Our legislation would, if passed:

- amend the code to ensure that people 65 and older could not be forced to retire;

- provide a one-year transition period to allow workplaces to prepare for this change. The legislation would be effective one year after receiving royal assent;

- prohibit collective agreements from including mandatory retirement. Mandatory retirement provisions in existing agreements would no longer be enforceable once the legislation took effect;

- the "bona fide occupational requirement" provisions permitted under the code will continue. By that, we mean employment requirements or qualifications that are necessary for the performance of essential job duties. This would not undermine, as I indicated, the age at which individuals could collect, for example, from the Canada pension plan.

We have listened to the very important public consultations that have been conducted. We've worked carefully in writing this legislation. As a government, we believe the legislation placed before the House today provides comprehensive, fair and equitable ways of meeting the issues and challenges that have been identified.

I ask all members of the House to give this bill speedy consideration. Let us give those who turn 65 the right to choose whether they will work or not, the same right those not yet 65 take for granted. It is the right thing to do.

1400

ABORIGINAL AFFAIRS

AFFAIRES AUTOCHTONES

Hon. Michael Bryant (Attorney General, minister responsible for native affairs, minister responsible for democratic renewal): Since the fall of 2003, the McGuinty government has been developing the principles of a new relationship with aboriginal peoples in Ontario, a relationship built on co-operation and mutual respect.

I'm very pleased to stand before the House and announce that this morning the McGuinty government presented Ontario's new approach to aboriginal affairs to representatives of Ontario's aboriginal community. In 2004, we sought input from aboriginal leaders and service providers in Ontario about their hopes and their priorities. The input from these discussions form the basis of the new approach.

Le gouvernement McGuinty fait participer les collectivités et organisations autochtones aux décisions qui ont une incidence sur leur vie.

I would like to thank aboriginal leaders, heads of aboriginal organizations and all aboriginal people who participated in these discussions and provided valuable input. I would like to thank all my colleagues for their support of Ontario's new approach to aboriginal affairs.

At the heart of our new approach is the recognition that together we must create a better future for aboriginal children and youth. By investing in the younger generation, we can nurture hope; we can create a better quality of life for all aboriginal people in Ontario.

We begin by investing in relationships with aboriginal people. On April 7, members of this cabinet and parliamentary assistants met with First Nations leaders. We will do so again in the winter and twice a year after that.

We will be setting regular forums like these with all our aboriginal partners. We will work to address Metis issues in an appropriate forum, and I'm also proud to announce a new northern table to address the unique challenges and opportunities of aboriginal communities in northern Ontario. This Friday, June 10, Minister Ramsay and I will be sitting down with our First Nations partners and our federal counterparts to begin meaningful discussions about improving the lives of aboriginal people in Ontario.

The McGuinty government is also moving forward in tandem with our aboriginal partners on initiatives in the areas of education, justice and health. We are working with aboriginal people in Ontario to develop a new aboriginal justice strategy, an education policy that will make a real difference to aboriginal students and communities, and we're working with aboriginal leadership to improve the health of aboriginal people by reducing incidence of smoking and increasing the number of healthy activities available to aboriginal communities.

Our government is committed to developing and implementing guidelines on consultation with aboriginal people in Ontario for the first time to foster better relationships, to meet our legal and constitutional obligations and to provide certainty to industry throughout Ontario.

We crafted these initiatives because they reflect the priorities of aboriginal communities and they are our priorities too. This government wishes to strengthen aboriginal communities, and we want a better, brighter future for aboriginal children and youth.

Aboriginal youth are the fastest growing segment of the Canadian population. More than 50% of aboriginal people in Ontario are under the age of 27. We cannot ignore those facts. We cannot ignore the plight of aboriginal communities, and we must prepare our children for the future. To do so, Ontario is supporting a new program to benefit aboriginal children and youth aged seven to 15. Discussions have already begun between the Ministry of Children and Youth Services and the Ontario Federation of Indian Friendship Centres to support the creation of this new program. It has received the support of a number of ministries, without which we could not do this.

In short, this government is taking action to improve the lives of aboriginal children and youth. We are working to create stronger aboriginal communities by investing in the aboriginal community capital grants program. We are investing in relationships because this government believes that by working together we can improve the quality of life for aboriginal people today.

We are seeking achievable results. We are seeking to work with First Nations, aboriginal communities and organizations in Ontario to identify where real progress can be made to demonstrate measurable improvements to aboriginal people.

It is a new era in Ontario-aboriginal relationships. We are working together to find aboriginal solutions to aboriginal issues.

ART GALLERY OF ONTARIO

MUSÉE DES BEAUX-ARTS DE L'ONTARIO

Hon. Madeleine Meilleur (Minister of Culture, minister responsible for francophone affairs): Earlier today, the Art Gallery of Ontario officially launched Transformation AGO, a campaign to fund its extraordinary cultural expansion project.

C'est avec plaisir que j'ai assisté à ce lancement, où il a été annoncé que 180 \$ millions avaient déjà été obtenus auprès des secteurs public et privé. Notre gouvernement a joué un rôle important dans cette campagne en faisant une contribution de 24 \$ millions. Parce que nous avons débloqué ces fonds au début de la campagne, notre contribution a inspiré d'autres donateurs à suivre notre exemple.

The city of Toronto is experiencing a cultural renaissance with several major cultural expansion projects underway. Transformation AGO is a tremendous win for the province of Ontario and will contribute to that renaissance celebration upon its completion in spring 2008.

We believe that Transformation AGO will reinforce the gallery as a pre-eminent cultural institution, and draw visitors from around the world. Transformation AGO builds on the historic gift of 2000 works of art from Ken Thomson's private art collection and an innovative design by internationally celebrated architect Frank Gehry. Through Transformation AGO, the gallery will be enlarged by 97,000 square feet, and viewing space for art will increase by 47%.

As an international cultural destination, the transformed AGO will forge a new model for art galleries through expanded collections, interactive displays and dynamic behind-the-scenes access to education, conservation and research.

Ontarians are proud and honoured by these incredible developments which increase our appreciation of the works of art and introduce new admirers to them. Transformation AGO will enrich and improve our quality of life.

I encourage you to join me in extending our government's congratulations on a successful campaign thus far and best wishes for its conclusion. I hope that the people who are listening to us today will contribute to the campaign; it's money well invested.

The Speaker (Hon. Alvin Curling): Responses?

MANDATORY RETIREMENT

Mrs. Elizabeth Witmer (Kitchener-Waterloo): I'm very pleased to respond to the announcement made today

by the Minister of Labour regarding mandatory retirement and the end thereof. I guess the question I would have for the minister is, what has taken you so long? Our government two years ago introduced Bill 68, an act to do exactly that. It was introduced by the Minister of Citizenship, the Honourable C. DeFaria. Two years later, we have the introduction of a bill.

If this bill had actually been approved, it would have come into law in January of this year and we already would be in a situation where we would have eliminated mandatory retirement. Having said that, we do support this initiative, obviously. We believe it's extremely important that everybody in this province have the opportunity to make the choice about when they would retire from work. It's particularly important for many women, immigrants and others who have maybe come into the workforce later in life and simply don't have the financial resources or pensions that would enable them to retire earlier. We also know that many people today live much healthier, longer lives. This provides them with an opportunity. We appreciate that this bill has been introduced today.

ART GALLERY OF ONTARIO

Mrs. Julia Munro (York North): Certainly, I would also want to echo the congratulations provided by the minister on today's announcement. It is also an opportunity to look back at some extremely important investments that were made by the previous government. I'm reminded that my seatmate, the member for Erie-Lincoln, was the former minister who began this process. I'm very proud to have been the parliamentary assistant for culture when the culture minister, Dave Tsubouchi, announced \$24 million in SuperBuild funding for AGO's rebuilding. So it matches, then, with today's announcement.

1410

It's also interesting to note the minister has made comment about the kind of investment that this initial investment produced. In 2002, as the government we were able to report to this House that we had invested \$233 million jointly between the federal government and the provincial government through the Canada-Ontario infrastructure program to help Toronto's seven most important cultural institutions, including obviously the AGO.

Our caucus understands the importance of Toronto's cultural institutions, recognizes how important they are to our economy and also sees the opportunity to become world leaders in that renaissance. I also think that this announcement demonstrates the wisdom of our earlier investment. But I would just caution the minister not to rest at this point, because I'm not sure that "Build it and they will come" is operative in this context. I don't believe so. I believe that we have an opportunity, then, to provide the kind of marketing and the kind of tourist opportunities that these investments will provide for generations to come.

ABORIGINAL AFFAIRS

Mr. Norman W. Sterling (Lanark-Carleton): In the absence of Mr. Tascona, I would like to respond to the minister for aboriginal affairs and say to him that we welcome any new process which will show progress toward solving the many problems that our aboriginal communities face. I do want to say, however, that I disagree with some of his premises that nothing has been done for so long.

I can remember sitting at the table with William Davis at the constitutional conferences back in 1982 and 1983 when Mr. Davis led the fight for the aboriginal community to be included in our Constitution. That, of course, has sprung their continual fight for recognition and for inclusion in our government.

We welcome any new process that will enhance the solving of problems in our aboriginal communities. It is a goal which all parties have striven to meet when in government, and we only wish the Attorney General well in his endeavours as well.

MANDATORY RETIREMENT

Mr. Peter Kormos (Niagara Centre): Hard-working women and men across this province in Ontario's mines, its pipe mills, its steel mills, its forests and its auto factories have fought hard over the course of generations for not only a fairer share of the wealth that they create but for good pensions and for the right to retire at an earlier age than their parents so that they didn't drop to death in the workplace but rather were able to spend their senior years helping raise grandkids and doing the things that their 40-hour, 50-hour and 60-hour workweeks prevented them from doing.

I come from a family that witnessed its grandparents die at work and watched its parents in that very fight in the workplace for the right to retire at an early enough age that there were some retirement years with dignity and with a decent quality of life.

The solution to the crisis in grossly underpaid minimum-wage workers in this province, the solution to the crisis in the growing number of workers who don't have access to a pension, the solution in the crisis of underfunding of pension plans isn't to tell workers, "Well, continue to work until you are 70 or 80 years old." No, the solution is to address those matters, and New Democrats are going to stand firmly with working women and men and their trade unions in insisting on workers receiving a fairer share of the wealth that they create; in insisting that workers across this province, all of them, have access to defined benefit pension plans; in insisting that workers across this province have access to retirements at an early enough age that they can enjoy those retirements and look forward to years living and enjoying life and quality of life with their grandkids, with their great-grandkids, doing volunteer work in their communities, travelling, doing the recreational and social things that, as I've indicated already, are denied so many

working people. This government believes in working longer and working for less. New Democrats are going to stand with workers to insist that technology and the enlightened environment of 2005 operate to their benefit, not to their detriment.

Ms. Andrea Horwath (Hamilton East): How galling it is that the Minister of Labour chooses Seniors' Month to introduce legislation that will keep people working into their 70s and 80s: not legislation to ensure the economic security of Ontarians as they enter their retirement years, instead of abject poverty—

Interjections.

The Speaker: Order. Could I have some co-operation, please, while the member gives her response?

Mr. Rosario Marchese (Trinity–Spadina): Stop the clock.

The Speaker: I'll be sure to make up for the time you've lost.

Ms. Horwath: —not legislation to protect erosion of pensions by inflation, so people can depend on a decent quality of life in their golden years; not changes to the Pension Benefits Act and the pension benefits guarantee fund to protect the pensions of Ontario's retirees and people approaching retirement; not real pension reform, knowing full well that 60% of people do not have a pension to retire on, knowing that 80% of workers in the province of Ontario and the private sector do not have a pension they can rely on when they retire.

Shame on this minister for not dealing with the real issues in this province around pension reform. I say to anybody watching this announcement today on mandatory retirement: Be bold in what you stand for, but careful of what you fall for. That's from Ruth Boorstin, an editor.

ABORIGINAL AFFAIRS

Mr. Gilles Bisson (Timmins–James Bay): In French, we have a saying, and that is, "Plus ça va, moins ça change." Translated into English: "The more it goes, the less it changes."

Today, we had the minister responsible for native affairs standing up in the House saying, "Last year, we made a commitment to meet with Ontario aboriginal leaders once the government's new policy on aboriginal affairs was complete. This morning, we delivered."

You don't have to be a brain scientist to figure out what needs to be done in aboriginal communities around this province. For example, this government could quite easily pass Bill 97, or at least allow it to come for a vote in this House, so communities can share in revenues of development in their own backyard when it comes to mining and forestry policy. Those particular projects would be able to assist those communities.

I ask the minister and the Minister of Public Infrastructure Renewal, how many COMRIF applications did this government approve for First Nations in the latest round? Not one. We have communities that have failing water and sewer systems that don't work, and they sit

there and say, "That's federal responsibility." If you want to have a new relationship, it would be a great place to start.

You can do something really simple: The minister responsible for birth certificates could allow what Mr. Hampton and I have been asking for, which is that First Nation chiefs be able to sign birth certificate applications so they can register children so they can qualify for benefits. Instead, they have done nothing: more consultation, more big hugs, more "I love you," but no action.

VISITORS

Mr. Tony Ruprecht (Davenport): I have a point of order: We have some very important special guests with us: the president of the Canada-China Overseas Exchange Association, Mr. Tony Luk, and with him, the winner of the top 10 environmentally friendly building design award from China, in Shanghai, Mr. Meng Xian Ling.

The Speaker (Hon. Alvin Curling): The long-standing member from Davenport knows that's not a point of order.

ORAL QUESTIONS

LOCAL HEALTH INTEGRATION NETWORKS

Mr. John Tory (Leader of the Opposition): My question is for the Minister of Health. For many months, we've been asking you questions about your new regional health care bureaucracies, which you call local health integration networks, and so far, very few answers have been offered.

As you said in September 2004, the so-called LHINs are key to your health transformation agenda. Will you now agree with me that it is unclear how your Ministry of Health will manage the complex fiscal implementation and stakeholder issues associated with bringing LHINs on-line, and that there's insufficient detail regarding your restructuring plans?

Hon. George Smitherman (Minister of Health and Long-Term Care): No, I would not agree with the assertion by the honourable member.

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Mr. Tory: That, of course, is the most direct answer ever received in this House.

I would point out to the minister that the words I read were not words that came from the Leader of the Opposition or from anybody in the PC Party. They came directly from page 1 of this cabinet submission, leaked by your ministry, highlighting the fatal flaws of your own scheme to implement your new regional health bureaucracies.

Fresh from revelations that you're spending \$27 million of the taxpayers' money to fire 150 local health

officials, now we see, according to these documents, that you're spending an additional \$52 million to hire at least 560 new bureaucrats, who will do absolutely nothing to improve front-line health care. Minister, is this what you consider value for money for the Ontarians who are paying double the health tax this year: tens of millions of dollars spent to fire and then hire hundreds of bureaucrats?

Hon. Mr. Smitherman: I would think there'd be some value for money provided if the Tory researchers could get the odd number right. Evidence of the inadequacies of the honourable member and his staff come, just as an example, in his reference to the issue of severance costs related to district health council employees.

Yesterday in this House, your seatmate, herself a former health minister, used the same figure that you've repeated today, even though there has been plenty of evidence offered that the figure was inflated by more than \$12 million.

Mrs. Elizabeth Witmer (Kitchener-Waterloo): It's your cabinet document.

Hon. Mr. Smitherman: Well, do you want to deal with reality or some numbers that were put down on a piece of paper?

I answered the question very, very clearly yesterday. The costs associated with the wind-down of district health councils amounted to \$15.9 million, and associated with that is a reduction in 184 employees.

Mr. Tory: Not that I answer this member's questions, but if we have a choice between believing the public service of Ontario in a cabinet submission or believing the information you come in here and make up, we'll take their numbers 10 times out of 10.

Let's read another quote from Management Board's condemnation of your proposal to hire 560 new health bureaucrats with their hard-earned money: "There is insufficient detail regarding: restructuring plans for regional offices; whether a full impact analysis on ministry, provider and community stakeholders has been done; how the ministry will coordinate a network of 14 LHINs into a provincial system, etc."

Minister, Management Board is saying that you have not done your homework on this. Will you now admit that your scheme to impose regional health bureaucracies is fatally flawed and does not provide value for money for Ontarians, who are paying twice the health tax this year as they did last year?

Hon. Mr. Smitherman: No, I won't, because I'm not one of those who's going to come face to face with a challenge and back down from it.

The reality is, in the Ontario health care system, we use the—

Interjection.

Hon. Mr. Smitherman: There is the heckling—decorum in the House from the member who has already said he's out of here. Well, maybe he should just go now.

The point is, in the Ontario health care system, we haven't been performing like a system at all. So our government is doing the thing that other health ministers

from previous governments, from your party, have said that they think is the right thing to do, and that is, for the first time in the history of Ontario, to bring together planning with the coordination around local service delivery and important decisions around what local priorities are.

As local health integration networks come to life, what you see for the first time in the province of Ontario is a coordinated strategy around the delivery of health care living up to the word "system," and for the very first time, taking powers from the Minister of Health and pushing them down to the community level, where decisions around important local priorities are going to be made.

HEALTH CARE

Mr. John Tory (Leader of the Opposition): We'll believe that when we see it from the originator of command and control at the centre. What people will see when they see this LHIN, as the minister just talked about, is something, but something we can't afford.

Page 2 of your leaked cabinet document shows that you have secretly ordered the consolidation of 42 community care access centres, the organizations that provide home care services. This very document, the cabinet document, shows that another \$50 million in severance costs, \$14 million in legal costs and another \$25 million in wage costs will be needed to close and consolidate these centres. This is another \$90 million going into your hiring and firing and legal costs, not going into patient care. None of it is being used to hire nurses or doctors or to fund hospitals. Is this what you had in mind when it came to putting every single penny of your health tax into health care?

Hon. George Smitherman (Minister of Health and Long-Term Care): The honourable member offers further evidence of his lack of preparation for today. He claims there is some hidden agenda with respect to the role of—oh, the Tory staffers over on the side are waving their paper around and acting inappropriately, just like their leader over here, John Baird.

The reality is, there is no secret about this. The Ontario Association of Community Care Access Centres has, for months and months now, been playing an active role, working with local CCACs on a plan to consolidate in line with local health integration network boundaries. The member's suggestion that this was some secret process is further evidence yet of his lack of preparation for today and the sheer price that is to be paid for a political party that doesn't have a health critic.

Mr. Tory: Well, the minister is certainly stretching when he talks about whether we have a health critic or not. I notice one thing he didn't do was to repudiate a single one of the numbers that I mentioned.

Let's add it up. It's based on a Liberal cabinet document—not something that came out of our opposition research offices anyway. What we know is that taxpayers are being forced to pay \$90 million to consolidate home care services, \$27 million to fire and potentially rehire

local health officials and \$52 million to hire over 500 new bureaucrats, not to mention the \$91 million you spent to fire nurses, paying them not to come to work, or whatever you call it. These are all from sources within your own ministry who are blowing the whistle on you. It adds up to a quarter of a billion dollars that Ontario taxpayers will not have available in their health care system because you're spending it on lawyers and bureaucrats. Do you think this is what they wanted you to do with their money?

Hon. Mr. Smitherman: The honourable member, in his very question, said that I haven't verified any of the numbers. That's because I'm not going to substantiate these numbers that have come from a cabinet document that the honourable member says has been signed and sent by me. I'm not standing in support of a document that I have not been provided with. I cannot suggest that it's evidence of anything except the honourable member's desire to operate off a document. If you want to provide it to me, I'm happy to work toward these numbers.

Here's what I can tell you with respect to community care access centre consolidation. We do expect, of course, that as we seek to consolidate community care access centres, there could be some disruption of employment for people. The laws of the province of Ontario dictate that we provide severance to those individuals. The numbers that the honourable member has spoken about are dramatically inflated.

Mr. Tory: I guess, if they're dramatically inflated, you'd come to this House and share exactly on all of these accounts: the hiring and firing in connection with the district health councils, the hiring and the firing in connection with the LHINs, the legal costs, the Xerox costs and the lease costs. Maybe you'll come in and give us exactly what those numbers are. If you're so sure my numbers are wrong, then come in here, bring those numbers here tomorrow and provide those to the taxpayers of Ontario.

While you're at it, maybe I could ask that you bring to us the accountability plan, which you were told to have and that you don't have, a way to measure performance, which you were told to have and you don't have, and a way to stay on schedule, which we certainly know you don't have. This whole thing is a shambles. Why don't you just start over again and admit that you're wasting tens of millions of dollars of taxpayers' money and not getting it to patients?

Interjections.

The Speaker (Mr. Alvin Curling): Order. Just one at a time. As soon as he completes, then you can do it.

Minister of Health.

Hon. Mr. Smitherman: The shambles comes from an honourable member who can't take fact for information. He wants information with respect to district health councils. Yesterday in this House, I provided it, and in the scrum subsequently, as is reported in the paper today. But I'm very, very happy—

Interjections.

The Speaker: The member from St. Catharines and the member from Nepean–Carleton seem to be engaging in talking across. I would like some co-operation—and also the Minister of Community and Social Services.

Minister.

Hon. Mr. Smitherman: Speaker, I'll ask a page to send this over to the honourable member. It confirms the information that I provided yesterday in the Legislature and in the scrum, as it relates to district health council.

The honourable member today again repeated information that he knows to be inaccurate. He predicted a number of \$24 million related to the cost of—

Mr. John R. Baird (Nepean–Carleton): On a point of order, Mr. Speaker: I would ask you to call the member to order. He said that the Leader of the Opposition was deliberately misleading the House.

Interjections.

The Speaker: Order. I'm just waiting for the Minister of Finance and the member for St. Catharines to come to a bit of order.

Minister of Health, you made some unparliamentary comments. Would you withdraw them, please.

Hon. Mr. Smitherman: I will withdraw those, Mr. Speaker.

I provided information in this Legislature yesterday and in the scrum subsequently that was reported in the media today, and today you chose again to come back with a number that had by then been proven to be inaccurate. You chose to do that.

Here are two numbers to try and help you along. DHC windup costs: \$15.9 million, 184 jobs. I'll send you a note with all of that detail.

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PENSION PLANS

Mr. Howard Hampton (Kenora–Rainy River): My question is for the Acting Premier. Across this province, when I go to workplaces what I encounter are workers who are trying to figure out how they can retire earlier with dignity and a decent pension. Today the McGuinty government introduced legislation that goes in the opposite direction, that says older workers can work longer and harder for less. Can you tell us why the McGuinty government has done nothing to ensure that workers will have a decent pension, that in fact they'll be able to do what they want to do, which is retire earlier in dignity, not work longer and harder for less?

Hon. Dwight Duncan (Minister of Energy, Government House Leader): The Minister of Labour.

Hon. Christopher Bentley (Minister of Labour): Today I was very pleased to be able to introduce legislation that will end the practice of mandatory retirement. This legislation will ensure that people who are 65 and over actually have the choice whether they continue to work or not. There are those opposed to choice, but for the individual workers out there who have not had the protection of the Human Rights Code, we think it's high time they had the right to make the decision for them-

selves and not have somebody else like the leader of the third party make it for them. It's the right thing to do. It will support respect, dignity and a sense of self-worth in all Ontarians. It's time we moved into the 21st century, not be stuck in the 19th.

Mr. Hampton: The McGuinty government talks about choice. The only real choice workers will have is when they actually have a pension and can look forward to some economic security when they want to retire.

I just want you to know a few things about Home Depot, where you made your announcement. Home Depot has no pension plan, and in the United States it's facing a class-action suit from older workers for denying pension benefits and for denying overtime pay. Here's how one older worker at Home Depot in the United States describes their job: "Over the weekend, myself and four other seniors were told by management that we have 15 days to bring up our numbers or else, on that 15th day, we will be terminated."

Is this the McGuinty government's idea of choice? Older workers with no pension plan working for low wages at Home Depot and being told, "Work harder or we'll terminate you"?

Hon. Mr. Bentley: Unfortunately the leader of the third party seems to have missed the point, which is about the choice of workers to have the right to decide for themselves whether they work or not. We are in Ontario. I was very pleased to be at Home Depot today to assist in making this announcement about the intended introduction of the legislation. Home Depot has respected the rights and abilities of workers who are older than 65. They've recognized that they can make a contribution. It was a feel-good announcement today.

The leader of the third party would want himself to make the choice for all older Ontarians. His answer is not going to assist the economic security of anyone 65 and over. He'll just deprive them of the right to work, and that does nothing for anybody's self-worth, dignity or economic circumstances.

Mr. Hampton: The issue for workers is that they want to be able to retire earlier. They want to be able to retire in dignity with a decent pension. If the McGuinty government was really interested in older workers, you would have brought forward legislation to ensure that more older workers can have a pension, you would have brought forward legislation to index that pension so it won't be eroded in terms of inflation, you would have brought forward legislation to index that pension so it won't be eroded in terms of inflation, you would have brought forward legislation ensuring pension portability, so that workers, as they move from one employer to another, can take that pension with them.

Your agenda has nothing to do with ensuring dignity and financial security for older workers. You're not talking here about freedom 55; the McGuinty government is talking about working longer and harder until you're 75. Can you tell me, how could you have missed the real agenda of older workers so badly?

Hon. Mr. Bentley: It's interesting: We get all these ideas about progressive moves from the NDP when they're not in power. Where were they when they were in power? Nowhere, absolutely nowhere. Remind me: Wasn't that the party that provided a pension holiday which places at risk the pensions of the very workers they talk about? Talk about undermining the economic security of the future of workers.

Today's announcement is about a human right: the right to decide for yourself whether you'll work beyond when you're 65. We will continue to work very hard to advance the rights of all Ontarians for better rights, better conditions, better wages, better pensions. But today's announcement wasn't about that; it was about the human right to decide for yourself whether or not you're going to work when you're 65. Why would the NDP deny that?

The Speaker (Hon. Alvin Curling): New question.

Mr. Hampton: To the Minister of Labour—the Minister of Labour wants to lecture people on human rights and choice. Tell me something: What choice is there when 60% of workers in this province have no workplace pension, when 83% of the workers who work in the private sector have absolutely no inflation protection? It seems to me that what you're offering seniors in terms of choice is exactly what Home Depot wants in terms of those 15 senior workers: "Come and work with no pension plan. Come and work for close to minimum wage. And if you don't work hard enough, we terminate you."

Where is the choice for all those workers in Ontario who don't have a pension? What is the McGuinty government doing for them?

Hon. Mr. Bentley: Once again, today's announcement, today's legislation is good news for all Ontarians. It's not the answer to every economic issue in the province. It is a historic advance, if passed, to support human rights and dignity for all Ontarians.

The fact is that Ontarians are retiring earlier, on average. The fact is that 100,000 Ontarians turn 65 every year, and those Ontarians should have the right to decide for themselves whether they wish to continue working or whether they wish to have a retirement year. That's up to them; it shouldn't be up to statute. You should be able to make your decision on whether to work on the basis of your willingness to make a contribution, not on the basis of your calendar age. That's our position.

Mr. Hampton: There is a glaring exemption in the government's legislation. Who do they exempt? They exempt themselves. Judges in Ontario, provincial court judges, will for some reason be exempted. So if the minister is going to lecture the rest of us, maybe he can tell us why the McGuinty government exempted some of your own employees.

But again, I want to say to the McGuinty government, the majority of workers across Ontario are trying to figure out, "How can I retire earlier? How can I retire when I have good health? How can I retire in dignity and with the economic security of a pension?" Today, the

McGuinty government legislation provides absolutely no answers.

So tell me, why would you exempt yourself in terms of provincial court judges, and why are you missing in action when it comes to the real issue for Ontario workers? They want and need a decent pension.

Hon. Mr. Bentley: First of all, the comments about judges are interesting. They've been recognized as being different because they're appointed through a different process, and they have to have independence. Independence: that's the essence of the judicial position. So historically, they have been allowed to continue judging until they are 75, and that's going to continue, along with a few other judicial types of exceptions in the act. So that isn't really, I suspect, what the member is concerned about.

Our position is that all Ontarians get the choice that they've never before had in the history of this province. Why is it that only NDP politicians should have the choice? What about the working people in the province of Ontario? Why does Ed Broadbent get the right to work after 65 but not the working people in Ottawa?

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Mr. Hampton: I'm sure older workers in Ontario will be happy to know that the McGuinty government has a future for them—at Home Depot: no pension plan, minimum wage, and if you don't produce exactly what they want on time, you're terminated.

But I want to ask you, where, for example, is legislation to deal with inadequacies of the pension benefit guarantee fund? Where is the legislation that will ensure that when workers retire and for some reason there is a shortfall in the pension fund, there is a guarantee to back it up? Sixty per cent of Ontarians are without pensions; 83% of private sector workers have pensions with no inflation protection; workers are unable to take their pension with them when they go from job to job.

I say again: You say you want to offer real choice to Ontario workers; where is the legislation that would deal with these issues, so workers would have a choice to retire earlier in dignity with the financial security of a good pension?

Hon. Mr. Bentley: I'm once again happy the leader of the third party is reminding us about the pension benefit guarantee fund, once again another mess the NDP left us to clean up and once again another act by the NDP to undermine, potentially, rights of working people.

You know, this was a great announcement today. CARP, the Canadian Association of Retired Persons, Fifty-Plus, is in support of this. We have so many people today in support of this. You shouldn't be limited by your age in whether you actually decide to work after 65. You should have the right to make the choice for yourself. Why is the NDP afraid of people choosing for themselves whether they decide to work? Why would the NDP say to people, whether they're a clerk in a store, whether they're a university professor, whether they're working for any number of employers in the province of Ontario—why

does the NDP not want a perfectly well-contributing member who is 64 to have to retire when they're 65?

LOCAL HEALTH INTEGRATION NETWORKS

Mrs. Elizabeth Witmer (Kitchener–Waterloo): My question is for the Minister of Health. The leaked cabinet document clearly illustrates that Management Board believes your transformation scheme is fatally flawed. You are spending millions of dollars in cash and human resources without any plan or even a stakeholder impact analysis.

Yesterday, we spoke about the fact that there was a risk to patient safety by closing down the DHCs without having the LHINs up and running. The cabinet document today is very critical of your implementation plan for LHINs. You haven't met the timeline, of course. It says: "It's unclear how the ministry will manage complex fiscal implementation and stakeholder risk associated with operationalizing LHINs." And then it says, "MBS recommends that the ministry be directed to ensure" there's a plan for stability.

Minister, can you today guarantee that your flawed plan will not put patient safety or stability at risk?

Hon. George Smitherman (Minister of Health and Long-Term Care): The honourable member, herself a former health minister, continues to operate on this wild assumption that district health councils were playing a day-to-day role in the provision of health care services in the province of Ontario. They were not. This is well known to every member of this Legislature and to the people who serve on district health councils. It's not to suggest that some value didn't come from that work, but over a period of time, district health councils found themselves by and large operating in anonymity, without any impact whatsoever to take the good planning work that they did and give it the opportunity to influence the way we do service delivery in the province of Ontario.

Our government is moving forward with something that every other jurisdiction in Canada has done: the provision of health care in a fashion that coordinates the responsibility for planning with the decisions around service delivery. We are going to add a strong local element to make sure that local community voices are there to help prioritize the most essential services. At the end of the day, that is all about—

The Speaker (Hon. Alvin Curling): Thank you.

Mrs. Witmer: If we take a look at the leaked cabinet document, we see that there is certainly no plan of action. We also see that the minister has failed to meet the timelines outlined, and there is just no impact analysis whatsoever. We also see that there's no transparency. Part of the document states that the end state role of LIHNs will be the "Exercise of powers and authority conferred by legislation to drive integration and coordination—including powers to move or consolidate programs and customize services."

Minister, is it your plan, as you already attempted to do through Bill 8, to eliminate hospital boards?

Hon. Mr. Smitherman: No.

POLITICAL CONTRIBUTIONS

Ms. Marilyn Churley (Toronto–Danforth): I have a question for the Minister of Energy. Are you familiar with section 29 of the Election Finances Act, which strictly forbids constituency associations from accepting contributions from any person normally residing outside Ontario?

Hon. Dwight Duncan (Minister of Energy, Government House Leader): I am familiar with that section of the act.

Ms. Churley: Minister, your riding association's annual report reveals that you accepted a donation from one Neal Belitsky. He is a resident of Michigan, USA, not Ontario. He is also the executive vice-president and general manager of the Detroit and Canada Tunnel Corp. That is a division of a powerful private consortium that owns a large part of the 407 and is lobbying Ontario for more P3 partnerships. His contract with the city of Windsor expires in two years. Could you tell us about your relationship with Mr. Belitsky and why you accepted what appears to be an illegal campaign contribution from him?

Hon. Mr. Duncan: I don't know who the individual is. Obviously, I believe our report was filed and audited by the riding association's independent auditor. At this point, that is all I can say. The act has been followed, to my knowledge. I look forward to hearing more about that. I'm not familiar with the individual in question.

HERITAGE CONSERVATION CONSERVATION DU PATRIMOINE ONTARIEN

Mr. Jim Brownell (Stormont–Dundas–Charlottenburgh): Ma question s'adresse à la ministre de la Culture.

A few weeks ago, the Ontario Heritage Amendment Act received royal assent. As that happened, we witnessed an incredible expansion of the tools available to protect our cultural and historical heritage here in Ontario. The amendments to the Ontario Heritage Act have had the following benefits: The heritage act now allows for increased protection of heritage conservation areas, maritime heritage sites and archaeological sites; the province and municipalities have new powers to not only delay but completely halt the destruction of buildings with heritage a designation; the province has increased capacity to designate sites of cultural and historic importance to Ontarians.

Madame la ministre, quels autres projets d'appui au patrimoine avez-vous annoncés récemment?

L'hon. Madeleine Meilleur (ministre de la Culture, ministre déléguée aux Affaires francophones): First of

all, let me say thank you and congratulate the member for Stormont–Dundas–Charlottenburgh for all the work he did in heritage and will continue to do this summer.

C'est avec beaucoup de plaisir que je me suis retrouvée jeudi dernier sur le site d'un aussi beau projet que Evergreen au site Brick Works, et je continue à me réjouir face à cette initiative, qui permettra aux amoureux de la nature d'en savourer toutes les beautés préservées au cœur de la ville de Toronto.

Le gouvernement McGuinty reconnaît la valeur de cette propriété officiellement désignée comme site patrimonial. C'est pourquoi j'étais fière d'annoncer que notre gouvernement a investi 10 \$ millions pour sa préservation et son développement dans le cadre du projet Brick Works, mené par l'organisme Evergreen.

Des projets tels que celui-ci protègent et soutiennent le patrimoine irremplaçable de notre population et de notre province.

1450

Mr. Brownell: Merci. I'm impressed with the quality and the range of different partners that have gathered around the Evergreen project. At the same time, this does not surprise me and it should not surprise this House, given the multifaceted aspect of Evergreen. It seems there is something there for everyone. By investing in Evergreen Commons at the Brick Works, the Ontario government will continue to build strong communities and nurture a healthy environment while celebrating Ontario's rich industrial roots.

Minister, can you elaborate further on how the Toronto Brick Works site is important to Ontario's heritage?

Interjections.

The Speaker (Hon. Alvin Curling): Could I just have less conversation on the floor while we have question period.

Minister, you may respond.

Hon. Mrs. Meilleur: The Brick Works provides a foundation to celebrate Ontario's rich industrial past and helps us to experience and enjoy nature in the city. The Brick Works project will give our young people a chance to learn about our past and will expand what the city has to offer in the future. The Don Valley Brick Works produced the bricks that created some of our most memorable buildings, such as the old city hall and Queen's Park.

I would like to commend the city of Toronto for designating this site, as it is a great addition to attractions in the city. I extend my congratulations and thanks to everyone who decided to get involved and worked so hard to make this project a reality. Our government is pleased to partner with them on this great adventure that allows us to celebrate the past, present and future together. Personally, I look forward to my next visit to Evergreen, when I will be able to enjoy a nice organic coffee on a sunny terrace after a long, relaxing walk in the park. I hope you will come.

LOCAL HEALTH INTEGRATION NETWORKS

Mr. John Yakabuski (Renfrew–Nipissing–Pembroke): My question is for the Minister of Health. Management Board took one look at your regional health bureaucracy proposal and condemned it as a failure of public policy. Even Management Board says you have no plan for health care, and that is, quite frankly, frightening.

We don't know about timelines for LHINs. We've heard nothing about a stabilization plan for hospitals that will be taken over by LHINs—no transition plan for the implementation.

Minister, do you have clearly defined roles for LHINs with an accountability framework and performance measurement standards that you can report, and if so, can the people of Ontario know them now, please?

Hon. George Smitherman (Minister of Health and Long-Term Care): It's always very interesting to hear an honourable member who is one of the most active lobbyists for Ministry of Health initiatives, including things like family health teams, which have been a signature initiative of our government in representing a pretty important part of our plan. The honourable member would now stand in his place and say that we don't have one.

Am I to assume, therefore, that all of the letters of support that he offers, the invitation he had for me to attend Deep River, I think it is, this Friday—are all those things reflective of a view from his riding that the Ministry of Health doesn't have a plan? I don't think so.

To the nature of the specific question that the honourable member asked, I can confirm that we have done a tremendous body of work as it relates to local health integration networks. As the Legislative Assembly committee is currently completing its review of the candidates for appointment, we're certainly going to be in a position very, very soon to give the honourable member more of the information that he seeks.

Mr. Yakabuski: I was pleased to hear the minister speak so glowingly about the work I'm doing for the people in my riding, and I will continue to do so.

Those were basic questions that you failed to answer not only in the House today but when you went to the Management Board of Cabinet and asked for hundreds of millions of dollars for your misguided adventure.

According to the document leaked to us by a senior official in your own ministry, you were sent packing from Management Board, and rightly so. You were sent back to the drawing board because you and your ministry failed to answer even one of those basic questions.

Minister, who are we to believe: you, who cannot even answer these basic questions, or Minister Phillips, who rightly sent you back to the drawing board with this failed scheme? Who are we going to believe, Minister?

Hon. Mr. Smitherman: Firstly, on the theme of transparency that the honourable member has been identifying, he should send a copy of the said document forward. As everyone who has served will know, there are

documents from time to time that make their way around that don't have signatures on them. I think we need to take a look at that.

But to the heart of the matter, obviously the government is of one point of view on this: It's time that we build a system in Ontario, it's time that we bring together planning and coordination around service delivery and give local people, including those people from the Ottawa Valley, the opportunity to make important health care decisions around where priority investments should be made.

I would think that the honourable member, advocating as he does for the local people in his community, would stand in his place and support the idea that it's time. It's time, after all, to take power from the Minister of Health in the Hepburn Block and push that down to the local level, and to ask the local people to help make those informed decisions about what local priorities should be supported.

DISABILITY BENEFITS

Mr. Michael Prue (Beaches–East York): My question is for the Minister of Community and Social Services. In November 1997, you stood on this side of the House and passionately spoke against the misguided policy of Mike Harris to deny older Ontarians, aged 60 to 64, from receiving ODSP benefits. During that debate, you spoke of individual hardships, you spoke about the futility of his retraining plans and the meagre \$520 a month that someone gets on Ontario Works. You called it “a disgrace.” You said it was unfair. You said you and your party were totally opposed.

For nearly two years, you have had an opportunity to undo this travesty, but you have chosen instead to do nothing. You have chosen to continue implementing Mike Harris's legacy. My question to you is simple. Why have you abandoned the very people you used to champion?

Hon. Sandra Pupatello (Minister of Community and Social Services, minister responsible for women's issues): I hope the member opposite had an opportunity to review a report tabled today called *Who's Hungry*. It's work done by the Daily Bread Food Bank. What's important to the members on this side of House is that we will have fewer people who have to use food banks. What we are doing since we took office is more than has been done in the last 15 years of this government.

I want to remind the member opposite in that seat that while you weren't a part of that party in 1993 when they launched the social contract, they had no respect for people who were going to suffer by those agencies that got cut, just like the rest of the government did. Your party did that, with no hope of helping those who were helping vulnerable people. For you to stand today in the House to give me a lecture about what we've done is a little bit galling.

But I will say that in these first 18 months of our government, we have worked across the board to change policies, to actually set some policies—

The Speaker (Hon. Alvin Curling): Thank you. Supplementary.

Mr. Prue: Minister, I am talking about 2,500 seniors who have lost their disability benefits. You said, "Our concern surrounding the 60- to 64-year-olds is significant. We find that the treatment of this group is really offensive."

These fragile seniors are often forced to participate in job retraining programs under Ontario Works, even though few employers will hire them because of their age and/or disability. It's only a small group of people we're talking about, Minister, but it's a group that really needs your help. You are the one who said this policy was wrong. Will you restore the dignity of these seniors by making them eligible for disability benefits, or are you more content to act just like Mike Harris?

Hon. Marie Bountrogianni (Minister of Children and Youth Services, Minister of Citizenship and Immigration): That's mean.

Hon. Ms. Papatello: I was going to say that was really mean. That was outrageous.

Let me just say this: In 18 months we have moved on virtually every single front when it comes to dealing with poverty, when it comes to dealing with individuals who are on welfare or ODSP.

I hope the member opposite, who is the critic for this particular area will, at a minimum, acknowledge while he's speaking in this House—I want to know which one of the several improvements that member disagrees with. Is it the 3% increase for the first time in 12 years? Is it the amount of people who are out there getting placed through the Jobs Now initiative that this particular member wanted absolutely nothing to do with? We have hundreds and hundreds of people today, because of that pilot, who are now being placed with actual jobs. Stand in this House today and tell me which of our initiatives you disagree with. Tell me which ones you would not do so you could help these people who need more help from government than others.

The Speaker: Thank you. It would be more helpful if you'd direct the question and answer to the Speaker.

1500

INFRASTRUCTURE PROGRAM FUNDING

Mrs. Linda Jeffrey (Brampton Centre): My question is for the Minister of Public Infrastructure Renewal. On May 25, 2005, you released a five-year, \$30-billion infrastructure plan entitled ReNew Ontario. This plan addresses infrastructure investment projects that are long-overdue and urgent new initiatives. While my riding of Brampton Centre looks forward to the completion of our new hospital in 2007, we are still eagerly awaiting and anticipating the start of construction on the long-awaited Highway 410 extension.

Recently, the infrastructure gap was estimated at roughly \$100 billion. How will this new plan address such a huge deficit in required infrastructure investment?

Hon. David Caplan (Minister of Public Infrastructure Renewal): That's a great question. Ontario's economy depends on infrastructure that is modern, reliable, efficient and affordable. Our government is investing \$30 billion over the course of the next five years. We understand the need to invest in infrastructure, because it has been neglected for far too long by too many governments. The McGuinty government will not wait any longer to rebuild Ontario.

We will be investing, as I said, \$30 billion toward the infrastructure gap, because this province and our government are committed to supporting key priorities of health care, education and economic prosperity. We'll be investing more than \$11 billion in public transit, highways, borders and other transportation, more than \$10 billion in schools, colleges and universities, and more than \$5 billion in hospitals and other health care facilities.

Mrs. Jeffrey: We have an ambitious, multi-billion dollar plan to repair and upgrade the province's deteriorating infrastructure. I understand we're faced with hospital buildings that are, on average, 43 years old, schools that date back to the 1920s and water systems that are over 100 years old. Minister, how are we going to address the infrastructure deficit created through past neglect and meet the needs of a growing population that puts the public interest first? Is there more that can be done by the federal government to help Ontario address this gap?

Hon. Mr. Caplan: The member for Brampton Centre is quite correct: There is more that can be done to help Ontario reduce its infrastructure gap. We think the federal government should provide Ontario with a greater and, we believe, a fairer share of infrastructure investments. For example, federal infrastructure programs since the year 2000, including the new federal gas tax money, will deliver \$73 per person in Ontario compared to \$93 per person for projects outside Ontario.

We believe the federal government is hearing our message, but Ontario deserves a fairer share. We continue to call on the federal government to increase Ontario's share of infrastructure investment. Together, Canada and Ontario must increase our investments in strategic shared priorities such as the Windsor-Detroit and other border crossings, highways and public transit expansion, and especially, high-quality post-secondary education

ADOPTION DISCLOSURE

Mr. John Tory (Leader of the Opposition): There seems to be a bit of a traffic jam in front of the Minister of Community and Social Services. My question is for the Minister of Community and Social Services, and it concerns our ongoing discussion around the adoption legislation. A week ago, the minister introduced 40 pages of amendments to the bill, and yesterday, additional amendments were introduced. Some of these do address, in whole or in part, some of the issues that have been raised in this House by our caucus and by others elsewhere. Other issues, however, remain unaddressed.

We support the steps you've taken to improve this bill by providing added protection to adopted children who were the victims of abuse. Will you now do the same thing—I would say the right thing—and provide the same kind of increased protection for the rights of women who gave up children for adoption after being sexually assaulted?

Hon. Sandra Pupatello (Minister of Community and Social Services, minister responsible for women's issues): Let me correct the record, firstly, and suggest that many of those amendments that the Leader of the Opposition saw were from members of your own caucus and members of the NDP, who all submitted amendments to the bill. Many were technical in nature. Several, I will say, were things to do with regulatory work, which we will do. We've not eliminated or said no to those amendments; they are all items that will be dealt with in regulation. This member knows, with his own background, what belongs in the law versus what belongs in the regulations. That's number one.

On the second point, the amendment that was introduced this past Monday is a direct response to your previous query of a week ago today, where I said that those items that you want will be in regulation. If you are more comfortable seeing it not in the regulations but in the law, we are prepared to deliver that amendment to you. But we have said from the beginning that there are two pillars here that we will maintain: retroactivity and an open adoption process. What we're saying today is that the bill is as we have discussed in the past. The things that you've asked for, you have certainly seen.

Mr. Tory: I have just asked for the same kind of increased protection for women who are the victims of sexual assault, and I'll leave that with the minister.

Minister, the entire debate that we're having here, which is one that I think is something we should be doing here, is about ensuring a better piece of legislation. So while on the one hand we're quite rightfully extending the rights of one group, namely adoptees, we must also ensure at the same time that we don't infringe upon the rights of others. We've heard the privacy commissioner express serious concerns. We've heard of possible constitutional challenges, and we have the precedents of other provinces.

My question is, are you willing to work together to find a way to protect these privacy rights for all citizens who wish to assert them and, at the same time, dramatically extend the rights of those who want more information? By your own numbers, we could provide expanded access to information for fully 97% of the people who want it, while at the same time making sure we protect the privacy rights of all people, in particular the 3% who apparently, based on history, choose to assert them. Why can't we work together to make sure that we have that kind of win-win for as many people as possible?

Hon. Ms. Pupatello: Let me say this: From the 1960s and onward, there have been thousands and thousands of people who have simply been denied information about

who they are. The United Nations, in the conference on the child, has ultimately landed on the rights of the child. That adult child today has a right to that information about who they are, to know, which is extremely different from their right to a relationship.

Today, because of the bill that is before the House right now and at committee, we are for the first time protecting these individuals by giving them the opportunity for a no contact to be placed on that file. In today's world what is happening, in the absolute absence of any structure, is a lack of any protection for these same women you are purporting to want to support. But when you don't support the bill, you are suggesting that—they have no support. They will have no protection. They're able to place a no contact, and no contact, as has happened in every jurisdiction that uses it, has worked.

We believe, however, that adult adoptees have the right to information, and we are deciding on the side of that adoptee.

ABORIGINAL AFFAIRS

Mr. Howard Hampton (Kenora–Rainy River): My question is for the minister responsible for native affairs. In the McGuinty budget for this year, on page 29, you boast about cutting the budgets of 15 ministries. One of the ministries that you boast about cutting the budget in is the ministry of native affairs. We are told that there's a 22% budget cut. We're told that part of that budget cut will be a termination or a substantial reduction in the aboriginal economic development program. Minister, is this what the McGuinty government calls a new approach to building stronger First Nations?

Hon. Michael Bryant (Attorney General, minister responsible for native affairs, minister responsible for democratic renewal): I thank the member for this question. I find it passing strange that it comes from this member, considering that the reason that the budget went up last year was because this government—the McGuinty government—signed the largest land claim settlement in the history of Ontario in that member's riding.

I am proud to have been there at the signing ceremony for the Rainy River First Nation. I was proud to stand there with the member opposite, who just asked this question, who in fact thought that the land claim settlement was a very positive day for his community and a positive day and part of the new approach for aboriginal affairs. So my question to the member is, have you changed your mind?

1510

Mr. Hampton: I want to quote from a letter from the chief of the Rainy River First Nation addressed to the Premier, with a copy to the minister. He raises the issue of a 22% cut to the Native Affairs Secretariat. He says, "ONAS historically has been underfunded and treated fiscally unfairly and disproportionately to other government ministries," and he says that, if anything, the Native Affairs Secretariat deserves a funding increase.

But I want to get back to the question. We've been told by people who work out there, in the area of

economic development with First Nations, that they have been instructed by your government not to plan anything beyond June 30 of this year: Don't plan any projects; in fact, don't plan on having a job. I say to the minister again, is this part of your new strategy for developing relationships with First Nations? I ask the minister, stand today and announce to all First Nations across Ontario that there will be no cuts—

The Speaker (Hon. Alvin Curling): Thank you. Minister.

Hon. Michael Bryant: Actually, I wasn't done. We didn't settle just one land claim. This government has settled three land claims since we took office. If the member opposite is suggesting for one moment that the chief for Rainy River First Nations does not support the largest land claim settlement in the history of Ontario, which benefits his community, I think the member may be getting his facts wrong. Lastly, just so everybody in this House is clear, funding for the redesigned aboriginal community capital grants program in last month's budget was increased from \$1.6 million to \$3.1 million. This is a member who should stand up and be proud about the new approach to aboriginal affairs brought forth by the McGuinty government. I certainly am.

CONSUMER PROTECTION

Mr. David Zimmer (Willowdale): My question is to the Minister of Consumer and Business Services. Our economy depends on consumers' trust in the contracts they sign; namely, that information is stated accurately and services received are the ones they contracted for. I know from my constituents that this is often not the case. Many have expressed dissatisfaction about their lack of recourse when pressured into signing contracts they don't have all the relevant information about. Fitness clubs are a prime example of this. Minister, how will the consumer protection we've passed help consumers to feel more comfortable when making these often high-pressured decisions?

Hon. Jim Watson (Minister of Consumer and Business Services): I want to thank the honourable member from Willowdale for his question and for his concern about consumer protection. I'm very pleased that on July 30 of this year, the McGuinty government will be proclaiming the Consumer Protection Act, and we will become a national leader in consumer protection across the country. Under this new legislation that was passed by the Legislature, consumers and businesses will have new rights and responsibilities.

The Consumer Protection Act, for instance, institutes a 10-day cooling-off period for prepaid services such as fitness clubs, lawn care agreements, and timeshare and vacation club contracts, also cooling-off periods for door-to-door salesmen. Not a day goes by where my ministry is not contacted by an individual who has been ripped off as a result of a door-to-door salesman selling air purifiers or aluminium siding or vacuum cleaners. This is going to actually put teeth in the law.

Mr. Zimmer: Smart consumers are good for business. I know that this provision will put many consumers' minds at rest. Another common concern for my constituents is often the unpredictable world of estimates, whether you're having your washing machine fixed, your house painted or your lawn fertilized. It's frustrating and costly when the cost of services does not match the estimates you took in good faith. Minister, can you tell us how the Consumer Protection Act will give consumers the confidence they need when having work done on based on estimates, and what fines exist for those individuals and corporations that don't honour their estimates.

Hon. Mr. Watson: The Consumer Protection Act ensures that the final cost of service cannot be more than a variance of 10%, and if the estimate is not honoured, the law provides for a number of things, including maximum fines of \$100,000 for individuals, and \$250,000 for companies. Additionally, consumers will have the right to cancel many of the types of consumer agreements if goods are not provided or services are not started within 30 days of the date specified.

One of the final things we're doing—I regret that the Leader of the Opposition is not here to hear this—is that the McGuinty government, once and for all, is going to make it illegal to allow negative-option billing in the province of Ontario. I know the Leader of the Opposition would stand and applaud that this government is saying no to this terrible attack on consumers in the province of Ontario.

EDUCATION FUNDING

Mr. Frank Klees (Oak Ridges): My question is for the Minister of Education. People for Education released their 2005 secondary school tracking report yesterday. According to that report, over one quarter of schools that received funding for ESL/PDF reported that they had no ESL/PDF teachers—this under your watch, Minister. Can you tell the House, if in fact these schools received the funding, how much of that funding did they receive? How much money was sent to these schools, to these boards, for ESL/PDF, and if it didn't go to ESL or PDF, where did it go?

Hon. Gerard Kennedy (Minister of Education): I think it is encouraging that the member opposite would take an interest in English as a second language, because it is probably the first time in the last eight or nine years we've heard someone in the party he belongs to talking about that particular aspect.

The members opposite redefined the assistance and denied it to students. They defined it as how long they were in the country instead of how much assistance they need. We've expanded that assistance significantly, and we've made it available. Of course, it can be delivered by a specialist teacher. It can also be delivered by teachers who have been trained through AQ courses and so on. It doesn't require a special teacher, for example, in a small elementary school.

But this year, we're taking it even a step further. The ESL dollars that we deliver will be more focused on getting results. We think the worst reason for anyone not to obtain a great education in this province would be because they don't have the language of instruction. It's a problem we know how to fix, and now that they've survived the last government, it's a problem that's going to be fixed for the future they're going to have.

Mr. Klees: Well, this report relates to last year, when this minister had the responsibility for ESL funding. This report says that under this minister's watch, 25% of the schools that received ESL funding didn't even have an ESL teacher. Minister, I'm asking you this question, or maybe I should ask the Chair of Management Board the question: How much money was involved, where did it go and how was it used? That's my question. Please answer the question.

Hon. Mr. Kennedy: I would say to the member opposite that English as a second language is done in a number of settings. Sometimes it's withdrawal from classrooms, sometimes it's done by an English-as-a-second-language specialist teacher and sometimes it's done by a rotating classroom teacher and provided that way.

We gladly accept the input from People for Education. We are going to sit down with them as an organization and go through the things. But I should note that they have given the government credit for a number of things we've done: for turning around the tone of education, for making students and teachers and parents more optimistic about public education, for having the ability to be a disciplined government and focus our investments on exactly the things that matter to the people of Ontario, investing in an education advantage for all students in this province. That includes students who have English as a second language, who have those extra challenges. They would be lost in the crowd. They're not being lost any more, and they're going to get the help that they deserve.

The Speaker (Hon. Alvin Curling): I know it would be nice if we had more than an hour for question period—you're all anxious to do that—but I have to say it's the end of question period.

PETITIONS

ANTI-SMOKING LEGISLATION

Mr. Bill Murdoch (Bruce-Grey-Owen Sound): I have a petition from one of the many Royal Canadian Legions that have sent them to me. This happens to come from Branch 155, Southampton. It's to the Legislative Assembly of Ontario.

"Whereas the current government has proposed province-wide legislation that would ban smoking in public places; and

"Whereas the proposed legislation will also prohibit smoking in private, non-profit clubs such as Legion halls, navy clubs and related facilities as well; and

"Whereas these organizations have elected representatives that determine the rules and regulations that affect the membership of the individual club and facility; and

"Whereas by imposing smoke-free legislation on these clubs disregards the rights of these citizens and the original intentions of these clubs, especially with regard to our veterans;

"Therefore we, the undersigned, respectfully petition the Legislative Assembly of Ontario as follows:

"That the Parliament of Ontario exempt Legion halls, navy clubs and other non-profit, private or veterans' clubs from government smoke-free legislation."

I've also signed this.

1520

HIGHWAY 406

Mr. Peter Kormos (Niagara Centre): I have a petition addressed to the Legislative Assembly of Ontario:

"Whereas the province's greenbelt legislation and Places to Grow plan have significantly restricted how Niagara can grow and develop; and

"Whereas the development-ready land in Niagara's southern tier lacks adequate transportation infrastructure to facilitate economic development; and

"Whereas the 406 highway from Beaverdams Road in Thorold to East Main Street in Welland is one of the busiest two-lane highways in Ontario, with 27,000 cars daily; and

"Whereas the accident and fatality rate double on the two-lane stretch of the 406 highway in comparison to the four-lane segment of the 406 highway; and

"Whereas the expansion of the 406 highway will attract much-needed new investment and job opportunities for Niagara; and

"Whereas the government of Ontario will receive compensation in 2005 from the federal government in the form of a percentage of the gas tax to be applied towards transportation and infrastructure projects;

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

"That the Premier of Ontario together with the Minister of Transportation fulfill their existing commitment and place the expansion of the 406 highway in the capital plan for infrastructure projects in Ontario in 2005."

I have affixed my signature, and page Kai will be delivering this to the Clerk's desk.

ANTI-SMOKING LEGISLATION

Mr. Bob Delaney (Mississauga West): I have a petition to the Ontario Legislative Assembly regarding the banning of smoking in public places in Ontario. I'm pleased to thank and acknowledge two constituents of

Mississauga West, Yingbo Guo of Belvedere Crescent in Erin Mills and Fredric Abalos of Bartholemew Crescent in Meadowvale, who are both in the visitors' gallery making their first visit to the Legislative Assembly.

The petition reads as follows:

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

"Whereas some 16,000 Ontarians each year die of tobacco-related causes; and

"Whereas the inhalation of direct and second-hand tobacco smoke both lead to health hazards that can and do cause preventable death; and

"Whereas more than four out of every five Ontarians do not smoke, and this large majority desires that enclosed public places in Ontario be smoke-free at all times; and

"Whereas preventing the sale of tobacco products, especially to young people, and banning the use of tobacco products in public and gathering places of all types will lower the incidence of smoking among Ontarians, and decrease preventable deaths;

"Be it therefore resolved that the Ontario Legislative Assembly enact Bill 164, and that the Ontario Ministry of Health and Long-Term Care aggressively implement measures to restrict the sale and supply of tobacco to those under 25; that the display of tobacco products in retail settings be banned; that smoking be banned in enclosed public places or in workplaces, and banned on or near the grounds of public and private schools, hospitals and day nurseries; that designated smoking areas or rooms in public places be banned, and that penalties for violations of smoking laws be substantially increased."

I wholeheartedly agree with this petition. I've affixed my signature to it, and I'll ask page Benjamin to carry it.

HEALTH CARE SERVICES

Mr. Bill Murdoch (Bruce-Grey-Owen Sound): I have a petition sent to me by Hazel Pratt, CAW 4207 unit chair, RR3, Elmwood, Ontario. It's a petition to the Legislative Assembly of Ontario:

"Whereas the Liberal government has announced in their budget that they are delisting key health services such as routine eye exams, chiropractic and physiotherapy services,

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

"To reverse the delisting of eye exams, chiropractic and physiotherapy services and restore funding for these important and necessary services."

I've signed my name.

EDUCATION FUNDING

Mr. Rosario Marchese (Trinity-Spadina): "To the Legislative Assembly of Ontario:

"Whereas during the 2003 election campaign Dalton McGuinty promised to establish a standing committee on

education to ensure transparency in education funding; and

"Whereas such a committee has not been established; and

"Whereas Ontario's education system is not properly funded and there is no transparency in funding;

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

"To immediately establish a standing committee on education to hold public hearings every year on the effectiveness of education funding."

I agree strongly with this petition, and I'm signing it.

REFUNDABLE CONTAINERS

Mr. Tony Ruprecht (Davenport): I have a petition with regard to reducing littering in parks to protect our environment. It reads as follows, to the Legislative Assembly of Ontario and especially to the Minister of the Environment:

"Whereas we find lots of pop cans and beer bottles in our parks plus children's playgrounds;

"Whereas it is therefore unsafe for our children to play in these parks and playgrounds;

"Whereas many of these bottles and cans are broken and mangled, therefore causing harm and danger to our children;

"Whereas Ontarians are dumping about a billion aluminum cans worth \$27 million into landfill every year instead of recycling them;"

Mr. Richard Patten (Ottawa Centre): Crazy.

Mr. Ruprecht: Yes, that's crazy.

"Whereas the undersigned want to see legislation passed to have deposits paid on cans and bottles, which would be returnable and therefore not found littering our parks and streets;"

Interjection.

Mr. Ruprecht: I agree that we should fix it.

"Therefore, we, the undersigned, strongly urge and demand that the Ontario government institute a collection program that will include all pop drinks, Tetra Pak juices and can containers to be refundable in order to reduce littering and protect our environment."

Since I agree with this petition wholeheartedly, I'm delighted to sign it.

ANTI-SMOKING LEGISLATION

Mr. Ted Chudleigh (Halton): I'm pleased that Meredith Williams is here to receive this petition as one of the pages, because she's the granddaughter of Duncan Allan, who is a former deputy minister of agriculture. In the 1970s, I worked in the deputy minister's office and I was pleased to work with Duncan. So I worked for your grandfather.

This petition is to the Legislative Assembly of Ontario:

“Whereas the current government has proposed province-wide legislation that would ban smoking in public places; and

“Whereas the proposed legislation will also prohibit smoking in private, non-profit clubs such as Legion halls, navy clubs and related facilities as well; and

“Whereas these organizations have elected representatives that determine the rules and regulations that affect the membership of the individual club and facility; and

“Whereas by imposing smoke-free legislation on these clubs disregards the rights of these citizens and the original intentions of these clubs, especially with respect to our veterans;

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

“That the Parliament of Ontario exempt Legion halls, navy clubs and other non-profit, private or veterans’ clubs from government smoke-free legislation.”

I agree with this petition, and I will gladly sign my name to it

TEACHER QUALIFICATION

Ms. Deborah Matthews (London North Centre): I’d like to read this petition into the record.

“To the Legislative Assembly of Ontario:

“Whereas the 2005 graduates of the publicly funded faculties of education in the province of Ontario will have met all the requirements of the individual faculties; and

“Whereas these same publicly funded faculties of education in the province of Ontario have all met the stringent standards as outlined and controlled by the Ontario College of Teachers; and

“Whereas the 2005 graduates of the publicly funded faculties of education in the province of Ontario will be placed at a severe disadvantage if they are given a provisional certificate of qualification by the Ontario College of Teachers;

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

“To make the changes necessary to the Education Act and/or its regulations in order to grant the 2005 graduates of the publicly funded faculties of education in the province of Ontario a permanent certificate of qualification, or

“To deem that the bachelor of education degree granted to the 2005 graduates of the publicly funded faculties of education in the province of Ontario deems them to have completed the equivalent of the Ontario teacher qualification test, thus allowing the Ontario College of Teachers to grant these same graduates a permanent certificate of qualification.”

I will attach my name to this petition.

1530

GASOLINE PRICES

Mr. Gerry Martiniuk (Cambridge): I have a petition signed by many good citizens of Cambridge, addressed to the Parliament of Ontario.

“Whereas gasoline prices have increased at alarming rates during the past year; and

“Whereas the high and different gas prices in different areas of Ontario have caused confusion and unfair hardship on hard-working Cambridge families;

“We, the undersigned, hereby petition the Parliament of Ontario as follows:

“(1) That the Ontario McGuinty Liberal government immediately freeze gas prices for a temporary period until world oil prices moderate; and

“(2) That the Ontario McGuinty Liberal government and the federal Martin Liberal government immediately lower their taxes on gas for a temporary period until world oil prices moderate; and

“(3) That the Ontario McGuinty Liberal government immediately initiate a royal commission to investigate the predatory gas prices charged by oil companies operating in Ontario.”

As I agree with this petition, I will affix my name thereto.

TENANT PROTECTION

Mr. Tony Ruprecht (Davenport): I have a petition addressed to the Parliament of Ontario and it reads as follows:

“Whereas the so-called Tenant Protection Act of the defeated Harris-Eves Tories has allowed landlords to increase rents well above the rate of inflation for new and old tenants alike;

“Whereas the Ontario Rental Housing Tribunal ... created by this act regularly awards major and permanent additional rent increases to landlords to pay for required one-time improvements and temporary increases in utility costs and this same act has given landlords wide-ranging powers to evict tenants; and

“Whereas our landlord, Sterling Karamar Property Management, has applied to the Ontario Municipal Board ... to add a fourth high-rise unit to our compound in order to circumvent city of Toronto restrictions on density and the city’s opposition to its project”—

Mr. Rosario Marchese (Trinity-Spadina): Don’t rush it, Tony.

Mr. Ruprecht: I know you agree with this petition.

“Whereas this project would lead to overcrowding in our densely populated community, reduce our precious green space, further drive up rents and do nothing to solve the crisis in affordable rental housing;

“Whereas this project will drive away longer-term tenants partially shielded from the post-1998 ... rent increases, thereby further reducing the number of relatively affordable units in the city core; and

“Whereas before ... October 2003 ... ‘real protection for tenants at all times’” was “a radical overhaul of the pro-developer OMB; ...

“We, the undersigned residents of Doversquare Apartments in Toronto, petition the Parliament of Ontario as follows:

“To institute a rent freeze until the exorbitant Tory guideline and above-guideline rent increases are wiped out by inflation;

“To abrogate the [existing] ‘Tenant Protection Act’ and draw up new landlord-tenant legislation which shuts down the notoriously pro-landlord ORHT and reinstates real rent control, including an elimination of the Tory policy of ‘vacancy decontrol’;

“To keep the McGuinty government to its promise of real changes at the OMB, eliminating its bias toward wealthy developers and enhancing the power of groups promoting affordable housing, sustainable neighbourhoods and tenant rights.”

This petition has been signed by over 200 residents. I will pass this forward to you for your consideration.

ANTI-SMOKING LEGISLATION

Mr. Ted Chudleigh (Halton): This is a petition to the Legislative Assembly of Ontario, and Kai is here to receive it for me. Kai is a very avid page. When you give Kai a job to do, he does it very quickly. I can tell you that from personal experience.

“To the Legislative Assembly of Ontario:

“Whereas the current government has proposed province-wide legislation that would ban smoking in public places; and

“Whereas the proposed legislation will also prohibit smoking in private, non-profit clubs such as Legion halls, navy clubs and related facilities as well; and

“Whereas these organizations have elected representatives that determine the rules and regulations that affect the membership of the individual club and facility; and

“Whereas imposing smoke-free legislation on these clubs disregards the rights of these citizens and the original intention of these clubs, especially with respect to our veterans;

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

“That the Parliament of Ontario exempt Legion halls, navy clubs and other non-profit, private or veterans’ clubs from government smoke-free legislation.”

I affix my signature to this petition.

The Acting Speaker (Mr. Ted Arnott): The time available for petitions has expired. We now look to the government to call the orders of the day.

ORDERS OF THE DAY

ENVIRONMENTAL ENFORCEMENT STATUTE LAW AMENDMENT ACT, 2005

LOI DE 2005 MODIFIANT DES LOIS SUR L'ENVIRONNEMENT EN CE QUI CONCERNE L'EXÉCUTION

Mrs. Dombrowsky moved third reading of the following bill:

Bill 133, An Act to amend the Environmental Protection Act and the Ontario Water Resources Act in respect of enforcement and other matters / Projet de loi 133, Loi modifiant la Loi sur la protection de l'environnement et la Loi sur les ressources en eau de l'Ontario en ce qui a trait à l'exécution et à d'autres questions.

The Acting Speaker (Mr. Ted Arnott): Mrs. Dombrowsky has moved Bill 133. I look to the Minister of the Environment to lead off the debate.

Hon. Leona Dombrowsky (Minister of the Environment): I'm very honoured to have an opportunity to speak at the third reading of an important bill before the Legislature, a bill that has been amended. It has been to committee twice.

It's important, particularly for those who are watching but also for the members who are with us this afternoon in the Legislature, to talk a bit about the history of the bill and its journey here to third reading.

I want to share with the members of the Legislature that in the St. Clair River—a very important part of the province of Ontario; it forms the boundary between our great country and our neighbour to the south, the United States—between August 2003 and February 2004, there were five major illegal chemical spills into the St. Clair River. The St. Clair River is a source of drinking water for people who live in communities along the river. These spills forced the closure of water intakes in Wallaceburg and other downstream communities. People were understandably very worried when they were unable to access drinking water from their taps. That has an impact on local community public facilities like hospitals, schools and nursing homes.

As a result of what I thought of as an unacceptable rash of illegal spills, I asked the Ministry of the Environment SWAT team to go to the Sarnia area. I asked them to inspect the petrochemical facilities that are significant in that community and to bring me their ideas around: Why are these spills happening? What could we as government do to ensure that these spills do not continue? What incentives could we put in place for the safety of the people in those communities?

As a result of their good work, I'm very pleased to say that we introduced Bill 133, which we believe will go a long way to encourage compliance in the industrial community and also to provide communities that are affected by these events with resources to address the emergencies when they occur. I think all of us in this province would agree—and I have to say that over the course of our deliberations with stakeholders and at committee, we heard from environmentalists, from people who had lived in communities affected by spills. They don't believe it's fair that the taxpayers in those communities bear the burden of managing in those events, but rather, that it should be the individual or the company responsible for the spill who pays for all the costs associated with that kind of emergency.

1540

Our government introduced Bill 133 in October. We paid very careful attention to the people who came to us

following its introduction. There were some concerns. There were people for whom the notion of spills was not new, but certainly new in this province. We felt that we had a responsibility, because we are so committed to ensuring as we go forward that we have sound legislation that will protect the people in our communities, that will protect our environment, that will inspire good and sound environmental practices within the industries in this province. We took the opportunity to listen to the many stakeholders—environmental stakeholders, industrial stakeholders, community stakeholders—and the points they wanted to share with us on this bill, and I'm very proud to say that our government has listened.

We introduced amendments to Bill 133 that I know reflect some of the requests that were made by the many deputants who spoke to Bill 133. We've also made some changes that reflect the ideas that came to us from both opposition and third party members.

I'd like to just take a few moments to talk about the nature of the amendments we have introduced, so that the people of Ontario can understand that we continue to have a sound piece of environmental legislation but also one that I believe demonstrates that we are prepared to consider some of the important issues that came to our attention.

We have ensured that only a Ministry of the Environment director can impose an environmental penalty, not a provincial officer. That was something that stakeholders brought to our attention, and this government believes it's certainly a reasonable consideration that we've made in the bill.

We've also clarified that environmental penalties shall only be imposed against the company, not the company officials or the company employees. Again, that came to us from companies that I think put a compelling case. From our perspective, we're interested in ensuring that the people and communities are compensated. We felt that as long as we're able to ensure that the people get those resources they deserve, we were able to accommodate this.

A company that receives an environmental penalty will not have that penalty taken as an admission of guilt in a subsequent prosecution, and we think that is fair, of course.

We will also draft regulations that will ensure that a company's actions to prevent or minimize or expedite a cleanup will be taken into account when a penalty is considered. So when a company is able to demonstrate that they have done their best to prevent a spill or that when a spill happened, they moved as quickly and expeditiously as possible to mitigate its negative impacts on the local community and the local environment, we think that should be taken into account when considering the amount of a penalty.

While the officials may not be penalized, corporate officers and directors still have the responsibility to ensure that their corporations do comply with provincial environmental laws. We also introduced a motion that will require directors and officers to ensure that cor-

porations satisfy their duty to notify the ministry when spills occur and to clean up after that spill.

We've moved to amend Bill 133 so that it very clearly states that the court shall consider the payment of an environmental penalty in determining a fine.

In response to stakeholder comments, we will also introduce a motion that will require those industries specified in regulations to prepare spill contingency and spill prevention plans. This is a very key part of this legislation, where now our government will have the ability to say to industries that we want them to demonstrate what they will do to prevent a spill from even happening. It's one thing to have a contingency plan in place—"In the event of a spill, we will do this, this and this"—but people in communities expect companies to exercise due diligence and to employ strategies within their business that will prevent spills from ever happening.

Mr. John Wilkinson (Perth-Middlesex): That's proactive.

Hon. Mrs. Dombrowsky: It is very proactive, as my colleague has indicated, and it was largely supported by the people who made presentations to us at committee.

It's important for the members of this House to be aware that we have worked very hard to collaborate and co-operate to build good and sound environmental legislation here. To that end, our government did introduce 71 amendments after we listened very carefully to what people were suggesting to us. I would also like to add that the official opposition brought forward 29 amendments, and some of their amendments were actually accommodated with the ones that we brought forward. At the end of it all, fully 14 of the ideas that they brought forward to improve this legislation we have been able to accommodate.

I want to talk about our friends from the third party and the good work that they have done to help build a stronger piece of legislation. They introduced seven amendments, and I'm happy to say that over half—fully four—have been accommodated in the amended bill that we have before the House here this afternoon. That demonstrates very clearly that everyone in this Legislature has a real desire to move forward with a piece of legislation, and to ensure that it will in fact achieve its goal of better protecting communities and better protecting our environment.

I think that it's important also to address some of the concerns that have been presented publicly, that have been presented even during the consultations in the committee hearings that we had. There was a suggestion that these penalties were something new, and that they were not in effect in any other province or state or jurisdiction. When we did our homework, we came to realize that administrative penalties are usually effective in other jurisdictions. They are in place in the United States. An example would be the US EPA. That act in itself does accommodate the levying of penalties; they're also in New Jersey and Massachusetts. Right here in Canada, our own federal government has legislation that enables

penalties to be levied under Agri-Food Canada and the Income Tax Act, and there are environmental penalties in Alberta. I think it's very important for people in Ontario to know that we have looked very carefully and closely at how penalty regimes have been employed in other jurisdictions, and we have been able to take those models and bring them to this particular circumstance in Ontario.

It's interesting as well that administrative penalties in the United States can range up to \$10 million—in the state of New Jersey, as a matter of fact—for certain contraventions. I thought it was important that I take the time to identify that while there has been some presentation that this is unprecedented, the issuing of penalties is something that other jurisdictions have in fact employed to ensure that other sectors managed by government have the ability to issue penalties.

I've also been very heartened over the course of the debate of Bill 133 that, after first reading and after second reading, with all the consultations that we've had with stakeholders, the government has received many endorsements by people, some who perhaps are not totally happy with the bill as it is written now, but would agree and believe that the government has made an honest and earnest effort to consider their issues. They say that, "At the end of the day, it may not be written the way we would have written it, but we can live with it." Because they understand why we're doing it, they are prepared to support it.

I do want to talk about some people, though, who I think have been integral to our process and who have offered some very important comments that the people of Ontario should hear. The first quote is from Dr. Isobel Heathcote from the University of Guelph, who was the co-chair of the Industrial Pollution Action Team. Of this bill, Dr. Heathcote said, "I am delighted to see the McGuinty government taking prompt action to manage spills in Ontario's environment. The proposed actions are substantive and groundbreaking, and will go a long way toward improving the quality of Ontario's lakes and streams." We really appreciate that comment.

Also, Dr. Ted Boadway, who is the executive director of health policy at the Ontario Medical Association, said that he would offer his congratulations on the "plan to strengthen legislation aimed at reducing dangerous pollution spills. Just as incentives for cleaner business practices make sense, so do corporate penalties for threatening the health of those who live and work in the community. Your effort to penalize industries for spills is an important element of pollution reduction. This, along with more health protective emission limits, will significantly improve the health of our patients." So again, we appreciate the words of support from Dr. Boadway.

1550

Paul Muldoon, of the Canadian Environmental Law Association, says, and these were comments from the standing committee presentations: "This bill is not academic; it's not responding to a phantom concern. It's a real concern to the people of Ontario, and action is needed ... this tool has been used effectively in other

jurisdictions such as British Columbia and New Jersey.... Why would we handcuff our environmental officials to deal with such an urgent problem? Let's give them the necessary tools and legislative power to act, to act preventively, and to act on an urgent matter. The intent of the legislation is clear, it's needed and we should push ahead with it."

Richard Dresher, vice-president of CMD Insurance Services Inc., has also provided a very interesting perspective: "Insurance can have a significant impact on achieving what we ... perceive as the goals of this legislation. It provides a pool of money to quickly respond to any spill and reduces the effect on the community. It provides funds to compensate the innocent victims who suffer a loss as a result of a spill. It levels the playing field between the good and the bad actors and provides third-party verification that companies have an effective environmental management system in place. Those companies with good systems will have a low risk of a spill.... This will translate into a lower cost of insurance." As so often is the case when companies employ good environmental practices, it actually saves them money. It's good for the bottom line. Here we have an official from CMD Insurance Services Inc. actually verifying that.

Mr. Speaker, I know that a number of my colleagues want to have an opportunity to make comment on Bill 133, and I do look forward to hearing their perspectives. I want to take this opportunity to thank all members of this Legislature who have worked very hard at committee and at clause-by-clause to ensure that we have crafted the very best and soundest piece of environmental legislation we possibly can.

The Acting Speaker (Mr. Bob Delaney): Questions and comments?

Mr. Ted Chudleigh (Halton): The minister spoke about the bill she has brought in, which increases fines tremendously. Of course, there's one point in the bill which causes, I think, concern to many people in the industry and causes a great deal of concern on this side of the House and to other people in the environmental area.

No one in Ontario would support anything that would add to pollution or go easy on polluters. But the concept that there's a reverse onus on the polluter, that he is guilty until he can prove himself innocent, is of great concern to people who are concerned with the legal system in this province. It's a precedent-setting bill that changes the way people approach the law. That gives great concern to many people. Even though everyone wants to be very tough on polluters, the onus on someone—through no fault of their own, perhaps, something happened on their property and it would be up to them to prove, through a process, that they were innocent, as opposed to our system of law where people are innocent until found guilty in the courts either by government or by government agencies, or in the case of lawsuits, by some other individual. The fact that that is being introduced in this bill gives us great concern about going down that road. It could be a very slippery slope if we were to continue down there very far.

The Acting Speaker: The member for Perth-Middlesex.

Mr. Wilkinson: I think it's the member from Sarnia.

The Acting Speaker: Member for Sarnia-Lambton.

Ms. Caroline Di Cocco (Sarnia-Lambton): I know that the parliamentary assistant followed this through committee and has a great deal to comment on. But I thank you.

Bill 133, I believe, is a bill that certainly has had a great deal of feedback from industry as well as people on environmental matters. To me, this is the approach of the 21st century, which means that industry and environmental stewardship have to go hand in hand in our sustainable development model that I think this province wants to attain. I've certainly heard from many in industry who are impacted, and there are companies that suggest, with some of the modifications or with some of the amendments, it is a progressive way to attain good environmental responsibility from industry.

I want to commend the courage of the Minister of the Environment and the Premier in saying that we need to move forward in a way that is proactive, in a way that's about prevention, not about reacting. My community has for many years been dealing with the reactive nature of many spills and how these things impact on people and on the workers. It's time that we move beyond the reactive and move to the proactive. That's what this bill is. This bill is about no tolerance for spills and emissions that are going to impact our environment today.

This is the 21st century. It's time that we move forward in a pro-environment and pro-industry movement, if you want. That's what this government is doing with this bill, and with the amendments, I believe that it will be better for the future.

Mr. Gerry Martiniuk (Cambridge): I'm pleased to comment on Bill 133. Unfortunately, I cannot be too kind to this bill. It seems to me that it is a matter of reacting. It's sort of the same old thing. The lawyers in Ontario must look at this bill and feel very good about it, because it's almost like a built-in pension if you happen to be a barrister practising in the field of environmental law.

One would have thought with a bill of this size that there would have been some thought. We should be proactive rather than reactive. That would seem to be the modern way to approach this problem, because environmental problems are serious problems that affect our citizens and their families. Unfortunately, as I say, this particular bill lacks in effectiveness in that, rather than being proactive, it purely is reactive.

Basically, all this bill does in many cases is increase fines. That's fine and good if it would solve the problem. Unfortunately, history would tell us that that is only a small first step, that we must be much more proactive if we are to solve the serious environmental problems which face our citizens and the province of Ontario in this century.

Mr. Wilkinson: I'm very pleased to stand and provide my comments in regard to third reading debate on Bill 133. This is a bill that, as the parliamentary assistant to

the Minister of the Environment, I have learned a great deal about. I was talking to some people in Stratford the other day. "What is a certified financial planner from Stratford doing on the 15th floor of the Ministry of the Environment?" I said, "Learning a great deal about environmental law."

I just want to speak about the questions that the member from Halton brought up about reverse onus. Under environmental penalties—and we have to remember that this is not a criminal matter; this is a civil matter—we had a broad stakeholder agreement that polluters are the people who need to be paying for a spill, that it shouldn't be the taxpayers, that it shouldn't be the people downstream, that it shouldn't be the innocent who pay. That's what is happening in this province today. That's something this very progressive piece of legislation is geared to do, something that happens in other jurisdictions across North America and throughout the world. We in Canada, and we specifically in Ontario, have not been leading. This is just our following and catching up.

1600

In regard to reverse onus, if the ministry at the director level or above issues an environmental penalty, it is up to us to actually state what happened and when it happened, and to be very specific. We send it to that company. The company is in the best position to defend itself and say, "Actually, that didn't happen. We are such great environmental stewards, we know exactly what comes out of our stacks. We know exactly what comes out of our pipes. Therefore, we can say to you that we didn't do it." But if the company does not have a spill prevention plan, does not have a spill contingency plan, is not an ISO 14,000 company, is not monitoring what's coming out of their plant, then they need to rise up, like some of their competitors have done, like some of the more progressive companies in this province have done, and be great stewards of the environment.

This is a matter of raising that bar. I think we have found a great balance in this bill between the competing interests.

The Acting Speaker (Mr. Ted Arnott): That concludes the time for questions and comments. I return to the Minister of the Environment. You have two minutes to reply.

Hon. Mrs. Dombrowsky: I would like to thank the members from Halton, Sarnia, Cambridge and Perth-Middlesex. Because my colleague from Perth-Middlesex addressed the issues that were raised by the member from Halton, I think I'm going to focus on some of the comments that were made by the member from Cambridge.

He has suggested that the bill is not proactive. I would suggest that he read the bill. When he reads the bill, he will very clearly see that for the first time in Ontario, we can now order MISA-sector facilities to have spill prevention plans. Up until now, the only thing they may have had would be a spill contingency. So they may have a plan about what they would be prepared to do in an emergency when a spill happens. But what this piece of legislation will require, if passed, is that those MISA

facilities will have to demonstrate their plan to prevent spills from happening. They need to consider, what if the power goes out? What if there is a breach of a containment facility within their operation? What do they have in place to ensure that the environment is protected, that the people in that community are protected? So I would offer to the member for Cambridge that I believe this is a very proactive approach.

I also think it's important to correct, for the record, that this has nothing to do with fines. That is a very separate part of a process in the event of a spill. It may happen after the Ministry of the Environment has done their inspection. They may call in the IEB, the investigation enforcement branch, investigate, and charges may be laid. That process goes to the courts and fines may be levied. But penalties are about providing resources to people who have been affected by illegal spills.

The Acting Speaker: Further debate?

Mr. Toby Barrett (Haldimand–Norfolk–Brant): As I rise to commence my one-hour debate, I get a distinct feeling of déjà vu all over again. It's really as if life is replaying itself again and again right before my eyes. You know, I could have sworn we just debated the exact version of this bill last Thursday. This is Tuesday afternoon. Last Thursday afternoon, we debated exactly the same bill. That's bearing in mind that this bill, on Monday, was subject to additional hearings and also clause-by-clause. But there were no amendments during clause-by-clause. The government put forward no amendments. The opposition put forward an amendment that was roundly defeated. But of course, that was before this government in a sense paid little more than lip service to the concept of committee hearings, scheduling a quick session Monday morning before putting through clause-by-clause without so much as one change. Not that I would suggest that the government, after waiting a number of months following introduction, would now try to rush this bill through, but in all reality, if what was seen in the course of Bill 133's progress through the House is representative of this government's commitment to democratic renewal and public consultation, then I would put that that commitment is a bit of a joke.

It has been a bit of a long and winding road to this point. I will stay tuned. At this point nothing would surprise me, in terms of where we go next. There are what I consider a number of bizarre twists and turns that continue as this ship heels from side to side and attempts to get back on course. We have a bill here: Bill 133. It is considered by many to be flawed; it was considered to be flawed upon its introduction. We did receive, initially—I know the minister made mention of them—71 government amendments. We received 130 pages of amendments, and I think we all recall that during clause-by-clause—that was the first time, after first reading—just before we were to vote on various sections, we continued to receive additional amendments. I recall at least two amendments were dropped on members of the committee just before they were due to vote. These amendments alone were seven pages long. So I'm concerned.

I do ask you to follow the bouncing ball, if you will. First of all, I'll do just a bit of a historical review. The government brings forth the bill without any public consultation. There was no industry consultation whatsoever. Then we had a number of months of silence; a winter of silence. Thirdly, the minister announced that Bill 133 didn't necessarily mean that if you spill, you pay. The minister had stated this, but instead, you would only pay if you were one of the large MISA companies. All others are off the hook. I don't know what Justice O'Connor of Walkerton fame would have to say about that.

Then, Liberal-friendly lobbyists gain access to the cabinet table. We find the government is interested in hearing from industry, and it sets up an invite-only session for supposed input and consultation. Then we had two short days of committee hearings, followed by what some would consider an epic novel of 70-plus amendments—amendments that, in my mind, were a clear admission of the faults that I identified earlier in my remarks, faults inherent in the spills approach right from the get-go. I will mention that opposition parties, both the official opposition and the third party, came forward with an additional 30 pages of amendments.

There was one day of second-reading debate—that would have been last Thursday afternoon—giving way to another day of committee hearings and clause-by-clause yesterday. Government members failed to listen to anything the presenters had to say yesterday, and the sum total of amendments made yesterday in clause-by-clause by the government was zero.

Some may say that zero is too many amendments. I will point out that the opposition did bring forward one amendment. It was an embarrassing situation all around. One amendment was important—if for anything, at least to have some discussion during clause-by-clause. I do regret this. I feel this is poor form, as I've indicated. I feel this is an embarrassing situation. I personally felt somewhat embarrassed to be part of this process. I feel it reflects poorly on this Legislature and on the members. I think it reflects poorly on the process whereby a bill becomes law.

1610

However, that brings us to today and the proposed legislation that we have before us, the identical proposed legislation we debated last Thursday. It's identical. I do want you to know that we, on the PC opposition benches, tried to ensure that committee hearings weren't simply ignored. We tried to ensure the government game-playing didn't amount to essentially a waste of time for all involved. Those organizations that would have been contacted, perhaps Thursday night, certainly last Friday—I know we phoned a number of stakeholders who had testified previously to ask them to come in. When it's all said and done, I would say that Monday was a waste of time.

We did read in a motion. We proposed an amendment for discussion by the committee regarding deemed impairment. Committee members and members of the Legislature should remember that we heard a lot about this phrase “deemed impairment” yesterday morning. They

didn't seem to recall that issue when it came time for changes suggested by those who testified before the witness table. I'll give the member opposite a little bit of a refresher. He has an excellent memory. I hope it's not like mine, and somewhat short. I would say he has an excellent memory.

You know, I spoke about this yesterday. My issue was that there was some commonality of concern amongst three of the major presenters who testified, not only the Canadian Manufacturers and Exporters association, but also the Ontario Mining Association as well as what's called the Coalition for a Sustainable Environment, an umbrella organization that I would say represents most of the major industrial sectors in the province of Ontario. And we had environmentalists yet again testify on Monday morning.

By way of example, the rationale for the Canadian Manufacturers and Exporters association's concern was that, as they indicated, two paragraphs of the definition of "deemed impairment" had been changed by government motions and therefore had created new concerns. This comes from the manufacturers association:

"While the definition of 'deemed impairment' is very broad, the addition of paragraph (e)"—which members opposite will find in the legislation on page 44, if we could all please turn to page 44—"('peer-reviewed articles as proof of impairment') to the definition is particularly disturbing and it significantly changes the evidentiary issues in relation to 'deemed impairment'. While this amendment may have been intended to create greater scientific certainty, it appears to have the potential for the unintended consequence of doing the reverse. Any peer-reviewed article from any jurisdiction, notwithstanding other more current information or perhaps other peer-reviewed articles to the contrary, could potentially be used to determine impairment."

That was one organization that recommended the paragraph be deleted. They were very clear in their recommendation to government, the opposition and the third party yesterday.

The coalition of industry groups—their spokesperson yesterday was Dr. Surplis. He addressed this same issue as well, stating that this definition of "deemed impairment" has "an unintended consequence in that anyone, with or without expertise or authority, could use this definition for their own purposes," in a fashion not at all consistent with government policy.

In the meantime, Chris Hodgson—

Interjection.

Mr. Barrett: Sorry; I can't hear the comments across the way. I'd ask the member opposite to raise his voice—

The Acting Speaker: I was going to say to the government member, please don't heckle the member for Haldimand–Norfolk–Brant. If he wishes to speak to him after his speech, that's fine, but not while he's got the floor.

The member for Haldimand–Norfolk–Brant has the floor.

Mr. Barrett: Thank you, Speaker. I was trying to communicate to the House that Chris Hodgson, the

former cabinet minister who now represents the Ontario Mining Association, indicated that it was their number one issue with Bill 133, stating, and I'll quote Chris Hodgson, "The definition for 'deemed impairment' under the Ontario Water Resources Act only looks at the material being discharged. It does not look at the circumstances of the discharge, such as how much is being discharged or even the risk of an adverse effect." He further explained, "For example, every bit of seepage from a rock pile could be considered an offence because it would contain metal. There would be no consideration as to whether or not the seepage could or would cause an adverse effect." His only request, really, was to ask that these subsections be amended so that the circumstances of the discharge are included in the definition.

This testimony followed previous testimony by Mr. Hodgson, his first presentation to the committee, when he stated that currently, "Section 28 of the Ontario Water Resources Act states that even if water quality is not or may not become impaired otherwise, it is deemed to have been impaired if the material discharged may cause injury to any person, animal, bird or other living thing." He went on to point out, "Under section 2 in Bill 133, the definition 'deemed impaired' is much more stringent than the existing wording. The proposed definition will include the test for any organism, whether or not that organism lives in that habitat. In essence, it appears the government is trying to say that even the discharge of non-inherently toxic substances will be prohibited."

Very clearly, I think all would agree, this is impractical. I would argue that the general public would understand this to be not only impractical but, I would suggest, impossible in many cases—at minimum, unnecessary to implement, for those of us who operate in the real world. This should be debated in a separate bill, as it does not apply to the slogan we hear opposite: "You spill, you pay." I do wish to clarify that if someone is involved in an illegal spill, they should pay. The polluter should pay.

I regret to say that when it came time to propose amendments, the government was mute. They had invited these people in for consultation. They invited both industry and environmental groups to come in to present changes. They heard testimony. They didn't listen. I was listening. I will say that the member for Parry Sound–Muskoka was in attendance and was listening. We introduced an amendment on behalf of the PC opposition. If you'll bear with me, I'll read the amendment. It is very brief; it's two or three lines, really not that onerous or significant a contribution to the 130 to 140 pages of amendments so far. I'll quote: "I move that clause 1(3)(e) of the Ontario Water Resources Act, as set out in subsection 2(2) of the bill, as the bill was amended after first reading, be struck out." Again, that would be the clause referring to deemed impairment. I do regret to report that the amendment lost. The government members sitting on that committee voted against it.

1620

It does make me wonder why the government was in such a rush to go ahead with another round of hearings, to go ahead with another round of clause-by-clause

discussion. Why go through clause-by-clause debate when they quite obviously weren't listening and did not intend to listen in the first place? Why were these people invited yesterday? I say that not only because my motion failed to receive support, but the government members didn't bring forward any amendments to the bill themselves despite the morning of hearings.

At the very least there was an expectation that government would address the clearly unconstitutional concept of reverse onus. The member for Halton made mention of that this afternoon. The concept of reverse onus will, if passed, soon require a guilty-until-proven-innocent approach for those accused of a spill event. We introduced motions on this subject during the first round of committee hearings. It does remain a concern and it did remain a concern for a number of organizations that testified yesterday morning.

Why is reverse onus a concern? Perrin Beatty, for one, of the Coalition for a Sustainable Environment, testified during the first round of hearings, and he had this to say:

"Members of the coalition are very concerned about the provisions for reverse onus and absolute liability written into the bill, for they're the very antithesis of due process and civil rights that we as Ontario citizens are guaranteed. We still find," he goes on to say, "these provisions to be offensive to democratic principles, even if they apply only to [environmental penalties]. If it is understood that the imposition of [environmental penalties] will fully take into account both the severity of the damage and the cost of action taken by the company, as in New Jersey, then their application would be less troublesome to us," Perrin Beatty said.

Coalition member Dr. David Surplis, a spokesperson for the coalition, picked up on that theme against yesterday in stating, "The first two areas of concern deal with the same issue: reverse onus. The companies participating in the coalition believe that reverse onus, or 'guilty until proven innocent,' should not apply in situations that can lead to significant fines and even to jail terms. We believe that the customary civil and legal rights should be applied.

"Our first proposed amendment relates to appeal of provincial officers' orders relative to discharges, again, where the reverse onus applies. We believe"—and he gets specific here—"that subclause 145.5(1)(b)(ii) of the Environmental Protection Act and subclause 102.1(1)(b) of the Ontario Water Resources Act should be deleted to give effect to the principle of fair defence."

Yet again, government members, despite being witness to this kind of testimony, failed to make one proposal for a single amendment. They totally failed to come up with anything.

While there has also been a fair amount of fear-mongering and name-calling that has gone on since this bill was introduced, I want to make it clear that stakeholders, the people who testified, feel that their concerns are not so much about penalties or the principle that those organizations or companies that do pollute or do spill should pay. No one argues against the fact that an illegal

polluter should pay to help clean up. That's a motherhood issue. The industry does not argue against that, and neither does any other organization. The PC opposition does not argue against that.

Our Minister of the Environment in the House today and in Thursday's second reading said, "We believe that if the private sector spills, they should pay for its clean-up, not the taxpayers of Ontario." Again, people are in accord with that. She did go on to say, "Obviously, the opposition is in favour of polluters." I don't know where that comes from, and I would ask anyone concerned about that statement to check Hansard. Again, everyone agrees—the opposition agrees—that the polluter pays.

The concern is, when do you pay and under what conditions do you pay? Where is the evidence? Do you merely pay just when government asks you to pay, regardless of any best practices that your organization may have followed, regardless of due diligence or training that you may have taken, the investment, ongoing modernization of your plant and equipment? Do you pay regardless of the impact on the environment or regardless of any scientific measure of the impact on the environment? Do you merely just pay?

My regret continues that the original bill was introduced without any meaningful consultation. It has become divisive. For some, it is seen as being antagonistic; for others, at best, it's a bit of a disappointment. There is regret that there was not an initial gathering around the table, if you will, a search for common ground very early in the game or, at minimum, at any time—say, a year and a half ago, when the spills on the St. Clair River first triggered this initiative and caused the reaction to this proposed legislation—that groups weren't called in to help out with the initial draft of this proposed legislation.

By the same token, there is a call at present—and this was presented by the PC opposition as well—for this government to go forward with regulation once this bill becomes law. There is a call—and this is a very serious call from those who testified yesterday—that they be involved, that they have an opportunity to take a look at the regulation ahead of time. They wish something beyond an EBR posting. They wish a process in the order of full consultation, citizen participation in the decision-making process, to have an opportunity to provide input before the regulations are drafted. They're not interested in having regulations sent over with the statement, "Here they are. What do you think? They're going forward."

I do acknowledge that some stakeholders have indicated to me that they appreciated the efforts of the committee. They did appreciate the opportunity to testify before second reading, and they have made it clear. We heard this yesterday morning that some serious issues do remain. This is not the kind of legislation they envisioned. It's not the kind of bill they thought would come out of the response, the need to have not only a better way to deal with spills after they've happened—and this is obviously the intent of this legislation—but also a better way to prevent spills from happening in the first place, a better way to monitor spills and a better way

to have better systems in place for rapid response and remediation.

1630

With respect to rapid response, in so many communities, firefighters, for example, are trained in rapid response. They are equipped to move in; oftentimes they are the first responders, the first ones on the scene. Again, this is not addressed in this legislation. I don't know whether the boundaries of this legislation would require anything beyond this as far as monitoring and remediation are concerned, and assisting those first responders to better help. There's nothing worse than having a major spill on a native reserve, for example, and then waiting, sometimes forever, for Environment Canada to show up to do something about it.

To my mind, and in my discussions over the last several months, people agree polluters must pay. They're just asking for legislation that would be workable, something that would be doable and in the best interests of everyone, whether they've taken sides on the environmental front or the industrial front, and regrettably that has been something we have seen over the course of this legislation. It has served to divide.

Having said that, all presenters, all stakeholders sincerely want something that works for people in Ontario. That's what people like Dr. David Surplis was hoping for when he presented to the committee. His comments on deemed impairment and reverse onus—I will remind the members present and others in the House who weren't present at the committee hearings that Dr. Surplis made clear his coalition's stance on the bill in stating, "We perceived a number of unintended problems—or what we thought were unintended—in Bill 133, as it was first drafted...."

"We were told that the first effect of the legislation was to allow government to be 'swift afoot' ... in protecting municipalities' water supplies and to ensure rapid action and financial recompense when there is a spill or unauthorized discharge. So to provide that speedy response without waiting for potentially lengthy trials, the ministry chose environmental penalties to serve that purpose." This is something we all know. "Upon passage of this bill, that tool will be available to the ministry and the municipalities and it will be utilized whenever there is a problem.

"Once again," I quote Dr. Surplis, "I would like to say as clearly as I can that the goal of coalition members is no spills or problems. That's where we want to go, and you heard that from Mr. Hodgson too. It was unfortunate, for example, that in the discussion following the release of the SWAT report, emphasis was made on the negative aspects instead of the many, many evidences of progress being made in the Sarnia area. Again, that's past.

"My point is simply this: The government has chosen to address what it sees as a problem in a particular way. The coalition members have not been critical of action being taken; we have been critical of the process in which the action was taken.

"We thought it was unfair, for example, that" environmental penalties "could be served on employees, when it

is the company that controls all aspects of its operations." Now that has been removed and they indicated their pleasure. He went on: "We thought it would be unfair for" environmental penalties "to be issued by field staff," and that has been addressed by the amendment that says that" environmental penalties "are to be issued by a director or someone more senior," although he has a concern that "the bill still says that the director may delegate his responsibilities." He went on to testify, "We believe that" environmental penalties "should be set at levels commensurate with the amount of damage, that payment of environmental penalties should be utilized to offset fines under either the Environmental Penalties Act or the Ontario Water Resources Act, and that the payment of an environmental penalty should not be taken as an admission of guilt."

All of these things were addressed by the committee by amendments, as has been mentioned, put forward by both sides of the House.

Dr. Surplis goes on: "We were alarmed that the value of due diligence was being demeaned and dismissed in the original wording of the bill. The amendment says that actions taken and finances expended by a company can now be recognized in setting the level of environmental penalties."

That helps restore the value of due diligence, which really is the cornerstone of best practices. We know of the good companies in the province of Ontario that do make that investment in plants and equipment to do their best to allay any fears that we may have and, quite honestly, to prevent problems from happening in the first place.

So, as he indicates, "The amendments accepted after first reading have therefore improved this bill. As I said at the outset, we do not accept that Bill 133 was conceived in the most orderly of fashions"—I consider that an understatement—"but it can be improved, and for what's been done already, we thank you."

However, they did go on to testify that morning and did ask for a number of amendments, as I've indicated previously, with respect to deemed impairment. So he made a case for further improvements. Again, as we now know, that was not to be the case. I feel that's unfortunate, because industry came forward; they did ask for amendments.

This legislation is all about large industry, the MISA companies. It focuses on the large industrial sector. It focuses on environmental penalties. It does not focus on smaller firms. That may be of concern to those of us working on source water protection, for example, because it's not only heavy industry that can cause emissions into our air or our waterways or our lakes or on our land.

There's very little focus in this bill on what we, as citizens of the province, can do ourselves. Maybe that doesn't require a law. Maybe that requires nothing more than a pamphlet or a television commercial. There are so many things that we can all do. The onus, the responsibility, does not lie solely on business.

We live in a cold, snowy country, even where I am, down on Lake Erie in the south. Again, we use too much salt in this province. Where does salt go in the spring—even salt that people will use on their own sidewalks? Salt is water soluble. Much of that ends up back in the water table. Granted, millions of years ago, it would have been in the water table in ancient seas. I know that under my farm, under the limestone and the shale, there are the remnants of ancient seas. When we drill gas wells on our land, we pull up salt water. Sometimes there are spills. We're a fairly small operation. I know there's salt in that water; the deer like it. The deer come in by our gas well to access that salty water.

Household chemicals: So many of us use household chemicals in our homes. We have to be sure we clean up any spill, obviously, and—just as importantly—ensure adequate disposal. Used oil is an example. Many of us change the oil in our tractors, trucks and cars.

1640

Paint and other chemicals: We have to look for options. So many people now use pesticides: insecticides and herbicides, primarily. Part of my income is cash crop. Over the years, we've been so careful when we used herbicides like Roundup. I was actually quite shocked when my wife came home one day—I didn't know this was legal—with a jug of Roundup. She'd bought it in the hardware store. Roundup kills everything. It's probably the equivalent of a majority government in the province of Ontario. As members opposite, there are some days when we feel like we've been hit—this is the farmer in me speaking, I guess—by Roundup.

Car washing: For those of us who wash our truck or car at home or on the farm, it's good advice, if you're going to wash your vehicle, to wash it on the lawn. Let the grass benefit from some of that water. If you're in town, you don't want to see that soapy water go down into your storm drain. Where does that end up eventually? Maybe the Thames River, the French River or the Grand River; ultimately, in Lake St. Clair, Lake Erie or Lake Ontario.

Rainwater: People living in town should try to hang on to that rainwater off your roof. You're probably not set up to drink water off your roof, as many of us are in rural areas. Many people will construct a depression on their lawn that will capture that rainwater and allow it to permeate slowly into their backyard, rather than washing, say, across the sidewalk and into the storm drain, perhaps carrying with it any residue of the herbicides, pesticides and fungicides that are sometimes used. There's a lot we can do as far as redirecting downspouts toward the garden or lawn rather than into the storm drain.

That came from a brochure published by the University of Minnesota. We have a government that does seem to be hung up, as was mentioned earlier, on fines, penalties and hitting large industry. Where warranted, that is fine, but there's an awful lot that we can do. Why would Minnesota put out a brochure like that? The state of Minnesota has the headwaters of the Mississippi. Like everyone—people in Minnesota, people in Ontario—

virtually all of us live in a watershed of one kind or another. The Mississippi itself receives water from Minnesota. It receives water from 29 other states.

Much of our debate in this Legislature has been concerned with the four million people who are due to arrive in the Toronto area, the Niagara area and the greater Golden Horseshoe area in the next 30 years. What does that mean? That means more paving of land and more landfills, especially if government becomes a recipient of Toronto garbage again, if it's turned back at the Michigan border.

Much of our environment is now covered by asphalt, concrete, concrete structures and agricultural tiling. I mentioned storm drains. Again, the purpose of tile drains is to move water quickly away from where it is. We see the same effect with the very large asphalt parking lots at malls. Many parking lots now—I've noticed this in the United States—will intentionally pool the asphalt so that after a rain the water sits in pools, and eventually, when the sun comes out, it goes back into the water table rather than flowing into a nearby ditch or stream and ultimately into the groundwater or into larger bodies of water.

I mentioned Minnesota as being one of the states, the headwaters of the Mississippi. Something that many of us think, when we think about the Mississippi, is some of the severe areas of pollution in the Mississippi, again a mighty river that goes through agricultural states, urbanized states, the recipient of that lawn runoff that I was referring to, but also urban and agricultural runoff:

- phosphates, for example, not only from fertilizer but from home detergent;

- phosphates from industry;

- excessive nitrogen from lawn fertilizers, from agriculture;

- petroleum products primarily from industrial spills, perhaps those small garages or gas stations that are not following due diligence;

- petroleum runoff from highways;

- improper disposal of pesticides and herbicides, and much of that can come from landscaping;

- illegal dumping of trash and debris. Again, much of that residue would run off from the leachate.

There is one stretch of the Mississippi, an 80-mile span, that's referred to as Cancer Alley. That's one step up from Chemical Valley.

Mr. Chudleigh: Where is that?

Mr. Barrett: Where is it? It's a stretch between Baton Rouge and New Orleans. There are 140 chemical companies that line the banks of the river. Industrial pollution, however, is only one source of contamination. This is the point I'm trying to make. Obviously, there has been an awful lot of monitoring of that stretch of the Mississippi. They make reference to "fuel leaks, toxic spills, topsoil runoff, herbicides, sewage, and trash piles" that first of all contaminate that stretch and continue to reduce the capacity of that river to cleanse itself, and again the reference to the decimation of plant life along the Mississippi, the wetlands in particular. That kind of

loss robs the environment of plants, animals and birds by simply eliminating that kind of habitat.

There are answers. There are solutions. There have been some excellent ideas put forward, in part as a response to some of these tragic occurrences on the Mississippi. There have been so many spills on the Ohio River. There was a recent spill on the Delaware River, and more recently, in the last year and a half, on the St. Clair River.

Mr. Chudleigh: The first one in 10 years.

Mr. Barrett: Yes. That followed a period of decline, certainly, in numbers of spills.

However, there are answers out there. So much work has been done. Although the ministry initiated a spills prevention strategy in 1990 and the contemplated pollution prevention legislation—that would have been in the mid-1990s—neither of those ideas really came forward in current regulatory structures. It appeared that there was no regulatory requirement for pollution prevention or spill prevention under Ontario environmental legislation.

1650

This came from Dr. Isobel Heathcote, co-lead of the government's own committee task force, the IPAT group, the industrial prevention action team. They put together an excellent piece of work, and what they reported was that, generally speaking, they found no preventive regulatory framework at all. Instead, existing systems appear almost entirely reactive rather than preventive.

I know the member for Cambridge, in his brief remarks this afternoon, made reference to the reactive approach that we take with respect to issues environmental. I refer to it as old school. I do accuse this government as kicking back old school, if you will, relying on the almost Stalinistic command-and-control approaches—heavy fines, heavy penalties—with no thought to where some of these problems come forward.

In Dr. Heathcote's report, "We found no mention of required pollution prevention plans, nor of positive incentives to go beyond compliance levels. Rather, our perception was of a system heavily focused on punishing offenders, rather than supporting and rewarding companies with excellent compliance records and those that attempt environmentally protective innovations."

So even before this environmental penalties bill, we have a body of opinion, a report that was published a year ago, I guess, that indicated that this approach at present in government has no positive incentives and in fact is already punitive, an existing punitive approach. If this legislation passes, it will compound the punitive approach to spills and, by extension, other issues environmental.

Now, in that report—and I know the member for Halton made reference to this just now—they do observe the significant decrease in the number of spills to water reported in the St. Clair River from 1986 to 2003. That has changed quite recently. Both the ministry and industry representatives had presented information to the IPAT group that indicated that this downward trend in spills in the St. Clair River resulted primarily from the

introduction of the MISA regulations, the clean water regulations, in the 1990s.

The committee was also advised that some of the recent spills were caused by overflows from storm water. I made mention of that problem. When you have a heavy storm, existing sewage facilities cannot handle this. We're talking municipal facilities here; we're not talking about large oil refineries or chemical plants.

Again, consider the source. If you have a problem with storm water—a storm this time of year, say, when people are spraying their lawns with, as I mentioned, herbicides and insecticides—the system can't handle it. In this town, it goes right into Lake Ontario. Those of us sitting here in the Legislative Assembly, if we have a drink of water, are having a drink of Lake Ontario, as I understand. I don't think it's trucked in from up north or somewhere. I would say most people living in Toronto drink from Lake Ontario. This summer, I predict, people in Toronto will probably not be allowed to swim in Lake Ontario, but they do drink the water.

This storm water concern was red-flagged by the ministers and by the government's own expert committee. This is something that people in the farm community have queried. Why would they be subject to what they consider to be very stringent regulations with respect to nutrient management when their city cousins are allowed to do this and that, are allowed to operate in a system where the municipality's sewage system can't handle storm water and it washes through into, obviously, the nearest body of water?

The committee was "concerned that an existing provision for storm water management plans under clean water regulations may not in fact be adequate to control spills related to storm water containment and release."

They went on to say, "We suspect that existing plans and associated engineering designs are based primarily on routine rather than extreme meteorological conditions." Again, that 25-year storm, that 100-year storm.

They made a recommendation in the IPAT report: "Recommendation 4: We recommend that the ministry investigate the current status of storm water management planning under the clean water regulations to ensure that existing plans are adequate to address current and projected extreme events under climate change scenarios."

They presented a number of findings in their report. They delved into the whole cost-benefit, risk analysis issue, something I feel is not reflected in this current legislation.

I would like to quote Dr. Heathcote's report: "Although we believe that pollution prevention and spills prevention should be central to Ontario's environmental management framework,"—I stress that word "central"—"we acknowledge that it may take some time to achieve those goals. In the meantime, the ministry's approvals, inspection and enforcement functions will continue to be critical in anticipating and reacting to pollution events."

I wish to go on. Near the beginning of their report to this government, they present a bit of an historical scenario:

“The current Ontario system is rooted in public health legislation of the 19th century, a time when inspectors could limit their focus to a handful of environmental parameters. Today, tens of thousands of chemicals are in routine production and use, and our knowledge of the toxic properties of physical, chemical and biological pollutants is far greater than it was 100 years ago. We are, in other words, now in a position to differentiate our environmental management strategies depending on the human and ecosystem health risks of specific parameters and processes. Yet we saw no evidence of a comprehensive ‘risk-based’ approach in Ontario environmental legislation, approvals or enforcement. Indeed, the ongoing spill management problem in the St. Clair River region suggests that there are significant gaps in the province’s current framework for environmental protection. These gaps include an absence of risk-based approaches in many aspects of target-setting, approvals and enforcement. We wonder if the time has come to consider a more comprehensive risk-based approach.

“By ‘risk-based,’ we mean a comprehensive system addressing all major factors that affect the probability of adverse impacts on human or ecosystem health. Such a system”—it gets a little technical here—“should be receptor-, chemical-, and environmental medium-specific.”

They go on to say, “In our view, human health protection should take precedence over ecosystem protection, and therefore decisions about acceptable risk must involve affected communities. In cases where the objective for protection of aquatic life is more stringent than that for human health, the more stringent requirement should be the rule. We reject the notion that economic achievability should be a component of risk assessment.

1700

“We believe that a more focused, strategic approach is possible, and that it would be possible to differentiate spill prevention, response and mitigation requirements based on the nature of the materials in use and the nature of the receiving environment. Many jurisdictions elsewhere in the world (the European Union is one example) have adopted prioritized lists of pollutants, and have used those lists as a basis for developing differential pollution prevention, spills prevention, spills contingency, mitigation and notification requirements.”

In my humble opinion, that is what many of the presenters yesterday at the witness table were trying to get across to this government in their plea for consideration of this concept of deemed impairment and the fact that not all pollutants should be considered equal and not all pollutants cause an equal amount of damage to the water.

Just to wrap up, I spoke on this bill—it seems it was just a few days ago—about the fact that this is being rushed through.

Mr. Chudleigh: What’s the rush?

Mr. Barrett: Yes, what’s the rush? This is very important.

I made mention of a report that came out of Sweden. I think I had an opportunity to mention it last week at the end of my hour, before I was cut off. The title is Financial Incentives to Improve Environmental Performance. This report indicated that there are three main forms of environmental incentive. These are the carrots, if you will, to encourage companies, perhaps those smaller firms, the start-up companies that are trying to do their best. They’re trying to meet payroll and maybe they realize it’s going to be three, four or five years in before they make a profit.

The environmental incentives utilized by European governments comprise grants, soft loans—these are loans offered at below-market rates of interest or with repayment holidays—and, thirdly, tax concessions. The grants tend to dominate in Europe, particularly to fund new environmental technology. They account for 60% of the assistance, soft loans comprise 30% of the assistance to those companies who do wish to do their part and depreciation allowances account for the remaining 10%. I think this is a direction that should be explored further.

I suspect my hour is up. I thank you for your attention.

The Acting Speaker: Questions and comments?

Mr. Rosario Marchese (Trinity–Spadina): I just want to say that the member for Haldimand–Norfolk–Brant delivered a great speech for a whole hour. That was impressive. I want to say for the record that I like the member from Haldimand–Norfolk–Brant but that New Democrats disagree with the approach that the Conservative Party has taken in their response to this bill. I’ll speak to that in about eight minutes.

Mr. Michael A. Brown (Algoma–Manitoulin): I too was quite enthralled with the one-hour speech by the member of the official opposition, but I think we should refresh the House’s memory as to what we’re really talking about today, and that’s Bill 133, which is the government’s first step to act on a report that was delivered by the Industrial Pollution Action Team in 2004.

The team’s report made it clear that Ontario’s legal approach to industrial spills does little to prevent spills from happening.

In response, the government has proposed a tough set of environmental penalties. If passed, Bill 133 will promptly impose a financial penalty on an industrial facility that spills, and direct the proceeds to the community affected to help it recover its expenses.

If passed, Bill 133 would not deny an industrial facility that spills a hearing before the Environmental Review Tribunal. It would not apply to municipalities, farms or small businesses. It would apply only to facilities regulated by the municipal-industrial strategy for abatement, known as MISA. MISA-regulated facilities reported to the ministry 84% of the volume spilled across the province in 2003 and 98% of the spills that occurred in this province in 2004.

Similar penalties to what we are suggesting are in place in every US state, Mexico, Australia, nine European countries and even Alberta.

Every Ontarian deserves the right to live in a community that isn't constantly threatened by industrial spills.

Mr. Martiniuk: I appreciate the opportunity to comment on Bill 133 once again. Sometimes I get concerned that things get a little complex, especially for the smaller citizen as compared to the large corporations. Sometimes these laws seem to apply to large companies, large corporations, and not to the ordinary individual.

I had a friend and a client who owned a small residential and commercial property and there was a laneway in back. Somehow somebody dumped, if I remember, about 35 tires on their property, blocking the back laneway. So I suggested that the person phone the police. They phoned me back and said, "Yes, we phoned the police and the police said this is definitely a crime, but when we asked, 'What would we do with the tires?' they suggested we phone the building department." So they phoned the building department and they were told that this was definitely a crime—this should not have been dumped on their property—but now that it had, they were responsible for it, even though it had been dumped there illegally. When they asked, "Do you think we should put the tires out on the sidewalk for the garbage pickup?" they said, "No, that would be illegal. Even though these are not your tires, and even though you did not give permission for these tires to be put on the property, it is now your problem. And if you don't clean the problem up, we will be serving you with a summons."

That's what I mean about a law getting a little complex, especially where the law is not being proactive but is merely reactive.

Mrs. Carol Mitchell (Huron–Bruce): I'm certainly pleased to enter the discussion on Bill 133, and I rise today to support Bill 133.

I want to thank the member from Haldimand–Norfolk–Brant for his extensive discussion on Bill 133. One of the things that I do want to clarify is that during the public hearings on Bill 133 our government heard from a balance of stakeholders. We believed that the bill could be strengthened, and a number of amendments were brought forward. I want to clarify: Our government listened. Your government, people of Ontario, listened: What could we do to strengthen this bill? I want to draw to the attention of the people of Ontario a couple of points that were raised, certainly concerns from my riding of Huron–Bruce, and I want to just clarify them.

The environmental penalty shall only be imposed against a company and not company officials or company employees. This was one of the concerns that was raised from my riding, so I do want to clarify that. That is an amendment that is going forward with Bill 133.

Another concern from Huron–Bruce was, a company that receives an environmental penalty will not have that penalty taken as admission of guilt in a subsequent prosecution. That was another concern raised within Huron–Bruce. So I raise this and I rise to support Bill 133. I look forward to further debate from the members in this House.

1710

The Acting Speaker: That concludes the time for questions and comments. I'll return to the member for Haldimand–Norfolk–Brant. You have two minutes to reply if you choose.

Mr. Barrett: I appreciate the comments from members.

The member for Trinity–Spadina was thrown into the fray at the 11th hour, and I did value his contributions on committee.

The member for Algoma–Manitoulin made mention of the municipal sector and the farm sector, sectors that are not covered by this bill. I really feel it is incumbent on the government member and his government to heed the advice from municipalities, to heed the advice from the farm community; for example, with respect to storm water overflows, the situation where the infrastructure there cannot handle those heavy rainfalls and all and sundry washes through the storm drain and right into the creek or the river or into the lake.

The member for Cambridge made mention—as a lawyer, he knows—of the fact that the law is complex. This is a complex piece of legislation. It's grown from something like 40 pages to 60 pages. It's not an original piece of legislation. I guess the only new bill from the Liberals would be the Adams mine act, at any stage in the history of the Liberal government in the province of Ontario. But we have legislation that on the one hand is complex, and on the other hand takes a very simplistic approach of focusing on penalties as an answer to attempting to improve two very complex pieces of legislation: the Environmental Protection Act and the Ontario Water Resources Act. It's now become more complex.

The Acting Speaker: Further debate?

Mr. Marchese: Thank you, Speaker. I welcome the—it feels so cold in this place; I'm trying to warm it up a little bit. I welcome the citizens of Ontario to this parliamentary channel. It's 5:13 or 5:14, June 6, Tuesday afternoon. We're on live.

Interjections.

Mr. Marchese: You see how time flies? It's unbelievable. Tempus fugit. It's unbelievable: June 7.

Interjection: Carpe Diem.

Mr. Marchese: That's a different word for a different thought.

I want to say, to help the citizens understand what has gone on around here, that I have replaced briefly the member from Toronto–Danforth, who was our critic for environmental issues. She was dealing with adoption issues, so I had to fill in. I am not the critic for this issue, and so I will do my best to fill in.

Secondly, I have nothing but praise for the member for Perth–Middlesex, who was the parliamentary assistant. The minister should be proud of him. I think he did a great job: personable, likable, flexible, the best type of parliamentary assistant that you could ever have in a committee. Why, they even gave in to the NDP on a couple of issues. It amazed me. It amazed me that the

Liberals could be so flexible and gave away a couple of crumbs every now and then. It makes you feel good as a New Democrat that from time to time the governing party, through the parliamentary assistant, listened to what we had to say, right? I even suspect he didn't have to go to the centre, to the Premier's office, where they are in charge. I suspect he didn't even have to go there to get the approval to accept two New Democratic amendments—they claim four or five, but two were really serious in nature. So we've got to praise the member from Perth–Middlesex for that, I think. I wanted to say that for the record.

I also want to say for the record that the member from Perth–Middlesex argued in the committee that we should repeat the process that has been used with this bill with other bills, because he felt it was a good model to pursue. I want to tell you that I disagree with you, because I think it didn't work out as well as he claims or as well as the government thinks it worked.

I want to briefly talk about the process, because I think it was a bit awkward, a little bit circuitous, convoluted perhaps, confusing to some—at least to me. I thought, “Hmm, do they know what they're doing?” And it's possible they did; I don't really know. But you will remember that the Premier stated at some point in the year 2004, “The proposed legislation would also hold corporate officers and directors more accountable. A conviction could result in sentences ranging from fines against a company to up to five years of jail time for its directors and officers.” We expected that the Premier, making such a statement, would deliver on that bill quickly. Yet this bill was held in abeyance for about six months, put aside, in the closet somewhere, held there by the centre, the Premier's office, where the real power lies.

I've got to tell you, as much as the MPPs resent it, you've just got to accept the fact that the centre has a lot of power, and it's true they're not elected and it's true they make double our salary. I've got to tell you, these guys make double our salary, and they dictate for the governing party what you do, how you do it and when you do it. I know it's tough for you, but you've got to accept that, because it's a brain trust; that's where it's at.

So for six months the brain trust around the Premier held that bill, suspended there for six months. So given the importance the Premier had given it, I said to myself, “Now, why would you hold it back, put it away somewhere under the carpet for six months?” If you're proud of the bill—you spill, you pay—you say, “Man, I'm going to go after those companies as quickly as I can.” So I couldn't quite understand the brain trust, those who get paid double the salary of MPPs, holding this bill back, because if you're proud of the bill, you want to move as quickly as you can.

Then all of a sudden, lo and behold, the minister decides we're going to bring this bill forward and it won't be debated for second reading; we're going to send it to committee for hearings, no less, and consultations, they argued. I find that process a bit unusual. Why do I find it unusual? Because normally the government intro-

duces this bill after a great deal of consultation with friends and foes—the friends being the environmental groups and other Liberals within that world that felt we needed to move on this particular issue, and the foes being mostly the MISA group, the municipal-industrial strategy for abatement group, that involves, what, approximately 140 corporations, the big chiefs in the world of pollution—industry and, yes, pollution. You see, these are the biggest polluters in the province, if not the country, but in the province at least. And it includes mining companies, its includes forestry, it includes pulp and paper—

Mr. Wilkinson: Petrochemicals.

Mr. Marchese: —petrochemicals in particular. These are the biggest polluters. And we're happy that they've gone out to this particular group. So yes, before you introduce a bill, you go to your friends, and you've got to go to your foes, because there are a whole lot of friends that the Liberals have with these corporations, and I'm sure they went to them before bringing the bill forward. You say, “OK, here is the product of our consultations with friends and foes,” you bring it here for first reading, and then you have second reading debate. It gives the opposition parties and the government party an opportunity to say what they want to say: you Liberals to defend your bill and the opposition parties to say whatever we want to say. The Tories say, “We're against it.” The New Democrats say, “You're not going far enough,” which is usually what we would say around these particular issues. After that debate, you then send the bill to committee, where you, having presented the bill to this Legislature and debated, go back for consultations with the folks again, make your amendments on the basis of what you heard and introduce it back in this Legislature for third and final reading.

1720

What this government did was go to second reading, debate in committee, where the minister comes and proposes changes, tells you in advance, “We're going to make amendments. We didn't have the language,” but she tells you, “We're going to make amendments.” Neither of the two political parties in opposition knows what those amendments are or would be, but she announced that there would be changes. Normally, the minister never announces that there would be changes until you hear what the people you consult have to say. Normally, most government bills hardly get changed except for some technical stuff. Normally, the government doesn't listen to the opposition. Generally that's what happens, except that in this case the Liberals gave in a little bit to the New Democrats and a little bit to the Tories as they lobbied for the corporate sector.

Mr. Dave Levac (Brant): A new way of doing things.

Mr. Marchese: It's beautifully Liberal; it's so wonderful. You take a couple of ideas from here, you take a couple of ideas from there and then it's a beautiful dance, right? You play with all the political parties and you've got the perfect match; it's beautiful. I just love the way Liberals do that.

I don't recommend that particular process because the usual practice of having second reading debate works here. Then you send it off for hearings; then you bring it back. As it was, we sent it back for second reading, they moved amendments, we debated this particular bill last Monday—we did the clause-by-clause last Monday—then it came to the House for debate last Thursday and it got sent back for third reading, again with consultations. We invited the environmental groups and the MISA group to come and comment on the bill again. You just don't do that. The environmental groups came to the committee and said, "Now, boys, you made some changes and we don't like them." Some environmental groups said, "This is bad." Others said, "Well, it's not that good, but don't make any more changes; otherwise, we're going to beat up on you and we might just abandon our support for the bill."

Mr. Brown: You're not on camera.

Mr. Marchese: Mike Brown, do you want to come and sit here? That's OK with me.

Mr. Brown: I just want you to be on camera.

Mr. Marchese: No, no, but I want to be close to the rump. Is that OK with you? If it's OK—Speaker? If you want to come over, please.

We sent it back for third reading debate, invited the same groups to come and say the same things. What a pointless thing. So I thought, "Are we going to get amendments to this particular bill? And there were no government amendments. What's the game?"

Mr. Wilkinson: There's no game.

Mr. Marchese: There's no game?

Mr. Wilkinson: They asked to be there to speak again after the amendments.

Mr. Marchese: They asked to be there to speak again to the very amendments they had spoken to, more or less, because they all knew what probably was going to be in the bill by way of amendments. I have to tell you, there's a whole lobby. These guys have got the papaya, they've got the pecunia, they've got the power. Man, did they go after the centre on this. The brain trust must have been swollen by the pressure and the beating they were getting from the people who have the papaya, the pecunia, the power in their hands. I don't know who the brain trust is in that Liberal caucus, but they must have gotten a beating—a serious one, I suspect.

I know that the member from Perth–Middlesex was holding firm. I know that, but I don't know about the brain trust. We have Warren Kinsella coming, representing the—they're called the Coalition for a Sustainable Environment. I thought, "This is great news: Somebody represents the environmental groups." This is Kinsella, representing the people with the papaya. He's a Liberal. I know he is in and out of various groups because he represents different factions, and some people like him, some people don't like him. But he's a Liberal.

Mr. Wilkinson: He's John Tory's chauffeur now.

Mr. Marchese: Did he chauffeur—I can't say that; all that stuff is private.

I thought, "Well, after Warren Kinsella came beating up on the brain trust, man, did this bill come before us in no time." It was sitting there for six months because I suspect the Liberals didn't quite know what to do, because Warren Kinsella and his coalition—the environmental sustainability group—must have been putting so much pressure, and they didn't know quite what to do: "What do we do? Are we going to give in to this group, or are we going to say to the environmental groups, 'No, we're with you.'" What to do? In the end, they said, "OK, we've got to keep the support of the environmental groups on our side. We need them." But then they said, "What kind of changes can we introduce so that we've got the papaya group on our side?"

Interjection: Papaya?

Mr. Marchese: That's the corporate group, the group with the pecunia. "Papaya" is such a beautiful word. It's such a beautiful fruit, and it's healthy for you too.

Liberals were so confused about what to do. How torn they must have been. How torn you must have been.

Interjection: I was firm.

Mr. Marchese: I know you were firm—that's why I praised from you the beginning—but I know that others didn't quite know what to do, because these people have a whole lot of influence and power. They give a lot of money for a lot of campaigns, and they influence a lot of workers in a lot of those industries in all those communities. I know you had to be worried about it. So the government gave in to Kinsella a little bit, and not too much, so as to be able to hold that centre, pleasing the right and pleasing the left to the extent that they can say, "This is not a bad bill."

In the end, the NDP has to say that we're glad to finally have an opportunity, in spite of the circuitous route this has taken, to speak to this bill, to pass it eventually—hopefully today—and move on, because it's better than what we wanted. It's not as good as what we would have liked, but it at least makes progress on issues of the protection of the environment such that even Marchese can live with it. Others might not, but even I can live with the changes that are being made in this bill.

I want to say that the government accepted two amendments. The first of these two amendments provides for the issuing of an annual report on March 31 of each year, which will document each environmental penalty:

"1. The name of the person against whom the order was made.

"2. The amount of the penalty.

"3. A description of the contravention."

If a settlement agreement between the government and responsible party "was entered into, the effect of the agreement on the obligation to pay the penalty or the amount of the penalty."

We think this is a good thing to put in a bill so that people know, and it gives all of us the transparency we're looking for in terms of the problems of spills and offences. We viewed this amendment as necessary to pull all the information together for purposes of evaluating the performance of environmental penalties over time.

In effect, this amendment was envisioned as a means of providing the baseline data for a five-year review of environmental penalties, which forms the basis of the second NDP amendment, which the government also adopted in its entirety. We proposed that once every five years, the performance of this instrument for preventing spills and its application and administration by the Ministry of the Environment be evaluated. Most importantly, our provision for a five-year review will provide an analysis of the effect, if any, that the use of environmental penalties would have on the number and nature of prosecutions by the Ministry of the Environment under the act. We want to know, for example, that the environmental penalty provisions would be used in place of persecutions instead of as a complement. If that were to happen, we want to know whether that is the case.

Mr. Wilkinson: Prosecutions, not persecutions.

Mr. Marchese: Prosecutions. The member for Perth-Middlesex made a useful correction. I said “persecutions,” but it should be “prosecutions.” Thank you.

In short, a five-year review would provide a mechanism to ensure that environmental penalties will meet the objectives.

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We feel those two areas of amendments that we made strengthen this bill. We were very pleased that the government accepted those two particular amendments and others that the government members might speak to, if they have an opportunity. They didn't just listen to us; they listened to others as well. It's unfortunate that some amendments were made to Bill 133 that, in my view, will weaken various provisions and reduce its ability to protect the environment. The government might think differently, but I believe some of these changes will weaken the bill a little bit.

One of the things that concerned me most was the incredible industry lobby that I mentioned earlier and its ability to get some concessions from the government, some of which are technical, yes, but do have implications for environmental protection in the province.

Most surprising perhaps is that this is not really pollution prevention legislation, although it does now include provisions requiring companies to develop spill prevention plans, even though it doesn't detail what these plans should be. While that is good, it's not really, in my view, pollution prevention legislation. That would have made for a better bill, and it would have certainly gotten New Democrats to say much more eagerly, “Now we're moving in the direction that we should.”

Bill 133 allows companies to continue using as much and as many pollutants as long as they want, as long as they don't spill them into the environment. So Bill 133 falls under the old pollution control paradigm, we argue. We attempted to amend the bill to allow directors to require companies to produce pollution prevention plans aimed not just at preventing or reducing the discharge of a contaminant into the natural environment, but also eliminating the use or production of contaminants in the first place, and the government voted that down.

I really do believe that eliminating the use of production of contaminants in the first place would be the better thing to do, the ideal thing to do. We know the effects of pollutants on our physiology. It is my suspicion—and many doctors probably corroborate it—that a lot of these pollutants are causing a great deal of physiological damage. Nobody wants to speak about this particular issue, but we know that it's spoken to in some circles. The majority of people do not know that pollutants are harming not just the environment, but they are directly harming our bodies in more ways than we can describe. So that would have been the better thing to have done, but clearly, I don't think the brain trust—not to attack the member from Perth-Middlesex—wanted to go this far. The brain trust is the centre. That's the Premier's office. That's where the power lies. That's where people with double the salaries of MPPs are. That's where they determine what policies or amendments are accepted or rejected.

Mr. Bruce Crozier (Essex): It's the same as when the NDP were there.

Mr. Marchese: No problemo. I've argued that in the past. When Mr. Bradley used to say, “Look, you've got the whiz kids controlling the Conservative caucus,” I would say, “Jim, please, it's going to happen if you guys get elected. It happened when you were there with Peterson, and it happened under the Rae government.” The brain trust exists in every government. These guys are paid well. They're not elected and they determine public policy, for the most part. So they determined that to accept an amendment that says eliminating the use or production of contaminants in the first place would be the better thing. They determined, “No, we can't allow that amendment to go through.” Not that day. Perhaps when we change the brain trust it might happen, but as long as the current brain trust remains in its place, we are not going to eliminate the production of contaminants at source today.

It was also suggested that the government move toward a stronger pollution prevention paradigm in the final report of the minister's Industrial Pollution Action Team, where they say: “We recommend that the ministry pursue the development of regulatory requirements for pollution prevention, either through stand-alone legislation or by amending the Ontario Environmental Protection Act to extend the authority to write regulations that apply to all stages of a product or substance life cycle.” That was a recommendation made by the minister's Industrial Pollution Action Team and they refused to accept that proposal. We think this is the better direction to move in, but the brain trust is not ready at this time to accept those recommendations.

Mr. Peter Kormos (Niagara Centre): Why not?

Mr. Marchese: Because the brain trust, those who earn \$160,000 or so, double the salaries of MPPs—

Mr. Kormos: And pensions, of course.

Mr. Marchese: —and pension to boot, unlike the members of this assembly—determined, “No, pollution prevention is not where we want to go today.” So I say,

you've got to get rid of these whiz-kid types. Maybe if we paid them \$80,000 or \$85,000 we'd get better decisions.

Mr. Kormos: Where I come from, that's a lot of money.

Mr. Marchese: OK, so let's say \$75,000.

Mr. Kormos: Where I come from, that's still a lot of money. A whole lot of folks work really hard for half that.

Mr. Marchese: It's still a lot of money? What if we paid the whiz kids \$60,000 or \$65,000? I suspect the decisions would probably be more reflective of the general population out there. But if you overpay the whiz kids, the brain trust, the kind of money they get, \$160,000 or so—I'm telling you, you get the wrong decision. These guys make more than the Premier and they don't have to stand up in this Legislature, having to face Mr. Tory and Mr. Howard Hampton day in and day out, getting hammered by the opposition parties. These guys make more than the Premier. I've got to tell you, you've got to change the policies around here. You've got to pay these people less and we'll get better decisions. That's my view; I could be wrong.

Mr. Kormos: So if they pay us less, will we make better decisions?

Mr. Marchese: Now, Kormos has to speak on his own in this regard, because I'm not sure that he's reflecting my opinions in this regard.

Mr. Kormos: I'm just extending your logic.

Mr. Marchese: I know, but you'll have to extend that logic when it's your turn, right?

Besides, we argue, not moving far enough toward pollution prevention, Bill 133 also doesn't lower standards for lead emissions to air—something the recent Commission for Environmental Cooperation report, *Taking Stock*, revealed we so desperately need—or set lower emission standards for sulphur dioxide, another air emission for which Ontario is continentally infamous. This legislation does not modernize MISA. Now remember, MISA—these acronyms can really tire you out—means the municipal-industrial strategy for abatement. That's 140, 144 or so companies with a whole lot of power. These are the people who are responsible for the worst kind of pollution that we've ever faced here in Ontario. The legislation does not modernize the MISA effluent standards, which are now over 10 years old and in need of updating. It doesn't do any of this, yet industrial polluters had so much difficulty with it. You wonder. It doesn't do any of the things that I talked about. And these big polluters had so many problems with the bill, like you could never please these guys. You could never really please them. I think strengthening spill prevention is important, but the government is going to need to find some backbone, spine, fortitude, if it's going to tackle the province's polluters over many of the serious deficiencies in our environmental regulatory framework and our environmental regulatory standards.

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Let me touch on a couple of the more problematic government changes that have been made. One of the

best deterrents to companies spilling is to make high-level decision-makers responsible for ensuring spills don't happen. The government's initial version of the bill required corporate directors and officers to take all reasonable steps to prevent any contraventions of the Environmental Protection Act or the Ontario Water Resources Act. This has been watered down, I say, so that now it is the corporations, not the directors and officers directly, that are responsible for the spills. So the corporation is made responsible for the problem, not the directors.

Originally, it had employees. In my view, I separate employees. The little working guy who's doing his job is different from the director and/or officer. I was happy to get rid of the liability that would be placed on the employee, but I felt that making directors and officers liable was a good thing, because they are directly involved in the decision-making of the spills. So the government, in getting beaten up by Warren Kinsella, and the brain trust getting bruised and beaten so much, said, "OK, we've got to get rid of this. We'll give in a little bit and we'll make the corporation liable and not the director and/or the officers." So they did that. They might have an opportunity to debate why they did this. I don't know. We'll see. If they have time, I'm sure they'll do their best to defend their own changes.

In various places in the new amended Bill 133, the government has moved away from their initial use of the lower threshold for determining adverse effects to the natural environment constituted by the term "may," to the higher threshold for proving environmental harm denoted by the term "likely." These are very difficult things for people to understand, but "likely"—

Mr. Kormos: It's a much higher test.

Mr. Marchese: It is a higher test. "May" is a lower test. "Likely" is more difficult to prove. "May" is easier to prove. So Warren Kinsella, God bless his soul, gets paid the big papaya to go and beat up on the brain trust, and they were able to squeeze some concessions out of the brain trust. They did. They made it legally more difficult to go after the polluters through the change in the language.

This change affects various types of director orders issued under the Environmental Protection Act and the Ontario Water Resources Act. Control orders, stop orders and remedial orders issued by the director under the Environmental Protection Act will be harder for the directors to secure than would have been the case had the government not made their amendments. This has the effect of making it more difficult for the Minister of the Environment, directors, to require companies to install technology for the prevention of pollution. In my view, these changes are significant because the government has chosen pollution control over pollution prevention, and to reduce the environmental protection that had originally been intended for this bill.

So the argument I make around the issue of the language "may" and "likely": The difference in threshold represented by the "likely" and "may" distinction is very

significant from a legal standpoint—just to repeat it because I know it's complicated for people to understand—because it is much easier to get an expert to state that there is the potential for harm than it is to get an expert to state that there is the likelihood of harm, or in other words, that the balance of probabilities points toward the contaminant producing adverse effects to the natural environment. Legal stuff, legal language.

In my view and the view of New Democrats, this has been watered down in a way that doesn't give the protection of the environment we were looking for.

Mr. Kormos: Diluted it.

Mr. Marchese: It dilutes the language they originally had in the bill.

“Bill 133 is a first step.” This is what we heard during the committee hearings from communities affected by spills, environmental groups alike. Unfortunately, in the end, the government made concessions to the industry lobby that weakened the bill. It could have been a better bill. We appreciate that they accepted some of our amendments; I do appreciate that. It doesn't happen all that often, so when they do, you've got to say they did it, and it could be, as I argued, that the member from Perth–Middlesex went above the centre and said, “Yes, we can deal with this.” He was so good to do it.

Mr. Kormos: In that case he'll never be in cabinet.

Mr. Marchese: But, you know, he's co-operative and it's his way of saying, “If I get to the centre or close to the centre, I can work with the opposition.” No, it's really very good.

Speaker, I think we are running out of time, but I've got two or three minutes to say that the increased enforcement of the existing regulatory framework and the increased funding for the Ministry of the Environment to carry out its mandate are good things to do, except that they flatlined the Ministry of the Environment. “Flatline” means no money for the ministry, zero growth, zero extra money. When we're talking about increased enforcement, yes, it would be good and, yes, it needs to happen, but when you flatline the Ministry of the Environment and no extra money is going to come in, what it means is that you're not going to be able to get the kind of enforcement you're looking for because the money isn't there. I wonder whether the Minister of the Environment is worried about this. I know that the member from Perth–Middlesex is worried about that. I know the brain trust isn't. I know the member for Perth is, and I hope that the one-year review, the annual review, and the five-year review will give us the transparency we're looking for. Thank you for that, member from Perth–Middlesex.

I move adjournment of the debate.

The Acting Speaker: The member for Trinity–Spadina has moved adjournment of the debate. Is it the pleasure of the House that the motion carry? Carried.

I see the Minister of Community and Social Services standing. Is it on a point of order?

Hon. Sandra Pupatello (Minister of Community and Social Services, minister responsible for women's issues): Yes. On a point of order, Mr. Speaker: I seek unanimous consent for the House to sit beyond 6 p.m. for

the purpose of considering the motion for third reading of Bill 164, following which the Speaker shall adjourn the House until 1:30 tomorrow.

The Acting Speaker: There is no unanimous consent, I gather, but the minister has called order G164.

TOBACCO CONTROL STATUTE LAW
AMENDMENT ACT, 2005

LOI DE 2005 MODIFIANT DES LOIS
EN CE QUI A TRAIT
À LA RÉGLEMENTATION
DE L'USAGE DU TABAC

Resuming the debate adjourned on May 31, 2005, on the motion for third reading of Bill 164, An Act to rename and amend the Tobacco Control Act, 1994, repeal the Smoking in the Workplace Act and make complementary amendments to other Acts / Projet de loi 164, Loi visant à modifier le titre et la teneur de la Loi de 1994 sur la réglementation de l'usage du tabac, à abroger la Loi limitant l'usage du tabac dans les lieux de travail et à apporter des modifications complémentaires à d'autres lois.

The Acting Speaker (Mr. Ted Arnott): Further debate on the bill?

Mr. John R. Baird (Nepean–Carleton): I regret I will not be able to attend the vote tomorrow on this bill.

The Acting Speaker: I'm sorry. Had you already spoken to this bill?

Mr. Baird: On third reading?

The Acting Speaker: —on this bill again. Apparently, I'm advised, you've already spoken to it.

Mr. Baird: On a point of order, Mr. Speaker: I would like to go on the record that if I were able to be here for the vote tomorrow—I have an event in Ottawa—I would like my vote to reflect no.

The Acting Speaker: I don't think that was a point of order the last time I checked.

Further debate? No.

Mr. Fonseca has moved third reading of Bill 164. 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 ayes have it.

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

I wish to inform the House that I have received a notice from the chief government whip that pursuant to standing order 28(h), he is requesting that the vote on Bill 164 be deferred until Wednesday, June 8, at the time of deferred votes.

Mr. Baird: On a point of order, Mr. Speaker: I'd like to compliment the government and the NDP for trying to work with the official opposition to make this place work more constructively. This is very important.

The Acting Speaker: That is not a point of order.

The member for Niagara Centre on the same point of order?

Mr. Peter Kormos (Niagara Centre): I'll not let Mr. Baird attack my reputation with a momentary lapse like that.

The Acting Speaker: I think we'll move on.

Hon. Sandra Pupatello (Minister of Community and Social Services, minister responsible for women's issues): I move adjournment of the House.

The Acting Speaker: The Minister of Community and Social Services 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 ayes have it.

This House stands adjourned until tomorrow at 1:30 p.m.

The House adjourned at 1751.

LEGISLATIVE ASSEMBLY OF ONTARIO
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Brampton Centre / Brampton-Centre	Jeffrey, Linda (L)	Huron–Bruce	Mitchell, Carol (L)
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Brant	Levac, Dave (L)		
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Burlington	Jackson, Cameron (PC)		
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Chatham–Kent Essex	Hoy, Pat (L)	Kitchener–Waterloo	Witmer, Elizabeth (PC)
Davenport	Ruprecht, Tony (L)	Lambton–Kent–Middlesex	Van Bommel, Maria (L)
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Eglington–Lawrence	Colle, Mike (L)	London–Fanshawe	Ramal, Khalil (L)
Elgin–Middlesex–London	Peters, Hon. / L'hon. Steve (L) Minister of Agriculture and Food / ministre de l'Agriculture et de l'Alimentation	Markham	Wong, Tony C. (L)
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Etobicoke North / Etobicoke-Nord	Qaadri, Shafiq (L)	Mississauga West / Mississauga-Ouest	Delaney, Bob (L)
Etobicoke–Lakeshore	Broten, Laurel C. (L)	Nepean–Carleton	Baird, John R. (PC)
Glengarry–Prescott–Russell	Lalonde, Jean-Marc (L)	Niagara Centre / Niagara-Centre	Kormos, Peter (ND)
Guelph–Wellington	Sandals, Liz (L)	Niagara Falls	Craitor, Kim (L)
Haldimand–Norfolk–Brant	Barrett, Toby (PC)	Nickel Belt	Martel, Shelley (ND)
Haliburton–Victoria–Brook	Scott, Laurie (PC)	Nipissing	Smith, Monique M. (L)
Halton	Chudleigh, Ted (PC)	Northumberland	Rinaldi, Lou (L)
		Oak Ridges	Klees, Frank (PC)

Constituency Circonscription	Member/Party Député(e) / Parti	Constituency Circonscription	Member/Party Député(e) / Parti
Oakville	Flynn, Kevin Daniel (L)	Stormont–Dundas– Charlottenburgh	Brownell, Jim (L)
Oshawa	Ouellette, Jerry J. (PC)	Sudbury	Bartolucci, Hon. / L'hon. Rick (L) Minister of Northern Development and Mines / ministre du Développement du Nord et des Mines
Ottawa Centre / Ottawa-Centre	Patten, Richard (L)	Thornhill	Racco, Mario G. (L)
Ottawa South / Ottawa-Sud	McGuinty, Hon. / L'hon. Dalton (L) Premier and President of the Executive Council, Minister of Intergovernmental Affairs / premier ministre et président du Conseil exécutif, ministre des Affaires intergouvernementales	Thunder Bay–Atikokan	Mauro, Bill (L)
Ottawa West–Nepean / Ottawa-Ouest–Nepean	Watson, Hon. / L'hon. Jim (L) Minister of Consumer and Business Services / ministre des Services aux consommateurs et aux entreprises	Thunder Bay–Superior North / Thunder Bay–Superior- Nord	Gravelle, Michael (L)
Ottawa–Orléans	McNeely, Phil (L)	Timiskaming–Cochrane	Ramsay, Hon. / L'hon. David (L) Minister of Natural Resources / ministre des Richesses naturelles
Ottawa–Vanier	Meilleur, Hon. / L'hon. Madeleine (L) Minister of Culture, minister responsible for francophone affairs / ministre de la Culture, ministre déléguée aux Affaires francophones	Timmins–James Bay / Timmins-Baie James	Bisson, Gilles (ND)
Oxford	Hardeman, Ernie (PC)	Toronto Centre–Rosedale / Toronto-Centre–Rosedale	Smitherman, Hon. / L'hon. George (L) Minister of Health and Long-Term Care / ministre de la Santé et des Soins de longue durée
Parkdale–High Park	Kennedy, Hon. / L'hon. Gerard (L) Minister of Education / ministre de l'Éducation	Toronto–Danforth	Churley, Marilyn (ND)
Parry Sound–Muskoka	Miller, Norm (PC)	Trinity–Spadina	Marchese, Rosario (ND)
Perth–Middlesex	Wilkinson, John (L)	Vaughan–King–Aurora	Sorbara, Hon. / L'hon. Greg (L) Minister of Finance / ministre des Finances
Peterborough	Leal, Jeff (L)	Waterloo–Wellington	Arnott, Ted (PC) First Deputy Chair of the Committee of the Whole House / Premier Vice-Président du Comité plénier de l'Assemblée législative
Pickering–Ajax–Uxbridge	Arthurs, Wayne (L)	Whitby–Ajax	Flaherty, Jim (PC)
Prince Edward–Hastings	Parsons, Ernie (L)	Willowdale	Zimmer, David (L)
Renfrew–Nipissing–Pembroke	Yakubuski, John (PC)	Windsor West / Windsor-Ouest	Pupatello, Hon. / L'hon. Sandra (L) Minister of Community and Social Services, minister responsible for women's issues / ministre des Services sociaux et communautaires, ministre déléguée à la Condition féminine
Sarnia–Lambton	Di Cocco, Caroline (L)	Windsor–St. Clair	Duncan, Hon. / L'hon. Dwight (L) Minister of Energy, Chair of Cabinet, Government House Leader / ministre de l'Énergie, président du Conseil des ministres, leader parlementaire du gouvernement
Sault Ste. Marie	Oraziotti, David (L)	York Centre / York-Centre	Kwinter, Hon. / L'hon. Monte (L) Minister of Community Safety and Correctional Services / ministre de la Sécurité communautaire et des Services correctionnels
Scarborough Centre / Scarborough-Centre	Duguid, Brad (L)	York North / York-Nord	Munro, Julia (PC)
Scarborough East / Scarborough-Est	Chambers, Hon. / L'hon. Mary Anne V. (L) Minister of Training, Colleges and Universities / ministre de la Formation et des Collèges et Universités	York South–Weston / York-Sud–Weston	Cordiano, Hon. / L'hon. Joseph (L) Minister of Economic Development and Trade / ministre du Développement économique et du Commerce
Scarborough Southwest / Scarborough-Sud-Ouest	Berardinetti, Lorenzo (L)	York West / York-Ouest	Sergio, Mario (L)
Scarborough–Agincourt	Phillips, Hon. / L'hon. Gerry (L) Chair of the Management Board of Cabinet / président du Conseil de gestion du gouvernement		
Scarborough–Rouge River	Curling, Hon. / L'hon. Alvin (L) Speaker / Président		
Simcoe North / Simcoe-Nord	Dunlop, Garfield (PC)		
Simcoe–Grey	Wilson, Jim (PC)		
St. Catharines	Bradley, Hon. / L'hon. James J. (L) Minister of Tourism and Recreation / ministre du Tourisme et des Loisirs		
St. Paul's	Bryant, Hon. / L'hon. Michael (L) Attorney General, minister responsible for native affairs, minister responsible for democratic renewal / procureur général, ministre délégué aux Affaires autochtones, ministre responsable du Renouveau démocratique		
Stoney Creek	Mossop, Jennifer F. (L)		

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

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

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